

## Protected Cell Companies in the Isle of Man

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### Protected Cell Companies

The Protected Cell Companies Ordinance, 1997 (the "Law") came into force on 31<sup>st</sup> March 2004. It is now possible to incorporate a new Isle of Man company as a protected cell company ("PCC") and to convert an existing company into a PCC.

This new legislation was introduced to establish a framework that permits assets of a company to be segregated and protected within any number of individual cells of that company (the PCC), and allows the assets within one cell of a PCC to be protected from the liabilities of another cell. Notwithstanding the creation of separate cells, the PCC is treated as a single legal entity; cells are not treated as such.

Once assets become cellular assets, a creditor with a claim on those assets may only claim against assets of that particular cell. Only if the assets of that cell are insufficient to satisfy any claim is recourse to non-cellular assets permitted. The liabilities of a PCC, which are not attributable to any of its cells, are satisfied from the company's non-cellular assets.

### Use as a collective investment scheme and use in connection with insurance

PCCs may be utilised for insurance business and certain types of collective investment schemes. At present, Professional Investor Funds and Experienced Investor Funds may be structured as PCCs. Exempt International Schemes are not permitted to be structured in this way. The PCC concept has proved popular in other jurisdictions for umbrella type funds and avoids the risk of contagion found in traditional corporate umbrella funds. The legislation allows the assets of the PCC to be collectively invested or managed, provided that they remain separately identifiable.

### Disclosure of Protected Cell Company status

A PCC must inform any party with whom it transacts that it is a PCC. In relation to any transaction, it must also identify the cell in respect of which it is transacting. If it fails to do so the PCC may lose its status as a protected cell company.

### Tax Treatment

The Assessor of Income Tax has recently issued a practice note regarding taxation of PCCs.

Where a PCC is resident in the Isle of Man for the purposes of income tax, an income tax assessment will be issued to the PCC (it being a single legal entity). Although the liability of each cell can be calculated by the PCC itself, the Income Tax Division, upon request, will issue a separate statement apportioning the liability of each cell.

The PCC may elect to take advantage of a particular tax status and the status will apply to the PCC as a whole. For example, a PCC may elect to become a tax exempt company whereupon it will pay no tax in the Isle of Man on income arising outside the Island, or alternatively it may elect to become an International Company, with an optional negotiable tax rate of up to a maximum of 35%. The activities of each cell must satisfy the criteria for the relevant status.

This new piece of legislation is expected to further boost the Island's already buoyant fund and insurance sectors.

## Contact Us

If you would like further information or legal advice on any of the matters referred to in this document, please contact:

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*This document is intended to provide a general overview and should not in any way be construed as legal advice. Always seek specific advice in respect of any particular issue.*

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