



Comprehensive Financial Services



DIFC VCC Regime

Overview of the VCC vehicle: What is a VCC?

- **Structure:** A VCC is a private limited company that can be:
 - a standalone entity or
 - act as an umbrella structure to Segregated Cells or Incorporated Cells (but not both types of Cell).
- **Asset Segregation:**
 - A VCC enables segregation of assets and investment strategies through incorporated or segregated cells.
 - Facilitates different risk profiles and the ringfencing of asset liability, whilst allowing for economies of scale through centralised management and oversight.
- **Flexible Share Capital:** Share capital is equal to net asset value, providing flexibility for issuing and redeeming shares and enabling efficient capital inflows and outflows.
- **Distributions:** A VCC is not restricted to paying dividends out of its profits but can make distributions from capital based on the VCC's (or relevant Cell's) net asset value.

Overview of the VCC vehicle: Who might benefit?

Who might benefit from a VCC structure?

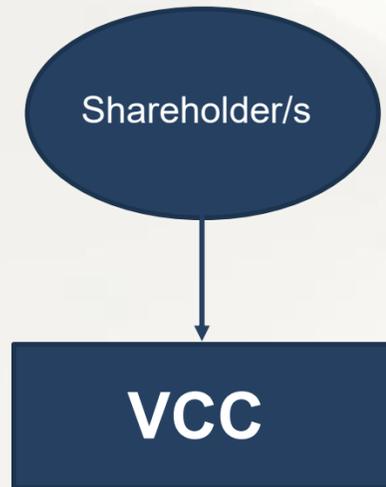
Ideal for applicants managing proprietary investments that wish to:

- Benefit from flexible share capital
- Segregate assets/investment strategies
- Benefit from collective oversight, management and other resources

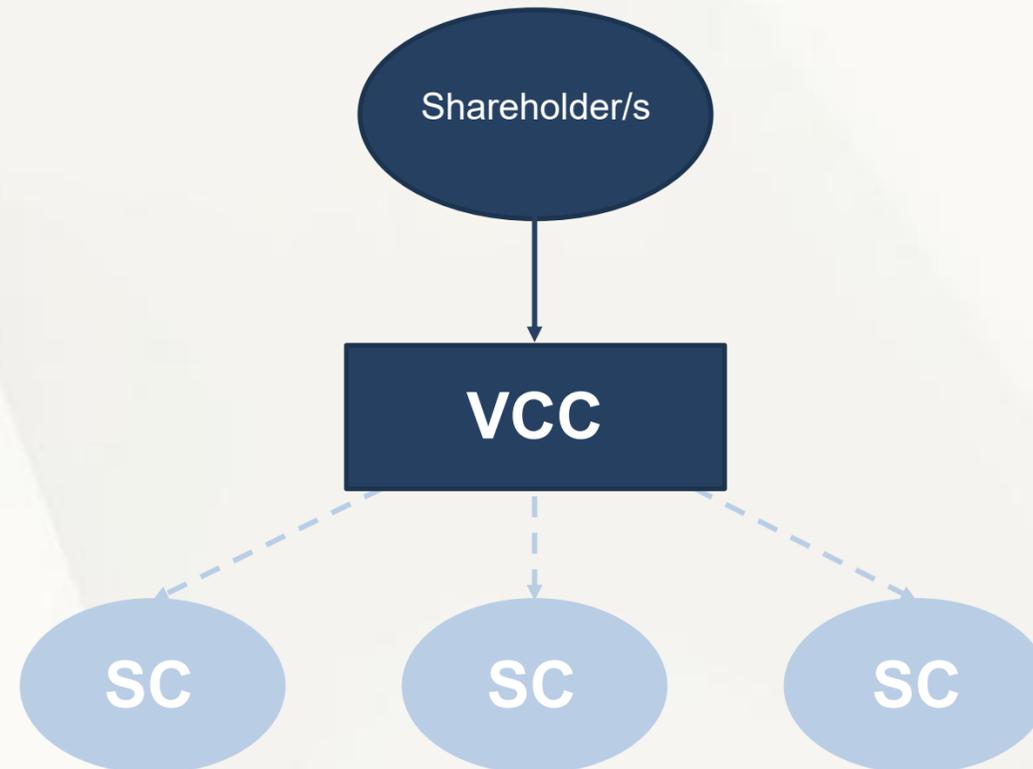
Examples

- Families
- Companies that hold multiple high value assets, e.g. aviation or maritime structures
- Complex proprietary investment portfolios, e.g. secondary PE funds. Example: a fund is being liquidated and its illiquid assets are placed in a new vehicle, where existing investors receive shares in the new entity based on its NAV.

VCC structures

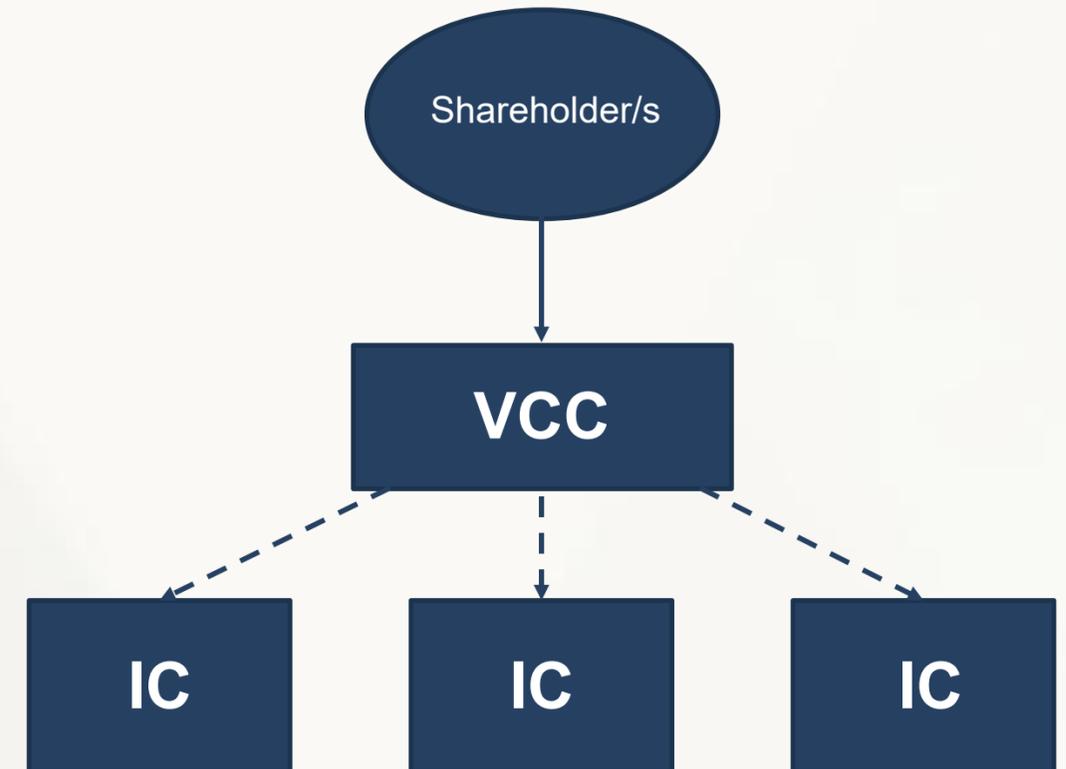


VCC as a standalone vehicle



VCC with Segregated Cells

- VCC and SCs are a single legal person
- VCC and SCs assets/liabilities are separate from statutory perspective and distinct from each other



VCC with Incorporated Cells

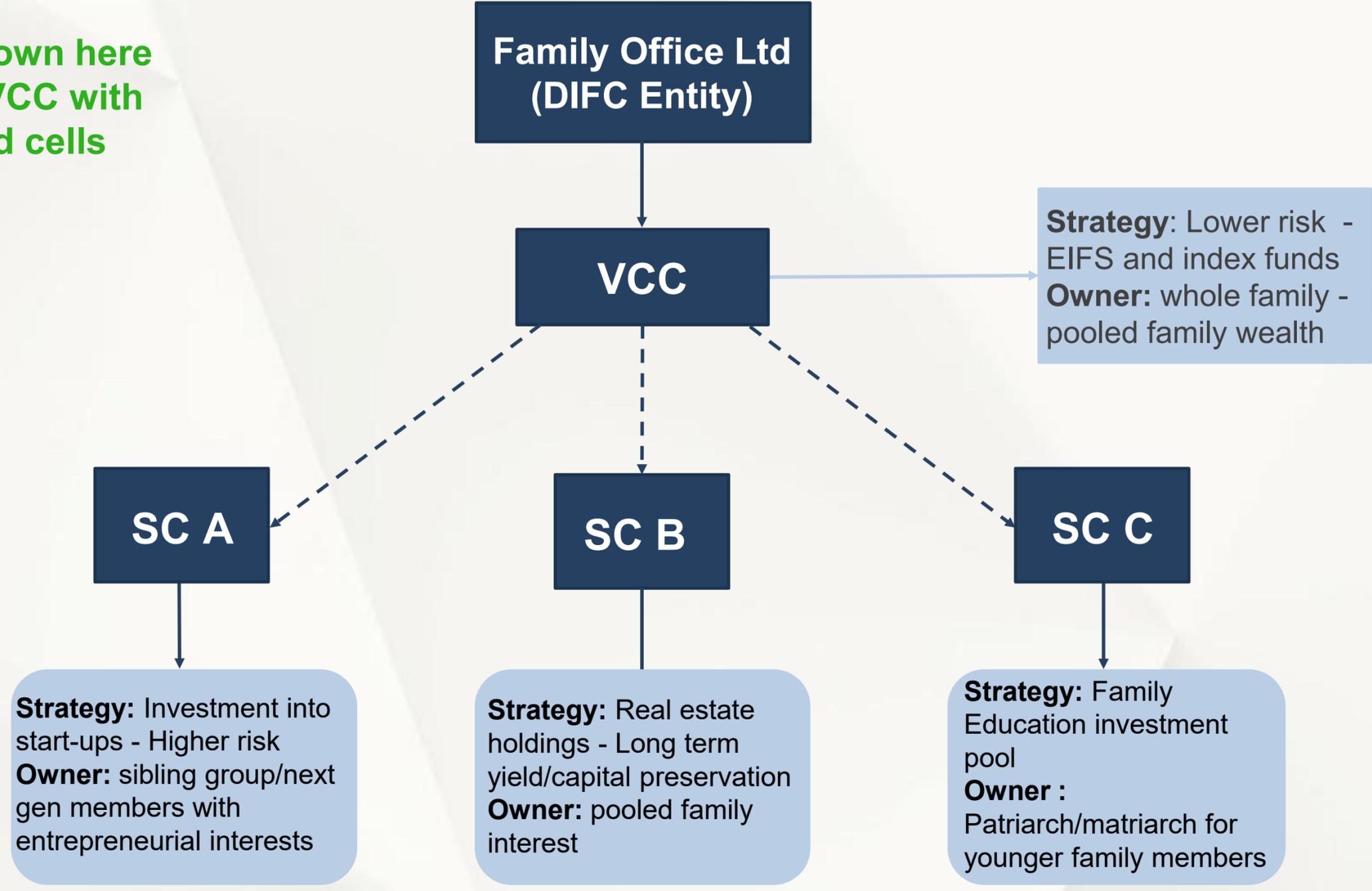
- VCC and each IC are legally separate persons/separate licences
- VCC and ICs assets/liabilities are separate and distinct from each other from a legal & statutory perspective
- No parent/subsidiary relationship with VCC or between ICs
- Share registered office, centralized accounting, compliance etc.

Segregated Cells or Incorporated Cells?

- **Flexibility:** provides choice, depending on VCC objectives and structuring Plans
- **Transferability:** Incorporated cells can be more easily detached from the VCC — can establish as a standalone entity, attach to another VCC or aid with redomiciliation.
- **Tax treatment:** VCC with SCs receive consolidated tax treatment (one legal entity), each IC must file and account for tax separately.
- **Cost:** Incorporated cells cost \$1000 to incorporate; segregated cells cost \$300 to form

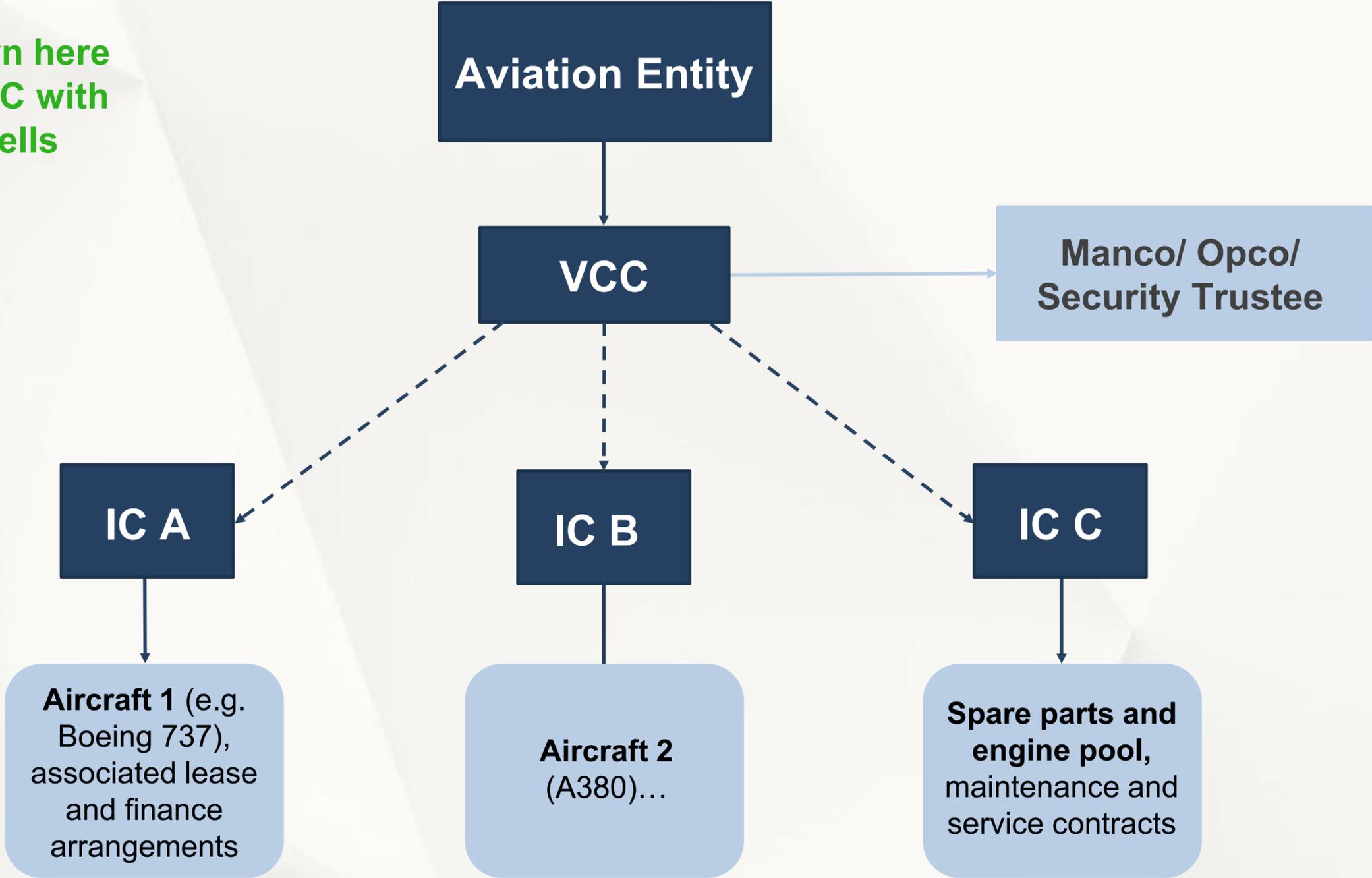
Example 1

* SC model shown here but could be VCC with incorporated cells



Example 2

• IC model shown here but could be VCC with segregated cells



VCC regime - structure recap

Features	Segregated Cells	Incorporated Cells
Cells can hold assets/liabilities distinct from other cells/VCC	✓	✓
Separate legal personality	✗ (VCC and segregated cells are the same legal person)	✓
Separate Licence	✗	✓
Separate Articles	✗	✓
Own board of directors	✗	✓ (likely the same board as VCC but can have different members)
Different shareholders to VCC other Cells	✓ (Possible but not required)	✓ (Possible but not required)
Separate registered office to VCC	✗ (VCC and cells always have same registered office)	✗ (VCC and cells always have same registered office)
Subsidiary of VCC?	✗ (same legal person)	✗ (no parent/subsidiary relationship, VCC is platform for creating ICs)

VCC versus Fixed Capital Company

Features	Variable Capital Company (VCC)	Fixed Capital Company
Share capital equals	Net Asset Value (NAV)	Nominal (par) value x number of issued shares
Share capital varies with NAV?	Yes. Expands/contracts with NAV	No. Fixed unless formally altered through corporate action.
Accounting for share value	Real-time based on NAV	Based on nominal value of shares and accounting methodology for determining value
Redemptions	Redemptions based on NAV	Requires shareholder approval. director solvency statements, creditor notifications (reduction) or possibly court approval
Distributions	Based on NAV	From realised profits only

Key difference in practice:

- A VCC behaves similarly to a fund in respect of its capital structure, which is designed to absorb capital changes fluidly as shareholders come and go, and as the value of assets fluctuate over time.
- A fixed capital company behaves like a standard company, its capital base is stable and capital changes require greater legal and accounting formality.

Flexible share capital as corporate actions

Share capital – corporate action*	VCC/Cell Mechanism**	Private Company Mechanism
Issue shares	<ul style="list-style-type: none"> Board Resolution 	<ul style="list-style-type: none"> Shareholders Resolution
Redeem/ Buyback shares***	<ul style="list-style-type: none"> Board Resolution 	<ul style="list-style-type: none"> Special Resolution (shareholders) Solvency statement signed by Directors
Distribution	<ul style="list-style-type: none"> Board Resolution 	<ul style="list-style-type: none"> Shareholders Resolution
Reduction of share capital	<ul style="list-style-type: none"> n/a If reduction would reduce share capital below zero, procedures in Companies Law/ Insolvency Law must be followed 	<ul style="list-style-type: none"> Special Resolution Solvency statement signed by Directors Public notice (Appointed Publication)

*Directors' duties - duty to ensure VCC/Cells are correctly valued

** Subject to restrictions/additional requirements in the company's/cell's constitutional documents

***Company/Cell can not redeem/buyback all shares in issue, must always have at least one share in issue.

Other Key features - Creditor Protections

Duties and Liabilities of Officers

- Directors' duties under Companies Law apply to VCC and IC directors
- Additional duties under VCC Regs also apply
 - Keep cellular and non-cellular assets separately identifiable
 - Specify whether the VCC/Cell that is entering into a transaction
 - Inform transacting parties of entity's status as a VCC
 - Inform transacting parties that only the Cell's assets are available to meet liabilities/obligations
- Failure to comply may result in personal liability arising for directors

Rights of Creditors and Implied Terms

- Creditors only have recourse to the assets of the relevant VCC or Cell they transact with
- Implied creditor rights in every transaction of a VCC or a Cell that only the VCC or relevant Cell's assets may be used to satisfy that transaction
- Implied creditor obligations that where Cellular Assets are applied to satisfy a liability not attributable to that Cell, the creditor:
 - holds those misapplied assets in a fiduciary capacity for the VCC/relevant cell
 - becomes liable to repay/deliver back the assets to the VCC/relevant cell

Licensing and other points to note

➤ **Licensing:**

- VCC and Incorporated Cells receive a licence; segregated cells do not receive separate licence

➤ **Articles:**

- VCC must state whether it is incorporating with SCs or Ics
- ICs need their own articles; must state that the IC may not own shares in the VCC or any other of the VCC's cells

➤ **Naming convention:**

- VCC must end with **"VCC Limited"** or **"VCC Ltd."**
- Segregated Cells must end with **"VCC Segregated Cell"** or **"VCC SC"**
- Incorporated Cell must end with **"VCC Incorporated Cell"** or **"VCC IC"**

Key Features - Share register

Register

- VCC (or IC) must keep share register in respect of VCC (each SC) and IC
- VCC have an exemption from the 50 shareholder limit for private companies
- VCC may appoint a Register Keeper (CSP, Authorised Firm or someone approved by the Registrar as suitably experienced)
- Register Keeper can be recorded as nominee owner of the VCC shares/Cell Shares
- Register Keeper keeps a record of "true" shareholders in a sub-register
- UBO Regulations regarding identity of any beneficial ownership must still be adhered to

Conversions and Continuations

Regulation 10 enables:

- VCC with Segregated Cells to convert into a VCC with Incorporated Cells and vice versa
- VCC to convert into a DIFC Company and vice versa
- Foreign Company to convert into a VCC
- VCC to redomicile as a Foreign Company (subject to the laws of the foreign jurisdiction concerned)
- An IC to re-register as a standalone Company (independent from the VCC)

- If a DIFC Private Company converts into a VCC, or a VCC converts into a DIFC Private Company or continues as a foreign company, **creditor/contracting party protections** are triggered through:
 - i. Written notice to those parties
 - ii. Publication of a notice in an Appointed Publication
 - iii. Creditor/contracting party may apply to Court on grounds of unfair prejudice

- If an IC wishes to convert into a Company, or transfer to another VCC **minority shareholder protections** are triggered:
 - i. Special Resolution to be passed to approve the conversion/transfer
 - ii. Any dissenting Shareholder may apply to the Court on grounds of unfair prejudice

VCC regime - Post Public Consultation Update

Key changes following public consultation:

- **Expansion of scope:** open to any applicant
- **CSP appointment:** VCCs must appoint DFSA licensed CSP, unless **Exempt** (then optional)
- **CSP Role:** primary compliance and administrative interface between VCC and Roc
- **CSP Duties:**
 - **Incorporation of VCC** and Incorporated Cells or formation of Segregated Cells, as applicable
 - **Provide registered address** - unless Exempt VCC Uses DIFC registered affiliate address. Ongoing requirement to provide address until VCC appoints new CSP and notice of new registered office is filed with the ROC or VCC is deregistered
 - **Record keeping requirements** during its appointment as CSP and for a period of 6 years following cessation of its services
 - **Reporting, filing and disclosure** - compliance with DIFC laws, AML requirements, IJBO Regulations, DFSA rules (as applicable)
 - **Audit responsibilities** - CSP subject to ROC audit powers

What is an Exempt VCC?

- **DIFC Registered Person** (other than a PC Foundation, NPIO or other VCC)
- **Authorised Firm** (regulated by DFSA or Regulator in a Recognised Jurisdiction)
- **Government entity** (UAE, Emirate or government of a recognised jurisdiction)
- **Publicly Listed Entity** (entity with its securities listed on a securities exchange in a Recognised Jurisdiction)

(No CSP required, may appoint CSP to provide registered address, to carry out administrative/compliance functions)

Control = legal control (ability to direct a company's affairs through voting rights or powers granted by its governing documents.)

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Comprehensive Financial Services

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