PROTECTED CELL COMPANY

A Protected Cell Company is similar to a multi-class company / fund. Whereby, there are various classes of shares which may either invest collectively in one or more portfolio(s), or separately in distinct portfolio(s).

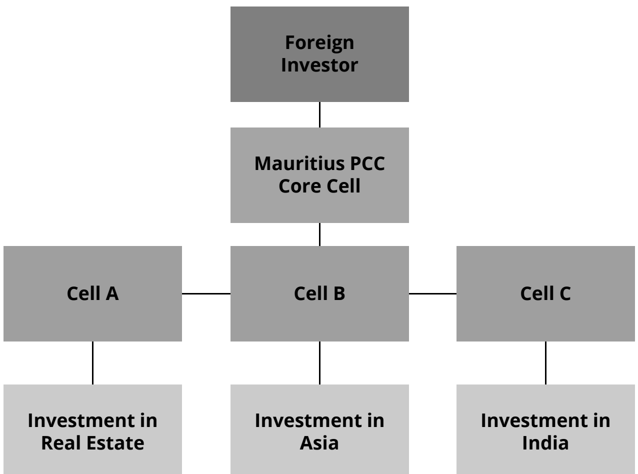
DISTINGUISHING FEATURES

The distinguishing features of a PCC, compared to a normal multi –class company / fund are:

- Each share class is referred to as a cell
- The PCC has a core cell and one or more non-core cells
- There is a legal segregation of net assets attributable to each non-core cell of the company - hence the cellular assets attributed to a non core cell will only be affected by the liabilities of the company arising from transactions attributable to that cell
- This legal segregation is often described as 'ring fencing' and is the main attraction of PCCs
- Given this ring fencing, a PCC structure is very useful for any investment entity with various investment portfolios, where each has its own investment strategy and risk profile, and is even more attractive where investors are not common for each portfolio

STRUCTURE

Based on your investment needs, we will design a specific structure for you to meet your requirements.



INVESTMENT MANAGEMENT

It is customary for the Investment Manager to hold the shares of the core cell of the PCC and for these shares to carry all the voting rights of the PCC such that the investors would leave the actual running of the fund to the Investment Manager and its nominated directors and administrator.

Nevertheless, the law provides that the rights attached to shares of any non core cell cannot be altered without the requisite votes of the holders of such shares.

Though the above is customary, the law also allows the shares of any non core cell to have all the voting rights with respect to that cell. This gives maximum protection to the investors of each cell with respect to corporate governance issues in each cell.

IDEAL LOCATION FOR A PROTECTED CELL COMPANY

Choosing the right jurisdiction where to establish a PCC is relatively more critical than when it comes to set up an investment holding company or a multi-class fund. Indeed, given a PCC tends to host relatively more strategies and groups of investors than other types of structures, a PCC is likely to conduct business with more jurisdictions than other types of entities. Hence it is important that the PCC is established in a financial centre which can deal with various jurisdictions in a cost, time, regulatory and tax efficient manner.

The key comparative advantages of Mauritius in this respect are:

- Mauritius has in place a network of non double taxation treaties with 43 countries. Under the treaties, capital gains on portfolio investments are taxable only in the country of residence of the seller of the investments; Mauritius does not tax capital gains.

- Mauritius does not impose any withholding tax on distributions made to any country.

- Mauritius is located at GMT+4; the island is 8 to 9 hours ahead of New York and just 2 hours ahead of Geneva. It is normal for Mauritius service providers to participate in teleconferences early in the morning with the Far East, handle work flow from Europe late Morning, and interact with the United States in the evening or early next morning Mauritius time.

Of course, Mauritius also has ALL the benefits that are offered by traditional jurisdictions which may or may not offer protected cell companies.

These include:

a) flexible and appropriate legislation,
b) exchange liberalization,
c) free repatriation of profits and capital,
d) no withholding taxes,
e) no capital gains and inheritance taxes,
f) no capital duty on issued capital,
g) confidentiality and banking secrecy, and
h) well regulated businesses.

EXAMPLE – COST EFFICIENT ASSET HOLDING

XYZ Asset Manager advises a number of clients. Each of the clients needs, from time to time, an investment holding company to hold specific assets/investments. XYZ Asset Manager has two options:

1. Set up one investment holding company for each client and/or or each investment/ asset;
2. Set up a PCC, whereby XYZ Asset Manager holds the shares of the core cell and each client is offered a non core cell for holding its investment/asset. Some clients may wish to have more than one non-core cells, to internally segregate the risk of each of their investments.

Comparative advantage of this Asset Holding PCC is again the streamlining of the structure and elimination of excess cost and administrative burden.

Apart from cost implication, each investment holding company under Option A might have its own regulatory burden (renewal of licenses, submission of returns to government). With the PCC, all regulatory burden is taken care of by XYZ Asset Manager at the PCC level.

APPLICATION OF PCCs

Below, are a few examples of the main application of PCCs:

SIDE BY SIDE PORTFOLIOS
ABS Managers wishes to offer three distinct strategies (e.g. Fixed income, long equity and long short equity) to investors, each strategy entailing a different level of risk. The manager has three structuring possibilities:

- **Option A** - sets up three funds, one dedicated for each strategy;
- **Option B** - sets up a multi-class company whereby each class invests in one strategy;
- **Option C** - sets up a PCC in Mauritius – ABC Fund PCC Ltd

CELL SHARES ISSUED TO INVESTMENT PORTFOLIO		
Core cell	Investment Manager	Nil
Fixed Income	Risk-adverse investors	Fixed Income instruments
Long Equity Cell	Medium risk-taking investors	Listed Equities
Long Short Cell	Higher risk-taking investors	Equities and Derivatives

The comparative advantages:

- **Option A -** perfectly segregates risks from each strategy. For instance, there is no way for any adverse exposure on the writing of a put option to affect investors of the fixed income strategy.

- **Option B -** is a very cost efficient solution compared to Option A, as it avoids the setting up and administration of three entities. However, the risk contagion across strategies/classes is very important and might not be acceptable to all investors.

- **Option C -** the PCC – seems to be the best solution. It is not more costly than Option B and offers the same level of risk segregation as Option A, due to the ring fencing feature explained above.

PROTECTED CELL COMPANY

GENERAL OVERVIEW	
Type of Global Business Licence	Category 1 Global Business Licence (GBL1)
Type of company under company law	Protected Cell Companies
Main governing laws	Companies Act 2001 Protected Cell Companies Act 1999 Financial Services Act 2007
Dealing with a cell	A person transacting with a PCC must be informed of the PCC nature and the cell with which the transactions is taking place must be identified.
Name	Name must end with the expression “Protected Cell Company” or ‘PCC’.
Can seek benefits of treaty	Generally, yes.
TAX	
Corporate income tax	Headline tax rate is 15%; but maximum effective rate is 3%. 15% on chargeable income less foreign tax credit; if proof of foreign taxes cannot be provided, claim is allowed for a deemed tax credit of 80% of Mauritius tax payable. Consequently the maximum effective rate is 3%. Credit for foreign underlying taxes may be claimed with respect to dividend income received from holdings exceeding 5% and normally eliminates all residual taxes in Mauritius.
Capital Gains	Tax exempt income in Mauritius
Withholding Tax	Nil
Stamp Duty / Capital Duty	Nil, unless company holds (with special permission) immovable property in Mauritius.
Can seek benefits of treaty	Yes
General minimum conditions for grant of Tax Residence Certificate	▪ Central management and control in Mauritius ▪ Bank account in Mauritius ▪ Accounting records kept in Mauritius
SHARE CAPITAL / SHAREHOLDERS	
Permitted Capital	No minimum capital requirement is imposed for the PCC and each cell except for insurance business.
Composition of share capital	Share capital consists of different cells of shares, of which one is a core cell. Unlimited number of cells may be provided, with each cell having its own name or designation.
Legal segregation / Ring fencing	▪ Legal segregation and protection of assets and liabilities for each cell. ▪ The cellular assets attributed to a cell will only be affected by the liability of the company arising from transaction attributable to that cell. ▪ Creditors of any cell may have a claim on net assets of the core cell. ▪ Nevertheless, the PCC as a whole remains a single legal entity.
Residency of investors	Generally from any country except Mauritius.
Distribution	A PCC may effect distributions in respect of cell shares by reference only to the cellular assets and liabilities attributable to the cell in respect of which the cell shares were issued.
Meetings	At any place inside and outside Mauritius
DIRECTORS	
Local Director	Minimum: 2 For tax residency purposes: 2
Board meetings	▪ Anywhere but for tax residency purposes: held and chaired in Mauritius ▪ Telephonic meetings allowed
FINANCIAL STATEMENTS	
Preparation of accounts	Yes, for each cell and for the overall company
Accounting standards	The norm is IAS/IFRS Also acceptable: US, UK and other GAAPs
Audit statutorily required / Local auditor statutorily required	Yes
Filing of financial statements with authorities	Yes, within 3 months of year end
Public access to financial statements	No
Proper segregation	The Directors of a PCC are bound by law to keep the assets and liabilities attributable to one cell separate and separately identifiable from assets and liabilities attributable to other cells.
NAV calculation	Generally, must be signed off in Mauritius prior to circulation to investors.

CONFIDENTIALITY	
Notify authorities for each share allotment	Open ended funds: No Others: Yes, but nominee shareholder can be used
Beneficial ownership disclosed to authorities	▪ Asset Holding activity: disclosure of beneficial ownership to FSC ▪ Funds: disclose only identity of fund manager/promoter. However the FSC may request for information on investors and other parties, if necessary (in practice the FSC will do so only if there is reason to suspect the investor). ▪ Information confidentially kept.
Exchange of information	▪ Strict confidentiality is enshrined in the Law. ▪ No disclosures shall be made by the FSC to any court, tribunal, committee of enquiry or other authority in Mauritius or elsewhere except on a court order made only if the court is satisfied that the confidential information is bona fide required for the purpose of any enquiry or trial into, or relating to, the trafficking of narcotics, drugs, arms trafficking or money laundering. ▪ The powers of the FSC to transmit information have been extended to include disclosure to foreign supervisory agencies – applies only with respect to financial services providers only. ▪ Mauritius has in place a network of Double Taxation Agreements and hence the Mauritius Revenue Authority is allowed to obtain and exchange information under the relevant provisions of these treaties.

LC Abelheim Limited (Co. No. 084085) | FSC Approved (Licence No. MC09000091)
2nd floor, Block B, Ruisseau Creole Offices, La Mivoie, Riviere Noire, Mauritius
T. +230 483 5130 | info@lcabelheim.com | www.lcabelheim.com

Created 28.09.2016

LC ABELHEIM