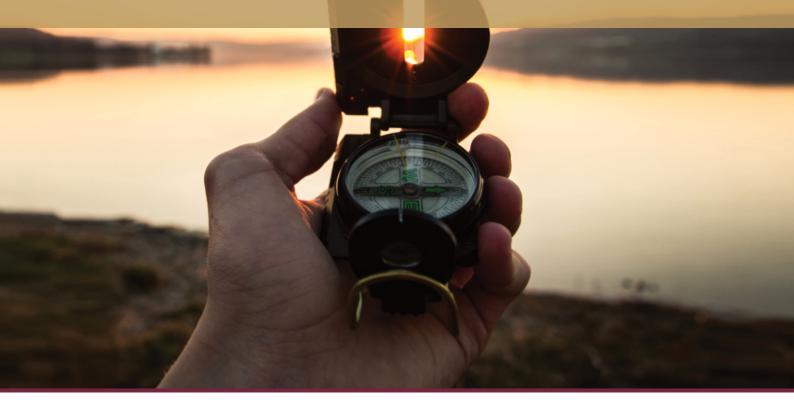


# THE CUSTODIAN PRECEPTSGROUP NEWSLETTER



#### CEO Message:

After establishing the Rockwills Singapore Group of Companies in 2008 for more than 12 years, I had

the opportunity to execute a management buyout in September 2019. It was a harmonious exercise as the acquisition was amicable and the relationship remains strong with Rockwills Malaysia Group of companies. I am director of Rockwills Trustee Bhd and some of the current directors continue to serve on both of the group's boards. Together we have a sizeable pool of mutual clients appointing our respective Trustee companies as the Executor and Trustee for their Estates.

With the acquisition, we also took the opportunity to rebrand ourselves and in the process take stock of the business and, our directions for the future. The brand had to reflect the core values that our company serves in helping our clients create legacies for their families. The meaning of "Precepts" resonates with our business as a Precept refers to a rule, directive or principle, that guides one's actions. It could be the words to live by and to help guide one in making a decision. Using legal structures and estate planning tools, we help our clients establish the guiding posts for their future generations to live and build on and maintain their core family values.

In the past ten years, we have established very good foundations in the estate planning and trust administration industry. In this issue, our team will share about how we have helped several families resolve challenging estate administration cases. We are committed to share these experiences so that our clients can avoid painful mistakes that could break up family relationships and cause anxiety.

One of our visions is to continue to expand the core expertise of the Estate Planning industry so as to bring legacy planning services to a wider pool of clients, including mass affluent, and High net

worth clients. We believe that we must share our expertise and develop our network regionally as the whole region also face aging population challenges. We are also determined to invest and maximize technology in our services and work.

It is an exciting period of growth for our company and we are ever thankful to our clients and partners who share our journey together so far. We thank you for your trust in us and we shall continue to strive to be a game changer in Estate & Succession planning for you as well as the industry.



By Lee Chiwi CEO, PreceptsGroup

# Helping Families through our Estate Administration Work

Over the years, we have helped many families in administrating their family members' estates. In some cases, the estate administration was extremely challenging. The complexities involve dealing with various parties, the court, litigation, or multi-faceted groups of beneficiaries. We have seen many lay executors suffer prolonged stress and anxiety over many years before considering appointing us as Executor and Trustee.

More than 2500 of our clients have chosen to appoint us as their Executors and Trustees under their Wills. We now highlight some of the cases that we have administered.



#### Estate of PB

A high-profile Senior Executive, Mr. PB passed on the operating table during treatment in December 2009. He had a Will appointing two of his close friends as the executors. However, both renounced their rights to apply for the Grant of Probate - one of them was in a state of grieve and the other was a busy Senior Executive. The executors and the beneficiaries (family members) came to seek our assistance and consented to our appointment as the professional administrators of the estate of Mr. PB.

In 2011, we initiated an action to sue the doctors and the clinic for damages and loss of inheritance that the dependants of Mr. PB had suffered.

The legal proceedings involved complex technical and medical issues and went on for a period of 5 heart wrenching years before the first judgement. We had to employ relevant specialists to contest the case and to guide the family members each step of the way. In 2016, the Court of Appeal allowed our claim for damages amounting to \$3.698 million. However, the legal proceedings did not end here.

After the Court of Appeal's judgement in 2016, the taxation proceedings went on for another 2 years for the court to decide our claims on the amount of legal costs incurred for bringing the action to sue the doctors and the clinic. In 2019, the court allowed the legal costs in the amount of \$756,000. It took 10 years for the case to be concluded. If not for our appointment, it would be a hugh strain and pain for the family members and the lay executors.



#### Estate of WCF

It should be noted that the duties of a personal representative of a Deceased's estate may involve him making decisions to sue on behalf of the estate but also face the prospects of defending legal suits against the estate. The personal representative may also potentially risk being sued for failure of fiduciary duties.

WCF passed away in 2016 leaving a Will appointing us as his professional executor. In February 2019, we received a letter of demand from a firm of solicitors claiming for an amount of about \$2 million against the WCF's estate.

As a professional executor, we examined the merits of the litigation suit thoroughly. After examining our deceased client's position, we attempted to settle the matter amicably in the best interests of the Estate. After effective negotiations, both parties agreed to engage a professional accounting firm to prepare a report to determine a reasonable claim amount to resolve the matter out of court and avoid engaging in litigious proceedings. We are glad that we were able to assist the family in managing the undue stress from dealing with such complex legal matters.



#### **Estate of WLC**

WLC passed away in 2000 leaving a Will appointing both of his two sons as the executors of his estate. Unfortunately, the two lay executors only extracted the Grant of Probate for their late father's estate in 2008, after 8 years.

After obtaining the Grant of Probate in 2008, the two lay executors who were not aware of the complications and risks of delaying administration to liquidate a house in which their late father was the 50% registered owner.

In 2016, the lay executors finally decided to sell the house when all the funds in their late father's estate had been fully utilised for the maintenance of the house. But they could not proceed as the other co-owner of the house had lost his mental capacity and therefore unable to sign any documents.

The lay executors were left with no other alternative but to spend additional costs to commence Deputyship Proceedings to appoint a Deputy for the co-owner. This resulted in protracted proceedings as there was little cooperation from the co-owner's relatives.

Yet in another twist, in the midst of the Deputyship Proceedings, the co-owner passed away. The sale of the house was furthered delayed as it now required an administrator of the deceased co-owner's estate to be appointed. They were struggling to maintain and manage the house due to these legal constraints and the financial demands to pay for legal fees.

The lay executors were relieved to discover our services. They approached us to take over the administration of their late father's estate as they had advanced a lot of money for the Deputyship Proceedings out of their own pocket. Most significantly, they were also facing constant pressures from the various beneficiaries who demanded for the sale proceeds of the house. They were also under constant accusations of mismanaging the executorship appointment and faced potential legal risk exposure for negligence.

Upon acceptance of the estate administration case, we proceeded to complete the administration of their late father's estate, including liaising with the administrator of the deceased co-owner. Our efforts helped them to finally complete the sale of house in 2017 at \$1.8 million. With our professional discharge as administrators, we prepared statements of the estate account and made the distribution of the sale proceeds of the house to all the beneficiaries satisfactorily. The two brothers were finally relieved of an issue that had hung over their heads for some eighteen years.



#### Estate of SAG

SAG appointed us the professional Executor in his Will.

SAG was the sole shareholder and the sole director of a company which is still in active operation and generating good profits. The company employed a sizable group of employees at the point of his death. The value of his company shares were worth about \$2.7 million at his death.

When SAG passed away, most of the company transactions had to be put on hold and the company account were frozen as SAG was the only signatory for the company's bank account. Further, the company was not able to tender for new contracts, which was crucial for the business. It was a very worrisome and an anxious period for many of the employees in the company.

SAG's business was vulnerable as they could lose their business to competitors or the employees leave the company due to uncertainty. So, we had to act fast.

We acted quickly and stepped in to stabilise the company operations and to resolve the internal conflicts in the company. We appointed key persons to head up the company's operations under our supervision.

We managed to obtain the Grant of Probate within 2 months and brought the company back to its normal operations.

One year after SGA's demise, a formal valuation was carried out by professional valuers and SAG's company shares were valued at \$7.8 million. We were glad to have preserved the value of the business and also the livelihoods of so many employees. Π

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# **Guardianships** Are they worth it?

Most of us have probably come across the term "guardian" or "guardianship,"

but have you ever stopped to think about whether this is something you need to put in place?

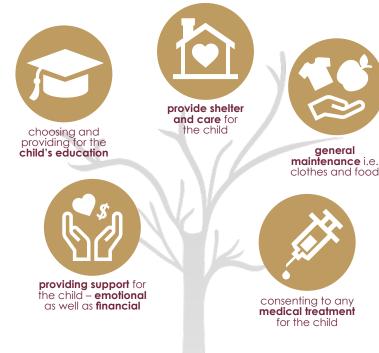
# What is the Role of a Guardian?

A guardian will effectively have overall responsibility for the child including:-

As a parent, it may be something you think you may never have to consider but the safest option is to make provisions for your children now so you know when you are no longer in this life, they will still be loved and well cared for by someone you trust.

A guardian is someone who has the legal authority to take care of a child (21 years old for Singapore) in the event of the death of both their parents or carer.

We understand that determining who will be the guardian of your children is one of the most important decisions as a parent that you will have to make and can be quite an overwhelming task so we have put together some guidance for you below when determining who your guardian(s) should be.



As the role of a guardian carries an immense amount of responsibility. It is therefore a good idea to talk it through with your chosen guardian(s) and let them know your wishes before you add them in your will.

# Things to Consider when Appointing a Guardian

Choosing a guardian can be, in some cases, a fairly difficult decision to make. Here are some factors for you to consider ensuring you make the best choice: –



#### LOCATION

do they live nearby? If not, your child will be moved away from their school and friends which is all familiar territory to them and their "safe place."



#### LIFE STYLE

They are used to a certain lifestyle. Does your guardian share a similar lifestyle?



#### OTHER CHILDREN

does your guardian have other children and will they able to raise another child?



#### STABILITY

it is important that your children become part of a stable family environment, both financially and emotionally.



#### FAMILIARITY

does your child know and like the guardian?



#### PERSONALITY

does your guardian have certain personality traits i.e. patient, caring and trustworthy?



#### VALUES

are there any cultural or religious values you'd like your children to be raised with? Does your guardian share the same values?



#### CAPACITY

does your guardian have the mental and physical ability to raise the children? i.e. if children are minor

#### Can I appoint more than one guardian?

Yes, you can appoint more than one guardian but make sure the people you choose will be able to agree on what is best for your children.

If you decide you want the **guardians to act jointly** (instead of jointly and severally), this effectively means **all guardians would be required to agree on every single point relating to the children's upbringing**, which school they go to etc. This is likely to cause issues and potential conflict between the guardians.

In some cases, where only one guardian has been appointed, it would be advisable to **appoint an alternative guardian in the event the appointed guardian(s) are unable to fulfil their role for any reason.** 

#### **Guardians Appointed in Different Countries**

We have recently seen a high number of queries relating to appointing guardians in different countries to each other and that of the children. Looking at this objectively, realistically this is likely to cause a lot of unrest for the children. Where would the children be expected to reside? Will an agreement even be reached as to who the children will stay with?

Aside from the above, there could also be difficulties faced (along with the associated expense) of obtaining visas for the children and removing them from the UK to live abroad. Will this even be permitted and what if the visas are refused?

# Can I Leave Money for my Appointed Guardian(s) in my Will?

The simple answer is yes.

One option is to include this as a money gift in the will which will enable you to specify that the gift is conditional on them acting as a guardian. However, there is no guarantee that the guardians will use it towards the children's maintenance.

The other alternative is that if assets are being left to the children, the trustees can use the trust income and capital towards the children's maintenance and benefit. The trustees could do this either by using trust assets directly for the children's benefit, by transferring income or capital to the child's parent or guardian whilst they are a minor or to the child directly once they are no longer a minor.

#### Consequences of not Appointing a Guardian

So what will happen to your children if you don't appoint a guardian in your will?

Quite simply, the **Courts may appoint a guardian** for your children. There may well be a feud between the family as to who looks after your children or worse still, your children may be placed into foster care.

I'm sure many people will agree that their children are their most treasured possession. Losing parents can be extremely distressing for children so make provisions in your will now which will make the transition less painful for your children later in life but equally give you the assurance that your children will be well looked after and loved by someone you trust after should anything happen in the future.

# ESTATE PLANNING AND WEALTH SUCCESSION ASIA FORUM 2020

SEPTEMBER 2020 SOFITEL SINGAPORE CITY CENTRE

# Asian Intergeneration Wealth

## Combating "Clogs to Clogs In 3 Generations" and "DOING GOOD WISELY"

## Topic: Asian Family Business Succession

#### ABOUT

This two-day event centers around issues faced by modern Asian families grappling with the multi-faceted aspects of legacy and succession planning. With billions of wealth assets expected to be transferred to the next generation in the next few decades, hear from our esteemed keynote speakers and engage with industry veterans and international estate planning gurus who will share the latest trends, developments and solutions that clients need to embrace. The forum also focuses on second generation wealth succession, family offices, private trust companies, cross-border assets planning, dealing with inheritable wealth taxes, tax residences, mental incapacity and special needs planning, philanthropy and many more topics.

Join us at this milestone event.

#### WHO SHOULD ATTEND

Whether you are an entrepreneur keen on keeping 'family' in the heart of your family business or a trusted advisor wishing to gain expert insights into legacy planning for your clients, being part of this signature event can give you an edge above your peers.

- Wealth Advisers Family Office Professionals, Bankers, Fund Managers, Accountants, Financial Advisors, Real Estate Professionals, Insurance Professionals and Legal Professionals.
- Estate and Succession Practitioners and AEPP<sup>®</sup> designees.
- Anyone keen to hear first-hand from industry experts on the issues relating to global trends and developments in governance and estate planning structuring.

#### WHY YOU SHOULD ATTEND

- ✓ Gain insights from highly regarded thought leaders on pertinent topics.
- ✓ Hear differing perspectives in panel discussions and real-life examples.
- Understand key concerns of your clients for more value-adding advice and foster client engagement.
- ✓ Networking opportunities.

#### FEATURING

- : More than 15 topics and panel discussions
- : Discussions on country-specific issues
- : Global panel of over 40 esteemed speakers from diverse backgrounds

### KEYNOTE SPEAKERS

#### Ms Claire Chiang Co-founder Banyan Tree

Ms Chiang is a co-founder of Banyan Tree Hotels & Resorts and pioneered the Group's retail business. As Chairperson for China Business Development she focuses on acquiring new management contracts, and as an Advisor on Human Capital Development guides strategic issues in organisational and human capital capability. She also chairs Banyan Tree Global Foundation, the Group's sustainability arm.

She is also a director of the Wildlife Reserves Singapore Conservation Fund, Mandai Park Holdings, Singapore Art Museum, Denmark-based ISS A/S, and Dufry AG, Switzerland. In December 2017, she was appointed a Member of the Singapore Biennale 2019 Steering Committee. In March 2017, she was named the winner of the Supernova Category at the inaugural The Women Entrepreneur Award. She was inducted into the Singapore Women's Hall of Fame in 2018.

#### **Mr. Toh Soon Huat** Executive Chairman Novena Foundation Pte Ltd Sian Chay Medical Institution (full time volunteering)

Mr Toh founded Novena Group (Novena Holdings Limited) in 1984 and listed on the SGX in year 2000.

He sold away his business in 2009 and is currently involved in community service, charity works and investment.

In 2008, he volunteered to steer the 118-year-old Sian Chay Medical Institution when it was on the verge of closing down. He has been its Executive Chairman since. Sian Chay Medical Institution is a Voluntary Welfare Organisation registered with the Ministry of Health, providing free Traditional Chinese Medicine consultation, subsidized medicine and treatment for the community regardless of race or religion.

During the decade of his volunteering at Sian Chay Medical Institution, Mr Toh Soon Huat led his Board and management team to raise over \$50 million to sustain the operations, expand the network of branches to 15 clinics and to support 4 wellness centres in Singapore. Sian Chay Medical Institution serves over 1,000 patients daily and about 50,000 patients a year.

# Named Forbes Asia 2019 Heroes of Philanthropy

https://epplasia.com/events/

For more information, contact <u>academy@preceptsgroup.com</u>



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As part of our inaugural issue of Precepts Legacy's "The Custodian", we interviewed Mr. Tay Teng Pong (TP), our most senior and experienced Estate and Succession Practitioner (ESP) about his journey with us over the years.

(Precepts Legacy (PL) is the Estate Planning division of PreceptsGroup International)

## PL: Why do you choose "It's Family" as the theme for this interview?

**TP:** PreceptsGroup, known as Rockwills till recently, has provided me the platform to build my own family business. It's a franchise that I can pass on to my family. This platform also allows me to build our family of team members, often referred to as our downlines, who can likewise build their own businesses. May God help me set a good example for them.

PreceptsGroup's management and staff is akin to our extended family which provides us the necessary and essential support for our growth and success. It's family within families!

#### PL: Can you share with us your journey in Estate Planning?

**TP:** I have been in the Will writing business since 2002 and incorporated Will And Legacy Pte Ltd in 2007. There was a season when I was handling the marketing, sales and drafting of Wills all by myself. I was very honored when Rockwills invited Will And Legacy to be its first franchisee. Franchisees were subsequently known as Rockwills Estate Planners (REPs).

With the arrangement, I was able to spend more time meeting and advising clients on their estate planning needs after I handed the drafting of Wills in the good hands of Rockwills. I have no doubt this partnership would continue even as Rockwills in Singapore changes its name to PreceptsGroup. The former term REP will be changed to Estate and Succession Practitioner (ESP).

#### PL: Tell us more about your current business?

**TP:** Will And Legacy is a family business with my wife Jenny, who has joined me since her retirement, and my younger son, Johann, who has been in the business with me for 8 years. This business taps into our individual strengths and has been very fulfilling both financially and for our purpose in life.

With Will Writing and Trust setup as our primary focus and key competency, we have topped Rockwills' production rankings for the last 11 years.

Johann has established himself very well and I can see that he is enjoying his work. Will And Legacy is a legacy I leave for my family.

As at end 2019, Will And Legacy has written over 2,700 Wills.

#### PL: Can you share how you work with financial planners? How do you help them with their business?

**TP:** Whenever opportunities arise, I would remind financial planners that wealth distribution is as important an element as the other three elements of wealth planning, namely, wealth protection, wealth accumulation and wealth management. For a long time, wealth distribution or estate planning has been neglected by financial planners and the public alike.

Will And Legacy's business model has two prongs, namely:

- I. Financial planners and our clients would constantly support us with referrals.
- II. Those who are keen to do exactly what we are doing would join our Will And Legacy team as ESPs.

#### Referrals

Over the years, we are grateful and thankful to have many

established and new financial planners referring their clients to us for estate planning.

Using the platform that PreceptsGroup provides, we educate both financial planners as well as end clients on the essentials of estate planning.

Financial planners find that by conscientiously talking about estate planning, they develop a deeper relationship with their clients. This results in them gaining more referrals and thereby increased their financial planning business.

#### Team Building

Majority of our ESPs are financial planners who wish to provide estate planning directly to their own clientele. We have seen some financial planners, who were jaded with their business after years and decades, but becoming rejuvenated after they develop estate planning as one of their core expertise to serve their clients.

#### PL: What is your team's growth like?

**TP:** Currently, our Will And Legacy family has 99 members and still growing. PreceptsGroup provides the foundational training, while Will And Legacy kicks it up a few notches, grooming and equipping our team members to provide comprehensive, concise estate planning consulting for our myriad of clients.

Within Will And Legacy, we have also created clear and effective channels of communication and peer learning. To quote Joseph Tan, one of our own team members: "We all learn from each other! It's an awesome family here". Another precious young member, Klaudia Yeo, would often tease and call me "grandfather" - as she comes under her own mentor, who is our mentee, hence the senior generational moniker. In fact, I have been informed that I already have "great grandchildren" within my family of downlines!

## PL: How you feel about our new branding, PreceptsGroup (Precepts Legacy)?

**TP:** With Mr. Lee Chiwi, whom I have worked together over the last 12 years, at the helm and as long as all Will And Legacy's family of team members, our extended family of more than 40 Precepts staff and the rest of the 600 ESPs remain positive, intact and continue to do their part, everything would be fine.

#### PL: Do you have any advice for our readers here?

**TP:** I won't call it advice but some frequent observations that I would like to voice.

#### I need only a simple Will

Directly or through their financial planners, many clients are quick to add that they need only a simple Will. Rest assured we would not write your Will more complex than it should be. Most clients who make such remark probably do not know the full potential of a Will and what it can do for them. After going through the usual 1.5 hr free consult with us, several clients would say they did not realise there is so much to consider when writing a Will. Some would joke and add that dying is not so easy after all.

My advice is never to choose or decide on a Will provider merely by comparing Will fees. It would likely be a grave mistake. A few pennies you save today may cause your family several pounds and lots of trouble in future if your Will is not properly or carefully written.

#### It's now or never

In other words, don't wait! Don't procrastinate!

In my 18 years of estate planning, I have come across too many people who need a Will desperately but have lost their mental capacity to do so. A few met up with me but felt too sick to discuss their Will. They died soon after before they could feel better to talk. A few others managed to convey their intentions to me but when I dropped by their home or hospital to attest (sign) their Will, they had lost consciousness or mental capacity. It's very unfortunate!

## PL: What do you think Precepts business would mean for the next generation?

**TP:** I am past my retirement age. In 2 years, I would have written Wills for 2 decades. Things have certainly changed over time and I am heartened to see that Precepts would mean a new era for Johann and the next generation of ESPs.

It's gratifying to see more ESPs considering pursuing this career full-time. I am glad one of our successful team members, Joy Koh, an Accountant turned full time mum, can strike a good balance between this meaningful career and nurturing her 3 young daughters.

Moving ahead, I see a brighter future and greater opportunities for this bigger family of ESPs.

#### PL: It has been quite a journey! Any final words?

**TP**: This interview is not complete if I do not give God all the credit and the Glory! God has joined the dots of my life and I thank Him for allowing me to pursue my passion in estate planning this far, and for as long as He is willing.

I am grateful to be blessed with a sacrificial partner and helpmate in Jenny during our pilgrimage through this world. Our sons, Joel and Johann, are the pride of our lives and our lovely grandchildren are our joy. We have 5 grandchildren now as we are recently blessed with a pair of twin girls from Johann.

In Psalm 23:6, the Bible says, "Surely your goodness and love will follow [chase after] me all the days of my life ...".

I believe Precepts is one of the many good things that are chasing after me. It would bless many who are associated with it. That's because we are family!



# PRIVATE TRUST COMPANY (PTC)



The use of trust for legacy and succession planning has its significant merits but there are some limitations. The use of trusts for legacy and succession planning has significant merits but there are some limitations where it concerns the person of the trustees. This is where we introduce the concept of a PTC (private trust company). It is suitable for families with substantial family business assets and other family properties. These families face unique challenges as their family generations expand over time.

In the typical TV dramas and many real-life cases, such family businesses lose their direction and control over time and the family and the assets inevitably split up. The development of an estate plan and use of a succession tool like PTC can overcome such challenges. Such a structure has been utilized across modern jurisdictions with much success to help preserve the family wealth.

PTCs are established with the sole purpose of acting as a corporate trustee to a family trust or a number of family trusts, where the settlor and beneficiaries are connected persons.

PTCs are commonly used by high net worth (HNW) families in their wealth structuring. When it comes to family companies, the PTC offers aspects that may be absent in the traditional trust. Whereas the traditional trust structure requires the settlor to give up ownership over certain assets to someone else, in the PTC, the settlor will be more comfortable shifting his assets into a special purpose vehicle which provides for his family members.

The PTC offers a structure where the founder could make the transfer and consolidate the ownership of his diversified family businesses, investments and real estate into one vehicle which also is the trustee. The assets as a result do not get diluted by family growth or marital complications. The structure reduces the chance that these assets become a source of envy, greed and infighting.

With proper structuring, the PTC can be a suitable trustee for a family trust to address concerns such as:

- Succession of wealth for the family
- Asset protection and avoiding adverse claims e.g. business creditors, divorce and family feuds
- Wealth preservation and investment

### FEATURES OF A PRIVATE TRUST COMPANY STRUCTURE:





requirements.

The settlor himself could be a director or even a shareholder.



No minimum amount of trust assets administered under the family trusts.

At least one director of the PTC must be resident in Singapore; other than that, the other directors, settlor, shareholders and beneficiaries could be foreigners.

Other than the family trust instrument, there is usually a family constitution. The family constitution provides

- the governance framework,
- the rules governing the relationships and roles of the family members in the family council,
- the appointment of various committees to carry out certain roles,
- the policies for distribution of the family wealth through the family trusts,
- the human resource policies and compensation of family members employed by the family companies etc.

The family constitution typically stipulates the establishment of a family council and its functions as the supervisory body of the board of directors of the PTC. The family council also provides the communication channel and forum for all the family members to participate in the affairs of the family.

As significant wealth continues to grow in the family, the family PTC could also in time eventually be structured as part of a family office.

Notably, under the Trust Companies (Exemptions) Regulations 2005, the PTC is specifically defined and mentioned as an exempt entity; i.e. it is not required to seek a Trust Business License under the Licensing regime for Trust Companies. At Precepts Trustee Ltd, we assist families to set up their PTCs, and subsequently provide the support to maintain the PTC to comply with regulatory obligations and requirements as well as to provide advice for legacy planning.

Make an appointment with us to explore how the PTC structure can enable you to achieve your legacy plans.





### Contact us for more details:

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