

JERSEY CELL COMPANIES

Introduction

Anyone wishing to incorporate a Jersey cell company has a choice of two different types of entity: a protected cell company (a 'PCC') and an incorporated cell company (an 'ICC').

By way of summary, a cell company is a form of body corporate with separate legal personality which is able to segregate the assets and liabilities of that company into different 'cells'.

PCC

A protected cell structure involves a single legal entity, a PCC, within which there may be established numerous protected cells. Each protected cell is treated for Jersey law purposes as if it were a company however each cell does not have a separate legal identity from the PCC itself. Where a protected cell wishes to contract with another party, it does so through the PCC acting on its behalf.

ICC

This is a new type of cell company where each cell (each, an incorporated cell) has a separate legal identity with the ability to enter into arrangements or contracts and to hold assets and liabilities in its own name.

Common Key Features

- ◆ Cells have their own constitution, share structure and shareholders. In theory, a cell company could have cells with par value shares and others with no par value shares. Equally, cell companies could have separate cells with limited as well as unlimited shares.
- ◆ A person is not a shareholder in a cell company merely by virtue of being a shareholder in a cell created by that cell company.
- ◆ Cells are able to own shares in other cells created by the same cell company but may not own shares in their cell company.
- ◆ A cell company is not intended to be the parent of its cells. For example, cells may be owned by investors, whereas the cell company might be owned by the financial institution responsible for structuring the company as an investment product.
- ◆ Each cell is able to carry out separate and distinct business from other cells of the same cell company.
- ◆ A cell can be dissolved without affecting the use of any other cell or the cell company.
- ◆ A cell does not have to adopt the same directors as those of its cell company.
- ◆ Cells have the same secretary and registered office as the cell company.
- ◆ A cell can be transferred from one cell company to another.
- ◆ A cell company can be merged with another cell company, a cell with another cell or a cell with another company.

Cell Segregation

- ◆ As each cell of an ICC is a company with separate legal identity, the treatment of segregation is straightforward with the assets and liabilities being held separately within each incorporated cell.
- ◆ The assets of a protected cell of a PCC are divided between those which are cellular and those which are non-cellular.
- ◆ Cellular assets are attributable to particular protected cells of a PCC, noncellular assets belong to, or are owned by, a PCC in its own right.

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- ◆ Jersey law protects shareholders of a protected cell or PCC against creditors by providing that losses in a protected cell, or the PCC itself, do not affect profits in another cell.
- ◆ If a protected cell or the PCC is unable to satisfy the liabilities it owes to a creditor out of its own assets, that creditor is not entitled to have recourse to the assets of other cells or the PCC (as appropriate).
- ◆ Creditors of a protected cell are only entitled to have their debt met from the assets of that cell so a creditor who succeeds in obtaining cellular or noncellular assets to which he or she is not entitled is liable to repay to the protected cell or PCC (as applicable) an amount equal to the benefit improperly obtained.

Uses of Cell Companies

- ◆ Investment or mutual funds where each cell can hold a separate class of assets.
- ◆ Property development companies where individual properties can be held within separate cells.
- ◆ Special purpose vehicles for captive insurance.
- ◆ Group financing vehicles.
- ◆ Securitisation.
- ◆ Any Jersey cell company can be used for any commercial purpose.

ICC and PCC Comparison Table

	ICCs	PCCs
Innovation	Jersey was among the first jurisdictions to introduce ICC legislation	Similarities with PCC structures offered in other jurisdictions, however the Jersey PCC has a number of fundamental advantages
Separate Legal Personality	Each cell of an ICC is a separate legal entity	Each protected cell of a PCC is treated as if it were a company, however each cell does not have a separate legal identity from the PCC itself
Power to contract	Each cell of an ICC has the ability to enter into arrangements or contracts and to hold assets and liabilities in its own name	Where a protected cell wishes to contract with another party, it does so through the PCC acting on its behalf
Cross-cell liability	Assets and liabilities are held separately within each incorporated cell	Jersey law protects shareholders of a protected cell against creditors by providing that losses in a protected cell, or the PCC itself, do not affect profits in another cell.
Conversion	Can convert to a PCC or an ordinary Jersey company	Can convert to an ICC or an ordinary Jersey company

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