Guernsey Protected Cell Companies (PCCs) - the key features

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KEY TAKEAWAYS

- Protected cell companies were implemented in Guernsey in 1997 – the first jurisdiction to do so
- PCCs contain a core, and statutorily segregated cells, to which shares, assets, and liabilities are attributed. They have a wide variety of uses, particularly for insurance and fund structures
- This guide sets out the key features of Guernsey PCCs

Guernsey was the first jurisdiction to implement the protected cell company ("PCC"), doing so over 25 years ago.

The PCC was originally created for use in insurance structures, although today it is also widely used for investment funds and other forms of investment structures.

This guide summarises the key features of a Guernsey PCC. Please contact any of the team below, or your usual Walkers contact, if you would like further information on Guernsey PCCs.

Key features of a Guernsey PCC

Single Company

A PCC is a single company, with one board of directors, one memorandum and articles of incorporation and one company registration number.

Ring-fencing of assets and liabilities

A PCC is made up of the "Core" and one or more "Cells" with allows for segregation of assets and liabilities. Assets and liabilities attributed to a particular Cell are ring-fenced from assets and liabilities attributed to any other Cell and also assets and liabilities attributed to the Core. Assets and liabilities attributed to the Core are ring-fenced from assets and liabilities attributable to each Cell.

A PCC essentially replicates the liability ring-fencing of a corporate group but within a single company, however the shareholders in each Cell and the Core do not need to be the same.

A PCC must inform any person with whom it transacts that it is a PCC and must identify or specify the Cell (or Core) in respect of which that person is transacting. In this way, creditors are notified of the limited recourse they have to the assets of the PCC and the relevant Cell (or Core) involved.

Why use a PCC?

The attraction of a PCC for an investment fund is that it prevents any contagion across classes if a class or portfolio within an umbrella fund becomes insolvent and if the creditors attempt to enforce judgments against assets within other classes.

A PCC also facilitates bespoke investment structures - by having different assets in separate Cells, or by using separate Cells for different strategies, investors can be offered tailored investment opportunities, all through a single vehicle.

For example, a new Cell can be formed for each target investment (the "**Investment**"). Investors can subscribe for the amount needed for the specific Investment being acquired by the Cell, by subscribing for "Participating Shares" in the Cell which gives them the economic rights in the particular Cell. Participating Shares are typically non-voting but they can be issued as voting.

Investors can enter into a subscription agreement for each Cell. Alternatively, an Investor can enter into a subscription agreement that obliges them to commit a certain amount over a number of Cells. How a PCC is structured can affect its regulatory treatment in Guernsey.

Further, the investment manager (or an affiliate) can subscribe for "Management Shares" in the Core which give it voting rights in the PCC. These Management Shares do not need to carry economic rights, unless it is desirable to have a management and/or performance fee effectively taken through the Management Shares.

Tax

A PCC used for investment purposes is tax neutral in Guernsey and pays income tax at 0%. Where the PCC is a fund it could apply for exempt status which if granted means that it is treated as not being resident in Guernsey and so does not pay income tax in Guernsey (exempt status must be applied for annually and the current application fee is £1,600).

PCC's are taxed as a single entity in Guernsey, although any income tax charge is a liability of the Cell to which that tax charge relates, and not to the other Cells or the Core.

Depending on the activities of a Cell of the PCC, it may be subject to economic substance requirements in Guernsey.

Formation of a PCC

Before a PCC is incorporated, the Guernsey Financial Services Commission ("**GFSC**") must consent to its formation. GFSC consent is also needed to convert a non-cellular company into a PCC, convert a PCC into a non-cellular company, or convert the cell of a PCC into a separate non-cellular company.

About Walkers Investment Funds and Corporate Practice

Walkers investment funds and corporate team has a wide experience and advises on all Guernsey law matters relating to the structuring and launch investment and corporate structures, including all regulatory, tax and economic substance aspects.

The information contained in this guide is necessarily brief and general in nature and does not constitute legal or taxation advice. Appropriate legal or other professional advice should be sought for any specific matter.