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PCCS - A GUERNSEY SUCCESS STORY

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The protected cell company concept is now used in the financial services world as an alternative application for the structuring of many different types of products, says Dominic Wheatley, Chief Executive of Guernsey Finance.

When talking about Guernsey's success stories in the world of financial services, few can match the pioneering introduction of the cell company concept back in 1997.

The legislation, the Protected Cell Companies Ordinance, 1997, celebrated its 20th anniversary on February 1 and is widely regarded as Guernsey's go-to example for financial innovation.

With Guernsey being the first to adopt the cell company concept, the island has developed a world-class infrastructure for its application, supported by a range of lawyers and accountants with the highest level of expertise and experience in utilising the structure.

For example, Aon's White Rock Insurance Company PCC Limited, which was established in Guernsey in 1997 as the first PCC in the world, has now been used by more than 100 corporations as a cell captive facility and has grown to be the largest structure of its kind globally.

Stewart McLaughlin, Executive Director at Aon Insurance Managers (Guernsey) and someone very familiar with the White Rock structure, having helped to expand the brand into Europe, believes Guernsey's PCC legislation has been adopted in some 40 jurisdictions worldwide with little variation.

"Other jurisdictions have changed the name in an attempt to differentiate, but effectively all 'PCC' legislation globally has been based on that originally formulated in Guernsey," says McLaughlin.

The structure's key feature is the legal ringfencing of designated assets and liabilities it offers within the PCC so that each cell acts as a separate entity while sharing administrative efficiencies with the PCC core. "The cell owner can concentrate on the business of the cell and the cell sponsor, for example Aon in the case of White Rock, manages the core," explains McLaughlin. It means the cell sponsor and the cell owner work in partnership and are perhaps more closely aligned than a traditional captive and insurance manager relationship.

Speed of establishment is another positive of the PCC as the ability to establish cells quickly and to use them to provide insurance and risk financing solutions is a real tangible benefit to corporate worldwide.

In addition to White Rock, Guernsey's cell company expertise has been evidenced regularly since 1997. Some of the most notable examples include in 2010 with Heritage Insurance Management (now Artex Risk Solutions) achieving a worldwide first by amalgamating two PCCs – with 17 cells between them – into one. In the funds industry, Guernsey also hosted the first-ever conversion of a PCC to an incorporated cell company (ICC) during a process which created the world's largest ICC mutual fund.

While initially introduced for use in Guernsey's captive insurance sector, Richard Sharp, Partner at Bedell Cristin, says the ability to use PCCs in the funds sphere too has only added to their appeal and innovativeness. Cell companies are often used as umbrella investment funds with each cell being used as an investment vehicle for different asset classes.

Sharp explains that asset classes can be segregated according to the risk profile while having the economy of a single company.

"A PCC fund will usually have a main scheme document that addresses matters that affect all the cells and the launch of individual cells can then be covered in shorter supplements covering matters specific to the particular cell. This means that the creation and licensing of new cells is easier and cheaper than creation of a new fund. This is particularly appealing to promoters looking to launch smaller investment vehicles," explains Sharp.

Steve Butterworth, Director of Insurance at the Guernsey Financial Services Commission until 2003 is the man widely credited with developing Guernsey's PCC concept.

He first had the idea for the concept when he was in the Cayman Islands back in around 1984 after learning that an association captive had run up large legal fees in its first year because every member was using independent counsel. This made Butterworth think about the need for assets to be segregated, but when he took the idea to the local authorities they were not so keen. It wasn't until he moved to Guernsey in 1986 that the idea would later be taken seriously, before coming to fruition in the mid-to-late 1990s.

He credits Nik van Leuven, then a private advocate, for drafting what he describes as an 'excellent piece of commercial legislation' that matched his own vision.

The subsequent success of the innovation is illustrated by the fact it is now used across the financial services world as an alternative application for the structuring of many different types of products.

"I always thought that once the concept became internationally accepted its use would become widespread across financial services and that has proven to be the case," said Steve recently.

"But I am still surprised at some of the areas it is not more widely used, including by institutions for mergers, acquisitions and disposals. It is an ideal piece of legislation for a banking group, especially to ringfence assets and liabilities. As a result, there is still lots of development and diversification to come in the area of PCCs."

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