



Submit electronically to: [DFR.CaptiveMail@vermont.gov](mailto:DFR.CaptiveMail@vermont.gov)

Or mail to: DFR – Captive Division, 89 Main Street, Montpelier, VT 05620 – 3101  
(p) 802-828-3304 | <http://www.dfr.vermont.gov/>

## **DEPARTMENT OF FINANCIAL REGULATION REQUEST FOR CHANGE IN BUSINESS PLAN FOR ADDITION OF PROTECTED CELL(S)**

### **GENERAL INSTRUCTIONS**

This form is intended for use when forming a protected cell(s) of an existing, licensed sponsored captive insurance company. If seeking a license for a new sponsored captive insurance company with proposed protected cells, please use the general application form found on our website.

If the intent of the licensed sponsored captive insurance company's business plan is to have multiple cells with substantially similar business plans but different cell owners/participants, this form is not required for each cell. However, all relevant information must be included with request to add cells.

1. Prior to completing the Request, it may be advisable to coordinate a meeting with the Vermont Department of Financial Regulation (Department). If the business plan for the proposed cell will be substantially similar to that of other cells already operating within the licensed sponsored captive, a meeting is not necessary.
2. The Request is a "fillable" PDF Form only, and it is recommended you open and complete in Adobe Acrobat. Note: Printing as a blank form for manual completion is not recommended, as questions with drop down 'Select One' responses do not print.
3. The Request and related materials should be submitted through: [DFR.CaptiveMail@vermont.gov](mailto:DFR.CaptiveMail@vermont.gov)
4. The Request must be filled out in its entirety with all materials attached, including those items listed in question 10, as applicable. A written explanation is required for any items deemed not applicable. If materials were previously provided for the licensed sponsored captive insurance company and/or other cell(s), please note as such.

Certain requirements/expectations are summarized on following pages. For additional guidance, please contact:

**Christine A. Brown, CFE**  
Director of Captive Insurance  
Vermont Department of Financial Regulation  
[christine.brown@vermont.gov](mailto:christine.brown@vermont.gov)

**Jim DeVoe-Talluto, CPA, CFE**  
Assistant Director of Captive Insurance  
Vermont Department of Financial Regulation  
[jim.devoe-talluto@vermont.gov](mailto:jim.devoe-talluto@vermont.gov)

## Protected Cells, Generally

Sponsored Captive Insurance Companies and associated Protected Cells must comply with Title 8 V.S.A. § 6001-§6024 and specifically to §6031-§6039. Please refer to the applicable statutes at:

<https://legislature.vermont.gov/statutes/chapter/08/141>.

The statute is intended to allow participants to manage their own risks through a protected cell within a licensed sponsored captive insurance company. Any risks meeting requirements set forth in 8 V.S.A. §6002 may be insured in a protected cell.

### Participant/Participant Contract

A sponsored captive insurance company may establish and maintain one or more protected cells to insure the risks of one or more participants, where the losses of the participant are limited through a participant contract to such participant's share of the assets of one or more protected cells identified in such participant contract.

The participant contract should specify that the assets of each protected cell will be segregated from the assets of other protected cells and from the assets of the core/sponsored captive insurance company's general account. The assets of a protected cell are not chargeable against the liabilities of any other cell or against any other insurance business the sponsored captive insurance company may conduct.

The participant contract should specify that the sponsored captive will account for the loss and expense experience of each protected cell separately and at sufficient level of detail.

The participant contract should include, at a minimum, information on the following matters, as applicable: required capital, collateral, loss reserves, distributions, taxes, governance/governing body, management and allocation of expenses. The participant contract should also include appropriate termination clause, including liability of parties upon termination and description of transition services and related fees.

No participant contract shall take effect without prior written approval from DFR. The addition of each new protected cell and withdrawal of any participant or termination of any existing protected cell shall constitute a change in the business plan requiring prior written approval. DFR may require financial statements of participant(s), depending on the business plan.

### Capital and Surplus

There is no minimum capital and surplus requirement for protected cells. Surplus requirements should be determined as a result of a feasibility study and be commensurate with the business plan and retained risks. A protected cell shall not begin operations until it possesses and thereafter maintains the unimpaired paid-in capital and surplus as agreed to per approved business plan.

If a Letter of Credit is to be used to satisfy capital and surplus requirement, the language on Department Form E-702 must be used. While this document is provided as a "sample" format, please note that if you use a different format, you must adhere to the exact wording in paragraphs 1-7. All Letters of Credit should be issued on bank letterhead. Exceptions will not be considered. The Letter of Credit Form E-702 may be found at: <https://dfr.vermont.gov/document/letter-credit-template>

### Vermont Annual Report

8 V.S.A. §6034(7) requires each sponsored captive insurance company to file an annual report of its financial position which includes accounting statements detailing the financial experience of each protected cell. Protected cells by contract only must use the VCAR Supplemental Form to be filed with the annual report of the sponsored captive insurance company. *Incorporated* protected cells must use the VCAR *Incorporated* Protected Cell (IPC) Form to be filed with the annual report of the sponsored captive insurance company as per the VCAR General Instructions. Note: Separate annual statements, audits, or actuarial certification of a protected cell may be permitted or required, depending on circumstances.

### Consulting Actuarial Review

If a feasibility study is required for the proposed protected cell, the Commissioner may require a review by one of the firms appointed by the Commissioner at the Company's expense. The consulting actuarial review is of an advisory nature only and final approval or disapproval of the addition of a protected cell will be made by the Commissioner only.

### Insolvency of a Protected Cell

The licensed sponsored captive insurance company is required to formally notify the Commissioner, in writing, within 10 business days of any protected cell becoming insolvent.

### Closing of a Protected Cell

The termination of any existing protected cell and/or withdrawal of any participant constitutes a business plan change and requires formal notification and prior written approval of the Commissioner.

## Incorporated Protected Cells (IPC)

### Organization of the Business Entity in Vermont & Certificate of Approval to Organize

8 V.S.A. §6034a(c) requires the prior written approval to add an *incorporated* protected cell be attached to and filed with the articles of incorporation/organization. For purposes of registration of the business entity with the Secretary of State, the Commissioner will issue a Certificate of Approval for the *incorporated* protected cell, which will identify the entity as a protected cell of an existing sponsored captive insurance company. The *incorporated* protected cell will be approved for the limited purposes authorized by the sponsored captive insurance company's license. The sponsored captive insurance company is required to file draft articles and by-laws, or other organizing documents, for the *incorporated* protected cell with the request, which will be reviewed in order to issue a Certificate of Approval to Organize.

### Governance of Incorporated Protected Cells

Information pertaining to the *incorporated* protected cell's governance (for example: the composition of the central governing body and oversight practices) should be provided with the request.

### Biographical Affidavits

The *incorporated* protected cell is required to file biographical affidavits for directors (or equivalent) only, using either Vermont's prescribed *Biographical Affidavit* form or the NAIC's

biographical affidavit. Each affidavit must be filled out in its entirety and no substitute for this form will be accepted. The Vermont form is located at:

<https://dfr.vermont.gov/document/biographical-affidavit>

The NAIC form can be found at: [https://naic.org/industry\\_ucaa.htm](https://naic.org/industry_ucaa.htm)

### **Conflict of Interest Statements**

There is no requirement to maintain conflict of interest statements; however, the *incorporated* protected cell must follow general corporate law with respect to appropriate standards for its governing body.

### **Board of Directors (BOD)/Resident Director (or equivalent)**

An *incorporated* protected cell may have its own BOD, independent of the BOD of the licensed sponsored captive insurance company or may appoint the same persons as those serving on the BOD of the licensed sponsored captive insurance company. Although not a requirement, it may be considered a best practice for the sponsor to require the BOD to consist of representatives of the cell participant(s) and at least 1 representative of the sponsor. “Group” cells should encourage independent member participation on the BOD. There is no resident director (or equivalent) requirement for an *incorporated* protected cell.

### **BOD Meeting Requirement**

*Incorporated* protected cells should hold meetings at least annually to address essential items; however, are not required to hold a meeting in Vermont each year as stipulated in 8 V.S.A. §6002(b)(2).

### **Final Approval of Request for Business Plan Change to Add Protected Cell**

Upon approval of the request for addition of protected cell(s), DFR will issue a copy of the Business Plan Change Request form with the DFR Stamp of Approval.

### **Fees & Turn-around Time**

There is no licensing fee for a request to add a protected cell to an existing licensed sponsored captive. Review of the request for business plan change to add a protected cell can vary significantly depending on the complexity of the business plan. The VT DFR strives to take no longer than 30 days from receipt of complete form. The typical turn-around time for a change in business plan is 5 business days.



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[User Fillable PDF Form Only]

**DEPARTMENT OF FINANCIAL REGULATION  
REQUEST FOR CHANGE IN BUSINESS PLAN  
FOR ADDITION OF PROTECTED CELL(S)**

1. Name of licensed sponsored captive insurance company:

\_\_\_\_\_

VT License # \_\_\_\_\_ License Date \_\_\_\_\_

2. Individual to be contacted regarding this business plan change request: \_\_\_\_\_

\_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ E-Mail \_\_\_\_\_

3. Are you forming multiple protected cells with this request? YES NO

If yes, attach a schedule including the information requested in item #'s 4-7 with business plan, including coverage/limits and effective dates by cell. See General Instructions for additional information.

4. Name of proposed protected cell:

\_\_\_\_\_

5. Will protected cell be formed as an incorporated protected cell (IPC)? YES NO

If yes, select form of organization

If "other", please explain: \_\_\_\_\_

6. Proposed Capital and Surplus of cell

(a) Capital \$ \_\_\_\_\_

Surplus \$ \_\_\_\_\_

Total \$ \_\_\_\_\_

\*If a Letter of Credit is to be used to satisfy capital and surplus requirement, see General Instructions.

7. Basis of Accounting

If "other accounting", please explain: \_\_\_\_\_

8. VT Approved CPA, if different from that of Sponsor \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ E-Mail \_\_\_\_\_

9. VT Approved Actuary, if different from that of Sponsor \_\_\_\_\_

Address \_\_\_\_\_

Phone Number \_\_\_\_\_ E-Mail \_\_\_\_\_

10. Include the following with this request (**if not included, please attach a written explanation**):

Included

- (a) If an incorporated protected cell: Draft Articles of Incorporation/Organization and Bylaws or, if formed as a reciprocal, a draft of the Power of Attorney-in-fact, Rules and Regulations and Subscribers' Agreement;
- (b) If an incorporated protected cell: Biographical Affidavit for each Director not previously provided for the Sponsor, using either Vermont's prescribed Biographical Affidavit form or the NAIC's Biographical Affidavit form. Note: No resident director requirement for cells;
- (c) Composition of governing body and description of oversight function;
- (d) Draft Participant Agreement;
- (e) List of service providers, including:
  - (1) Responsibilities;
  - (2) Fee structure/estimated fees;
  - (3) Affiliations between service providers and sponsor and/or cell;
  - (4) Draft service agreements/engagement letters, if available;
- (f) Detailed Plan of Operation with supporting data including:
  - (1) Information about participant(s), including but not limited to: name(s), industry, relationship with Sponsor and/or among other participants (if any), state(s) in which they operate.
  - (2) Risks to be insured (direct/assumed) by line of business, including basis of coverage (claims-made, occurrence or modified claims-made); per occurrence/aggregate limits; combined limits; deductibles or self-insured retentions; effective date(s) of coverage;
  - (3) Fronting company, if applicable, including collateral requirements and type/form of security;

- (4) Name of Trustee and draft Trust Agreement, if applicable;
- (5) Reinsurance program by line of business, including amount or % reinsured, legal name(s) of reinsurer(s), domiciliary jurisdiction of reinsurer(s) and AM Best number(s)/NAIC code(s);
- (6) Maximum retained risk (per occurrence and annual aggregate);
- (7) Marketing/sales plan and materials, if applicable;
- (8) Underwriting strategy;
- (9) Claims handling information;
- (10) Description of loss prevention program, including key processes and procedures.
- (g) Loss projections/loss pick determined by actuary;
- (h) Financial projections for a five-year period on an expected and adverse basis, including assumptions for each scenario (note: projected capital should support both expected and adverse scenario);
- (i) Request(s) for permitted practice(s);
- (j) Sample insurance policy;
- (k) Draft reinsurance agreement(s);
- (l) Description of investment strategy.

I CERTIFY THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL THE INFORMATION GIVEN IN THIS BUSINESS PLAN CHANGE REQUEST IS TRUE AND CORRECT AND THAT ALL ESTIMATES GIVEN ARE TRUE ESTIMATES BASED UPON FACTS WHICH HAVE BEEN CAREFULLY CONSIDERED AND ASSESSED.

Printed Name \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_

Title and Business Affiliation \_\_\_\_\_