GUIDE

Cayman Islands segregated portfolio companies

Last reviewed: February 2025

Introduction

The segregated portfolio company (**SPC**), which is a type of exempted company under the Companies Act (as amended, the **Act**), is a single legal entity within which may be established various segregated portfolios. The assets and liabilities of each segregated portfolio are legally separate from those of the other segregated portfolios.

Key features

The key features of SPCs are as follows:

- An SPC may segregate the assets and liabilities of different portfolios and the general assets of the SPC by the creation of one or more segregated portfolios.
- A liability of an SPC to a person in respect of a segregated portfolio entitles that person to have recourse only to:
  - the assets attributable to such segregated portfolio; and
  - unless specifically prohibited by the articles of association of the SPC, the SPC's 'general assets'[1] to the extent that the relevant 'segregated portfolio assets'[2] are insufficient to satisfy the liability.
- An SPC is a single legal entity and the segregated portfolios within the SPC will not be legal entities which are separate from the SPC.
- An SPC must include as a part of its name the letters 'SPC' or the words 'Segregated Portfolio Company'.
- Each segregated portfolio must be separately designated and must include in its designation the words 'Segregated Portfolio', 'SP' or 'S.P.'
- An SPC may create and issue shares in one or more classes or series including different classes and series relating to a single segregated portfolio.
- An SPC may declare dividends in respect of segregated portfolio shares irrespective of whether any other class or series of segregated portfolio shares declares a dividend. Such dividends may only be paid on segregated portfolio shares out of the segregated portfolio assets of the segregated portfolio in respect of which the shares were issued.
- An SPC may be wound up in the same manner as any other exempted company except that, where an SPC is in receivership, leave of the Grand Court of the Cayman Islands is required. A liquidator of an SPC must keep portfolio assets and general assets segregated in the same manner as the directors are required to under the provisions of the Act. Additionally, the liquidator must discharge the claims of creditors of the SPC from the assets of the segregated portfolio to which they relate.

[1] The '**general assets**' of an SPC are the assets of the SPC which are not attributable to or held within a segregated portfolio.

[2] '**Segregated portfolio assets**' comprise assets representing share capital and reserves attributable to the segregated portfolio, profits, retained earnings, capital reserves, share premiums and all other assets attributable to or held within the portfolio.

- An application may be made to the Grand Court for a receivership order in respect of one or more segregated portfolios of an SPC by any of the following:
  - the SPC;
  - the directors of the SPC;
  - any creditor of the SPC in respect of the relevant segregated portfolio;
  - the holder of any segregated portfolio shares in respect of the relevant segregated portfolio;
  - the Cayman Islands Monetary Authority (**CIMA**), where CIMA regulates the SPC (eg where the SPC is a regulated mutual fund, bank or insurance company).

Directors' duties and liabilities

In addition to the other obligations of a director of an exempted company[3] under the Act, a director of an SPC is under an obligation to establish and maintain procedures to:

- segregate, and keep segregated, portfolio assets separate and separately identifiable from general assets;
- segregate, and keep segregated, portfolio assets of each segregated portfolio separate and separately identifiable from segregated portfolio assets of any other segregated portfolio; and
- to ensure that assets and liabilities are not transferred between segregated portfolios or between a segregated portfolio and the general assets otherwise than at full value.

In practice, if an administrator has been retained in respect of an SPC's segregated portfolios, the directors may delegate the above obligations to such administrator.

If the directors of an SPC execute a contract for and on behalf of one or more segregated portfolios, then such segregated portfolio(s) must be identified and where the contract is in writing it must be indicated that the execution of the contract is in the name of or by or for the account of such segregated portfolio(s). If this is not done, the directors shall, forthwith upon becoming aware of the breach, identify the correct segregated portfolio(s) to which the relevant contract should be attributed, make the correct attribution and then notify all persons who are party to the contract or who may be adversely affected by such attribution.

Any person who is so notified (or should have been so notified) and objects to the attribution may, within 30 days of receiving written notice in the case of persons who received such notice, apply to the court for a re-attribution to a particular segregated portfolio or portfolios or to the general assets. The court may also make such ancillary orders as may be just and equitable in the circumstances.

Any indemnity given by an SPC in favour of a director in respect of a liability incurred by such director on behalf of the SPC shall only be enforceable against the assets of the segregated portfolio in respect of which such liability arose.

Registration

Any exempted company may apply to the Registrar of Companies to be registered as an exempted segregated portfolio company.

The following documents are required for registration of an SPC:

- memorandum and articles of association; and
- notice to the Registrar of Companies with the names of each segregated portfolio which has been created.

Where it is proposed to convert an existing exempted company into an SPC, the company is required to:

- file with the Registrar of Companies a declaration made by at least two directors stating *inter alia*:
  - the assets and liabilities of the company as at a date within three months prior to the date of the declaration;

[3] For further details, please see our Guide to Cayman Islands exempted companies - Directors duties and liabilities

- that the SPC intends to operate and the assets and liabilities that the company proposes to transfer to each of the segregated portfolios;
- that on registration the company and each segregated portfolio will be solvent; and
- that each creditor of the company has consented in writing to the transfer of assets and liabilities into segregated portfolios or alternatively notice has been given to all creditors with a claim exceeding US$1,220 and that 95 per cent by value of the creditors have consented to the transfer of assets and liabilities; and

- pass a special resolution authorising the transfer of assets and liabilities into segregated portfolios.

Where the company is licensed by CIMA, it must obtain CIMA's written consent to the registration of the SPC.

Fees

The following fees are payable on registration of an SPC:

- Exempted company registration fee: US$854 (for companies with an authorised share capital not exceeding US$50,000).
- SPC application fee: US$610.

In addition, the following annual fees are payable for an SPC:

- Exempted company annual fee: US$1,128 (for companies with an authorised share capital not exceeding US$50,000).
- Payment of SPC annual fee: US$2,439.
- Payment of additional annual fee: US$488 for each segregated portfolio up to a maximum of US$7,317.

Contacts

A full list of contacts specialising in Cayman Islands corporate law can be found here.