

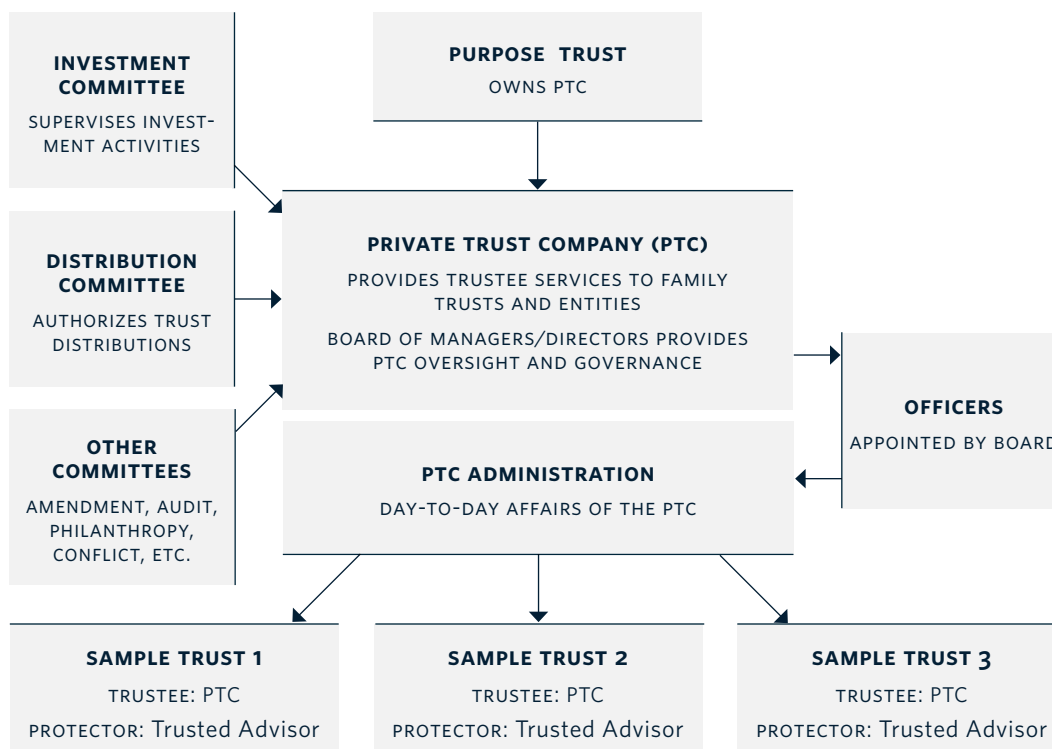
Private Trust Company Leading Practices: Designing a Governance Structure

Designing a PTC Governance Structure

Designing the private trust company (PTC)'s governance structure is critical to its long-term success. Thoughtful composition of the board of managers, PTC committees, officers, directors, and more is the first step. The family must think strategically about the PTC's purposes, values, and goals when selecting participants in the structure.

The success of the PTC depends on identifying people with the appropriate skills, expertise, and interest in implementing and bringing the structure to life.

The following diagram outlines common elements of the PTC structure.



PTC Board Role and Responsibilities

The business and affairs of a PTC are governed by the board of managers, except for certain decisions delegated to committees (e.g., Investment, Distribution, Amendment). The core administrative areas that a PTC board manages include, but are not limited to, the following.

COMMITTEE FORMATION AND OVERSIGHT

- Appoint and remove persons serving on PTC committees, subject to the limitations set forth in the Operating Agreement.
- Create new committees, defining their powers and responsibilities
- Depending on the PTC structure, periodically take reports and ratify decisions made by committees

OFFICER OVERSIGHT

- Appoint and remove persons serving as officers of the PTC

FINANCIAL OVERSIGHT

- Promulgate, adopt, and monitor the PTC's annual budget
- Determine trustee fees charged to underlying trusts
- Retain accountancy, including tax reporting, whether provided by the family office or a third-party provider
- Approve tax returns or delegate duty to a PTC officer or committee
- Implement financial controls, including financial or agreed-upon procedures and audits

TRUSTEE AND SERVICE PROVIDER OVERSIGHT

- Accept and retain trusteeships
- Select and retain third-party service providers, such as administrative, legal, or accounting advisors for the PTC and underlying trusts

STRATEGIC FIDUCIARY PLANNING

- Consider and implement strategy as to wealth transfer structures with advice of outside legal and tax counsel (e.g., should trusts or other entities be modified, decanted, terminated, etc.)
- Define and adopt PTC governance



COMPLIANCE OVERSIGHT

- Adopt, implement, and periodically review PTC policies and procedures
- Coordinate with outside legal advisors to ensure policies and procedures reflect requirements and leading practices

PTC Board Selection Process

Selecting a PTC board of managers is more art than science. Nevertheless, from our experience we have seen several common characteristics resulting in successful board structures. Competent board members must have a deep and unbiased knowledge of the family and the individuals who comprise it, be trustworthy beyond reproach, and prioritize the sustainability and stewardship of family relationships as well as family finances.

ATTRIBUTES

- Understands the family and its culture
- Implements values with shared meaning and purpose
- Pro-active, engaged, collaborative, and communicative
- High level of emotional intelligence
- Respects confidentiality
- Anticipates and supports transitions in families; adaptive and resilient
- Familiar with the family's societal impact strategy
- Understands the beneficiary as an individual
- Excellent listening skills
- Respects roles, responsibilities, and when to lead
- Knows and recognizes their own limitations
- Is cognizant of and transparent about actual or perceived conflicts

OVERALL COMPOSITION: BREADTH OF SKILLS & COMPETENCIES

- Recommend three to five members in total for efficiency and efficacy
- Seek complementary personalities and skillsets



- Sample combination:
 - One attorney
 - One representative from family office (if appropriate, and with consideration of tax sensitivities)
 - One to three family members or trusted advisors, at least one of whom has a longstanding relationship with the family
- Consider adding one to two additional external members if specific skillsets are missing (e.g., fiduciary or investment expertise)

SELECTION PROCESS

- Value integrity, honesty, and chemistry with the family
- Consider existing relationships for suitability
- Consult with existing advisors for PTC board candidate referrals
- Consider candidates' level of board experience and areas of expertise
- Professionalize the candidate recruitment process
- Clearly articulate roles, responsibilities, and expectations
- Avoid competitors (especially for family business owners), consultants, friends, and anyone else who might be inherently conflicted
- Once candidates have been identified and approached, be sure to begin with the following three fundamental questions:
 1. What does it mean to you to be on a board?
 2. What is your understanding of our family's history, culture, goals, and vision?
 3. Do you know what a PTC is and how it works?
 - *Note: A "no" to this question is not a deal-breaker, but additional education should be provided at this point — starting with the "PTC Board Role and Responsibilities" above — before conversations move forward.*

CREATING A SUCCESSION PLAN

- Create a Nominating Committee for future board members and governance
- Train potential future board members by asking them to be on PTC committees first; this allows for quick backfill in the future
- Successor candidates should reflect the Attributes and Board Composition from above
- Create a succession plan that relates to the selection process itself; if there is a good process in place, the family will observe it when looking for new board members



PTC Committee Members

The same principles for selecting PTC board members apply to selecting PTC committee members, with a few additional considerations for specific committees.

INVESTMENT COMMITTEE

- In addition to the attributes and selection process outlined above, consider selecting Investment Committee members with either broad investment expertise or deep knowledge and experience in specific areas applicable to the family (e.g., alternative asset classes).

DISTRIBUTION & AMENDMENT COMMITTEES

- In addition to the attributes and selection process outlined above, consider populating the Distribution and Amendment Committees with disinterested independent advisors because of tax sensitivities.
- Distribution Committee members should have some working fiduciary knowledge, and often are current or former attorneys or trust officers.





255 BUFFALO WAY · PO BOX 1905
JACKSON, WY 83001

PHONE 307-733-3327 · FAX 307-733-5037
WILLOWSTREETGROUP.COM

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