Creative uses of cell companies in Guernsey

Guernsey pioneered the Cell Company (CC) concept. Following from the introduction of the Protected Cell Company (PCC), the CC concept has been further enhanced by the innovation of the Incorporated Cell Company (ICC).

In addition, changes to CC legislation have further strengthened its proposition as a highly versatile tool. Other than undertaking licensed activities, there is no restriction on what a CC can be legitimately used for. This has opened up the full scope of what CCs can achieve. PCCs and ICCs, whilst similar, have structural differences and one sort of CC may be more suitable than another depending upon the circumstances.

Examples for the use of CCs are set out below:

Alternative to traditional group holding structure – An ICC can achieve economies of scale by providing a common administrative hub and framework. Cells can be integrated or migrated offering greater flexibility. There are no consolidated accounting requirements such that a selection of cells can be grouped for audit purposes if needed. Cellular ownership can be divided. The cellular approach offers a compelling alternative to traditional group company arrangements. In this situation an ICC will be preferable to a PCC.

Private trust companies and family office solutions – The well-recognised use of Private Trust Companies (PTCs) allows family or professional advisers to participate on the PTC board can be extended further through cellular companies. Assets can be segregated according to risk or ownership participation, assisting in the management and enjoyment of the required assets. CCs can act as corporate trustee with underlying cells cradling the assets with common or differing legal and beneficial interests. This extends to Family Offices and the separation of roles and functions through cells.

Family governance and succession planning – Different assets and beneficial interests can be apportioned between cells to help segregate entitlements whilst preserving the advantages of the pooled cellular framework. Different share classes can be issued to suit the type of benefit to be given. Ultimately, either the core or underlying cells can be gifted during the owner's lifetime or on death. Ownership via a Guernsey CC can avoid the requirement for foreign probate formalities. Coupled with the use of trusts, a family's wealth can be apportioned and succession stage managed.

Multi-purpose vehicle – As a structure a CC can hold and manage a diverse range of assets, contracts and interests under single or multiple ownership by separating out risks and potential cross-asset liabilities. A CC can contract for services through one cell and manage a portfolio of assets in another, together, enjoying the same administrative framework but isolating their respective interests. For an entrepreneur with diverse affairs, the cellular multi-purpose vehicle approach offers a unique administrative hub with ultimate flexibility.

Private investment funds – Holding separate family investments in different cells but as part of the same corporate structure will allow investment managers greater freedom in managing their mandate, and in particular with regard to risk. The cellular approach can be used to create private collective investment vehicles for a single family (with different investment requirements) or for unrelated clients each investing through one or more dedicated cell.

Real estate ownership – Diverse real estate ownership through cells allows easier risk, financial and estate management. The ability to group cells can enable varied property interests to be consolidated or segregated, which will assist bank funding and collateralisation or even securitisation of rental streams. Cells can be migrated or sold rather than the property itself, enhancing the possibility of tax savings.

Intellectual property and royalty ownership – CCs offer a unique way of exploiting intellectual property portfolios. Further, the Intellectual Property Rights (IPR) can be registered in Guernsey, enhancing ownership value and protection from misuse. Income and royalties can be segregated as can different contracts. Jurisdictional franchises or IPR leases can be undertaken from different cells. Sports celebrities can separate out their offering between different cells, e.g. product placement, foreign earnings, image rights, branding and product development.

Tax planning – Either in isolation or coupled with the use of other structures, the cell company offers interesting tax planning opportunities. For non-domiciliaries in the UK, holding UK property through a Guernsey CC can change its situs for Inheritance Tax purposes, while borrowing can be obtained on assets enjoyed in the UK, using foreign unremitted income, to finance the borrowing. Foreign income can be segregated and capital repatriated through the use of different share classes. Capital Gains can be deferred while assets are managed at cellular level. More creative planning opportunities will emerge as a full scope of the next generation CC (the ICC) is unlocked.

Continued Overleaf

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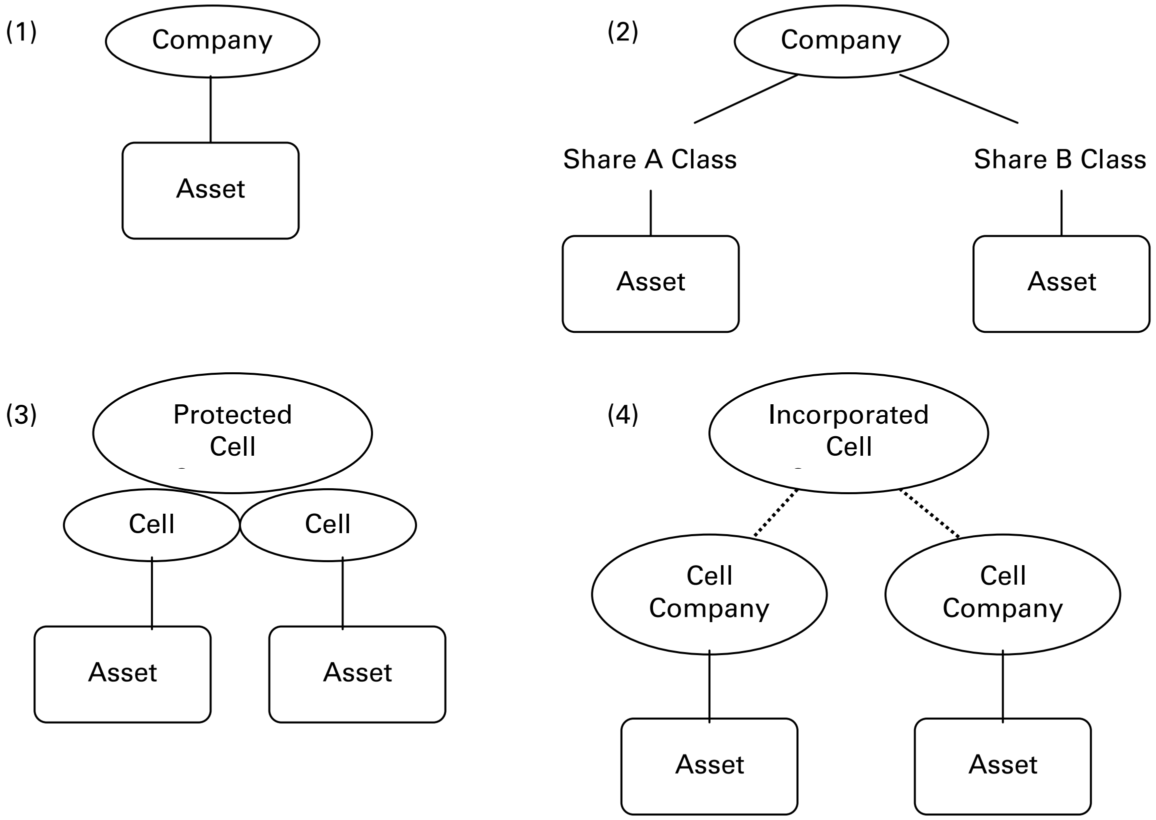
Segregated asset and cell company evolution



(1) Traditional corporate arrangement.

(2) Umbrella using different share classes to segregate assets and ownership.

(3) PCC creates corporate limbs of the same corporate body with each limb segregating assets and liabilities from the others.

(4) ICC creates new incorporated cells which through their corporate "umbilical cord" remain dependent on the core parent, but otherwise in all other respects are separate companies with their own legal personality.

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