SERIES LIMITED LIABILITY COMPANIES

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INTRODUCTION

Limited Liability Companies (hereinafter, "LLCs") are just one of the ways corporate legal entities are recognized within our legal system. LLCs are a mixture of corporations and partnerships.[1]Whereas partnerships do not provide limited liability protection to its members, LLCs can, like corporations.[2] LLCs were created in Delaware. The Delaware model has been adapted in other states within the United States as well as other countries with the purpose of giving owners of LLCs the same kind of safeguards that a typical entity organized as a corporation offers while also allowing for certain additional liberties that are not legally granted to typical corporations.[3] Businesses opt to register as LLCs instead of corporations more nowadays as people in the business world look for additional ways to protect their interests while also looking to avoid certain formalities of a corporation.

Recently, a new trend has emerged concerning LLCs that is the topic of much debate. Business owners that have multiple types of assets, securities or portfolios are now choosing a new type of LLC for their business structure. This special kind of LLC separates investors, assets, and securities by what is called a series (hereinafter "Series")[4]. This essay will focus on Series LLCs, specifically as to how they relate to Puerto Rico and Delaware law. It will also explore the many different benefits of creating such entity, including but not limiting to,

[1] Bradley T. Borden & Mathews Vattamala, *Series LLCs in Real Estate Transactions*, 46 REAL PROP. TR. & EST. L.J. 255 (2011-2012).
[2] *Id.* at 265.
[3] Wendell Gingerich, *Series Llcs: The Problem of the Chicken and the Egg*, 4 ENTREPRENEURIAL BUS. L.J. 185 (2009).
[4] *Id.*

taxes, administrative liberties, as well as the many queries and debates when it comes to this model at a local and federal level.

I. WHAT ARE SLLCS?

In the last twenty years, a new unique form of LLCs emerged in the business world consisting of a single *parent*[5] LLC organization that creates one or more Series.[6] Each Series manages and runs their business as a separate entity with its own finances, bank accounts, business purposes, assets, securities, and limited liability.[7] These are what we now know to be Series Limited Liability Companies (hereinafter, "SLLCs" or "Series" when referring to a specific Series within an LLC). The members of SLLCs agree in writing that their company will be allowed to create additional Series, as it sees fit, within their SLLC. The SLLC serves as the parent LLC but does not manage or control the Series it creates. Each Series has its own set of members, managers, interests, securities, assets, liabilities, portfolio of investments, etc.[8] The SLLC structure "allows an LLC to wall off and protect its business interests and assets in ways that closely resemble forming completely separate LLCs."[9] However, Series within a SLLC are still tied in many ways to its parent LLC, as further discussed.

SLLCs have many benefits as they allow companies to place several properties or operations with separate purposes or objectives within *one* entity.[10] This creates significant differences when it comes to filing taxes and other regulatory measures. SLLCs are now seen as the chosen organization structure for companies in various industries including, but not limited to, real estate, cryptocurrency, and gas and oil industries.

Nonetheless, since it is a relatively new concept, they are not yet universally regulated and there is not much case law to determine how we should interpret the law in cases concerning SLLCs. In fact, as of December 2022, the Supreme Court of the United States has not issued a single decision regarding SLLCs, more than twenty years since this corporate structuring vehicle began to exist. Therefore, companies, business owners, and their attorneys are only left with the limited state law and common industry practice to interpret the powers and limitations of SLCCs. Consequently, this has led, to different jurisdictions making conflicting decisions that are still up for debate.

II. CREATING SLLCS

An LLC becomes a SLLC by providing notice of its limitation of assets through the Series it creates in its certificate of formation and adheres to the following formalities:

> (1) [T]he LLC agreement must establish or provide for the establishment of one or more series; (2) the records maintained for any series must account for the assets associated with such series separate from the assets of the LLC or any other series thereof; and (3) the LLC agreement

[5] Also called "umbrella" or "master" organization. In this paper, it will mainly be referred to as parent organization. *Id.; See also How to Start a Series LLC in Delaware,* NORTHWEST REGISTERED AGENT https://www.northwestregisteredagent.com/llc/delaware/series (last visited May 26, 2023).
[6] *How to Start a Series LLC in Delaware,* NORTHWEST REGISTERED AGENT https://www.northwestregisteredagent.com/llc/delaware/series (last visited May 26, 2023).
[7] *Id.*
[8] GINERICH, *supra* note 4, at 1.
[9] *Id.*
[10] *Id.*

> must provide for the limited liability of the series or for the maintenance of records.[11]

Like with regular LLCs, the SLLC and each of its particular Series, their most important contract is their operating agreements (hereinafter, each referred to as an "OA"). These include all managerial and decision-making capabilities for the company—including the very important clause that gives the SLLC the power to create additional Series when its managers or members determine them to be necessary.[12] Additionally, OAs also include clauses specifically relating to which members or managers of the parent SLLC will be associated with each particular Series.[13]

Subsequently, each Series creates its own OA for how to run its own particular Series. This agreement determines the "rights, powers, and duties"[14] of the members, the managers, and anyone else associated with the particular Series, its relationship with the rest of the Series involved, its relationship with the parent/umbrella LLC, and whether or not the LLC has the right to create additional Series within its own entity.[15] Additionally, the OA determines if the SLLC can create "additional classes or groups of members or managers associated" with each particular Series.[16] A Delaware court has determined that the creation of a Series *requires* its designation in the OA agreement for said Series' creation and management to be valid.[17]

One particular factor that that identifies each Series within a SLLC as its own entity is that each single Series, as well as its parent SLLC, is required to have its own federal employer identification number (FEIN or EIN).[18]

III. BENEFITS OF SLLCS

The purpose of creating SLLCs rather than typical LLCs is to ensure that the "debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing"[19] are only enforceable to the Series they are assigned to and will have little to no effects on the other Series or the "parent" LLC.[20] While protecting the interests of its members, Series also save the company money and time by not having to create multiple entities and instead establish "branches" within the parent company. This structure reduces costs for the SLLC in many ways. First off, SLLCs save the costs of forming new companies by just forming the intangible separation between the master/parent company and the particular Series it creates as Series. For the most part, Series can be formed with little to no cost beyond its OA, as they typically do not have to register with the Department of State as their own entities with a typical Certificate of Formation as the parent SLLCs Certificate of Formation usually suffices for the whole company, as well as its Series.[21] This saves a lot of time, effort and money for company owners as they do not have to register every time they open a new Series. Moreover, perhaps

[11] BORDEN, *supra* note 2, at 261.
[12] *Id*. at 266.
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] ATO Enterprises of Delaware, LLC v. Cabrera, No. CV 2021-0966-PWG, 2022 WL 2678613 (Del. Ch. July 12, 2022) (Del. Ch. 2022).
[18] NORTHWEST REGISTERED AGENT , *supra* note 6.
[19] *Pros and Cons of the Series LLC*, CARRINGTON COLEMAN (September 21, 2022), https://www.ccsb.com/pros-and-cons-of-the-series-llc/.
[20] *Id.*
[21] *Id.; See also* Bryan Johnson, *The Series LLC: Is it a good fit for your real estate investment?,* RE JOURNALS (December 18, 2019), https://rejournals.com/the-series-llc-is-it-a-good-fit-for-your-real-estate-investment/.

especially beneficial in jurisdictions where government permitting is slow and unreliable, Series within a SLLC also benefit from whatever licenses and permits the parent LLC may gain as they may be granted the same benefits of the permits with little to no additional paperwork.[22]

Specifically, in some jurisdictions such as Texas the parent LLC must be the only one of the entities to file (i) the certificate of formation, (ii) pay the fee for said filing, (iii) the annual reports, and, (iv) sometimes even file tax returns.[23] Furthermore, when it comes to taxes, many jurisdictions have decided that the local tax treatment of LLCs in general will be governed largely by their treatment under federal law.[24] This allows for more universal regulation and allows for Series to be seen as individual entities, at least at a federal tax level.

SLLCs have the ability to "compartmentalize liabilities"[25] in order to protect themselves from the parent SLLC having to be the "respondent superior".[26] The SLLC structure works best when all of the assets of each Series, as well as their respective costs, expenses, and revenue streams are tracked individually without that causing great difficulty to its managers or members.[27] In that way, without blurring the lines between each Series assets and liabilities, the Series can protect its particular assets from the liabilities of the other Series within the parent LLC.[28] The Series can attain assets and put them under their names, rather than the parent SLLC. They can also be responsible for their own liabilities. Therefore, if one single Series is performing poorly, the rest of the Series involved, as well as the parent SLLC, is not affected by that business.

In the same way, Series can be dissolved fairly easily. Specifically, in Delaware and Puerto Rico, the dissolution of a Series can occur on a set date stipulated by the OA or other subsequent agreement between the managers or members or by a judicial order.[29]

IV. BUSINESS AND INDUSTRIES THAT BENEFIT FROM SLLCS

A. *Real Estate Industry*

Real estate is one of the industries that most benefits from SLLCs as it can protect its earnings by separating where the money comes from while also having the benefit of being able to transfer titles of property with certain ease.[30] Take for example a company that creates a certain number of Series, each of which is "owner" of its own rental property. If all rental properties are doing well, then all the Series are making money. However, if one of the rental properties is operating at a loss, only that Series will be operating at a loss, while the other Series continue to operate at a gain. The assets of said Series at a loss is the only one reachable by its creditors and the rest of the Series are not affected at all. However, the profits of all its Series may still flow from the parent SLLC.[31] Additionally, it also provides

[22] Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware.
[23] CARRINGTON COLEMAN, *supra* note 20.
[24] *Taxation of Series LLCs (DE),* Lexis Nexis Practical Notes, LEXISNEXIS (2022).
[25] *Id.*
[26] As it relates to a torts doctrine related to the parent or principal company having to respond for the actions of its employees or subsidiaries in the workplace. See, *Id.* at 5.
[27] *Id.*
[28] *Id. See also,* Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware. ;
[29] ZARAGOZA CARDENALES, supra note 23.
[30] *Id.*
[31] *Id. See also* Clint Coons, *The Series LLC for Real Estate Investors,* THINK REALTY (Oct. 1, 2020), https://thinkrealty.com/series-llc-real-estate-investors.

companies with the flexibility of transferring assets within itself with certain ease. For example, SLLCs "could transfer property from itself to a series, or a series could transfer property to another series within the same Series LLC with relatively little paperwork."[32] As a result, SLLCs save on the "costs associated with transferring title, including a reduction of transfer taxes."[33]

B. Oil and gas industry

"Interests in oil and gas wells, where the revenue stream from each well can be separately tracked without much difficulty, could be held in different [S]eries of the same LLC."[34] The oil and gas industry may benefit from having different Series in the same way that the real estate industry could benefit from separating its assets and liabilities as well as in the scenario where multiple owners may have different interests within the business.[35]

C. Mutual Funds

Mutual funds benefit from SLLCs as one investment company can be formed as a trust with separate series.[36] Some theorists believe that they "may have originated from the need in investment banking to maintain separate investment portfolios under one entity…or offshore mutual funds and the insurance industry as the catalysts."[37] It is only natural that different investors who have different interests may want to separate their portfolios as much as possible. Where one investor may be interested in real estate and the other in cryptocurrency, they may want to protect themselves if one industry were to fall in the market versus another one. However, the parent SLLC may want to have all these portfolios within one SLLC to maintain a diverse portfolio that can benefit from having different investors with diverse interests and risk levels.

V. VARYING JURISDICTION VIEWS ON SLLCS

Currently, there are about sixteen to twenty states that recognize SLLCs, including Puerto Rico.[38] However, as stated above SLLCs began in Delaware "as a vehicle to provide more planning flexibility in business formation while also reducing administrative and filing costs associated with the use of multiple 'ordinary' LLCs."[39]

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[32] Bradley T. Borden & Mathews Vattamala, *Series LLCs in Real Estate Transactions*, 46 REAL PROP. TR. & EST. L.J. 255, 258 (2011-2012).
[33] *Id*.
[34] *Pros and Cons of the Series LLC*, CARRINGTON COLEMAN (September 21, 2022), https://www.ccsb.com/pros-and-cons-of-the-series-llc/.
[35] Matthew Ferris, *Series LLCs*, FERRIS FINANCIAL LLC. (2015) https://www.ferris-financial.com/files/20480/series-llc.pdf
[36] Sandra Feldman, *The Series LLC: An organizational structure that can help mitigate risk,* WOLTERS KLUWER (February 18, 2020), https://www.wolterskluwer.com/en/expert-insights/the-series-llc-an-organizational-structure-that-can-help-mitigate-risk#:~:text=With.
[37] Wendell Gingerich, *Series Llcs: The Problem of the Chicken and the Egg*, 4 ENTREPRENEURIAL BUS. L.J. 185 (2009).
[38] Different sources will say different things, but the range is between 16-20 states. These include Delaware, Illinois, Alabama, the District of Columbia, Illinois, Indiana, Iowa, Kansas, Missouri, Montana, Nevada, North Dakota, South Dakota, Wyoming, Oklahoma, Nevada, Tennessee, Utah, Texas, District of Colombia, and Puerto Rico. *Id;* See also Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware.
[39] Xin-Rong He, *The Extension of Limited Liability*, 2015 JURA: A PECSI TUDOMANYEGYETEM ALLAM- ES JOGTUDOMANYI KARANAK TUDOMANYOS LAPJA 151, 153 (2015).

A. Delaware

As stated above, LLCs as well as SLLCs were created in Delaware with the latter being the most recent addition to the corporate legal structure of the state.[40] Presently, Delaware statute allows a parent SLLC to create one or more Series "of members, managers, interests, or assets."[41] Specifically, Article 6 of the Delaware Code states:

> A limited liability company agreement may establish or provide for the establishment of one (1) or more designated series of members, managers, limited liability company interests or assets. Any such series may have separate rights, powers, or duties with respect to specified property or obligations of the limited liability company or profits and losses associated with specified property or obligations, and any such series may have a separate business purpose or investment objective.[42]

When Delaware SLLCs register their Certificate of Formation, in addition to the regular requirements for forming a typical LLC, they are also required to add a statement regarding the scope and assets of its Series as well as provide a notice to creditors that the liabilities of a Series are specifically limited to said Series, and not the assets of the parent SLLC or of any of the other associated Series.[43] However, Delaware law does not require SLLCs to make their Series hold property directly.[44] Instead, assets associated with a particular Series may be in the name of said Series, in the name of the SLLC, through a nominee, or other.[45] That is why this notice is of particular importance.

Most recently, Delaware has modified the way it recognized Series within its Delaware Limited Liability Company Act (DLLCA)[46]. Recent amendments to the DLLCA make a distinction between what is a "Protected Series" from a "Registered Series."[47] Protected Series LLCs are traditional SLLCs as described in this essay. However, Delaware law now extends the protections of any SLLC by allowing any Protected SLLC to convert into a Registered SLLC with the approval of at least 50% of the members of each Series, and by filing a Certificate of Conversion together with a new Certificate of Formation and a Certificate of Registered Shares for each of its Series with the Delaware Secretary of State. This grants all the Series within a SLLC protections and liberties regarding the individual Series' assets, records, management, and others. It also holds Series personally responsible for "any debt, obligation or liability of such series, whether arising in contract, tort or otherwise, solely by reason of being a member or acting as manager of such series."[48]

B. Puerto Rico

Generally, Puerto Rico follows Delaware's legislation in establishing its regulatory framework with respect to corporations and business entities. Puerto Rico law first

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[40] 6 DE. CODE. § 18-215 (2022).
[41] *Taxation of Series LLCs (DE),* Lexis Nexis Practical Notes, LEXISNEXIS (2022).
[42] 6 DE. CODE. § 18-215(a) (2022).
[43] *Formation and Management (DE Series LLC),* Lexis Nexis Practical Notes, LEXISNEXIS (2023).
[44] *Id.*
[45] Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware.
[46] 6 Del. C. § 18-215
[47] ZARAGOZA CARDENALES, *supra* note 23; *See also*, 6 DE. CODE § 18-215 (2022).
[48] 6 DE. CODE. § 18-215 (b) (2) (2022).

incorporated SLLCs into their law system under the General Corporations Act of Puerto Rico, Act #487 (2004). This law sets out the protections and guidelines for Series and SLLCs' separation of assets and liabilities, as well as management.[49]

Specifically, Section (b) of P.R. Laws tit. 14 § 3967, states, that each Series must make sure that their bookkeeping remains entirely separate between each Series and its parent LLC in order to be in compliance with the law. The law also maintains that if Series and SLLCs maintain all efforts of formality regarding each Series' formation and administration, they will in fact benefit from certain freedoms and protections under the law. In pertinent part of the Section reads as follows:

> [I]n the event that a limited liability company agreement provides for the establishment of one (1) or more series... the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series *shall be enforceable against the assets of such series only, and not against the assets of the limited liability company generally* or *any other series thereof, and, unless otherwise provided in the limited liability company agreement,* none of the debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to the limited liability company generally or any other series thereof *shall be enforceable against the assets of such series* . . . . (emphasis added)

This Section guides business owners and lawyers into believing that each Series will be treated as its own legal entity in the eyes of the law when it comes to all aspects of filing, bankruptcy, etc.

Furthermore, section (f) of the General Corporations Act of Puerto Rico provides guidance for management purposes for Series and SLLCs. Similar to typical LLCs, Series and SLLCs are allowed to determine the management of their companies in their OA agreements. However, in the event that the OA agreement does not provide any guidelines, the company can fall back on what this law recommends. As such, in pertinent part, it reads as follows: "Unless otherwise provided in a limited liability company agreement, the management of a series shall be vested in the members associated with such series in proportion to the then current percentage or other interest of members in the profits of the series owned by all of the members associated with such series . . ." Once again, stressing the distinct separation between the parent SLLC and its Series.

However, this results in a contradiction with other requirements of the act. For example, companies in Puerto Rico are only required to file one annual report with the Department of State for the entire company, including all its Series.[50] Moreover, companies are only required to maintain one agent or representative for the entire company as well.[51]

VI. LACK OF SLLC REGULATION

Since SLLCs are a relatively new concept, there are still many questions regarding how many protections each of its Series has under the law. Series are recognized as part of the umbrella of its SLLC for certain purposes but not for others.[52] For example, even in Puerto Rico, it is still not clear if Series LLCs have their own legal identity or if they rely on the legal identity of the master SLLC company. They do have their own separate bookkeeping, their

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[49] Ley general de corporaciones, Ley Núm. 164-2009, 14 L.P.R.A. § 3744-4084 (2009 & Supl. 2022).
[50] *Id*. § 3967.
[51] *Id.* § 3542.
[52] Matthew Ferris, *Series LLCs*, FERRIS FINANCIAL LLC. (2015) https://www.ferris-financial.com/files/20480/series-llc.pdf.

own separate management but they do not register individually under the State. Therefore, some states, like Delaware, have decided this to be a contradiction that needed to be addressed and now recognize Series as their own legal entities;[53] while others, like Puerto Rico do not. Yet, there is still a lack of legislation, regulation, and case law to interpret SLLCs in our modern business world.

The primary concern regarding lack of regulation is how will SLLCs be viewed outside of its own jurisdiction. Will jurisdictions that have not adopted Series LLC statutes recognize the existence of the series and the statutory limited liability granted by other states? Courts have not considered that specific question (perhaps because of the newness of Series LLCs or the question's lack of novelty) but have held that states must respect the limited liability rules of other types of foreign entities, such as LLCs and limited partnerships."[54] Some jurisdictions, such as California, do not allow SLLCs in their jurisdiction. However, they do allow for foreign (meaning from any other state or country) SLLCs to do business in their state as their own individual entity.[55] This is not the case everywhere else, however. Company owners need to be aware that the Series will not be granted the same protections when they leave the jurisdiction where they were created. If the state where they are trying to do business in does not allow for SLLCs, they will see the Series as simply part of the parent LLC with no separate protections or liberties and may invalidate any transactions made by the Series if they do not believe it to be an established entity.[56]

There is also much debate for lenders when they must determine who they are lending their money to. When a SLLC takes out a loan for itself, must the lender also consider and inspect each of its Series books and records to make sure that separate books are maintained for each Series? The answer is not yet clear, but the Chancery Court of Delaware did address this issue in 2013. In Northside Community Bank v. Matthew Friedman,[57] the Court addressed an allegation of alleged fraudulent transfers of money to protect a family's interest. The Northside Community Bank had granted Mr. Friedman, resident of Illinois, a loan guaranteed, amongst other things, personally by Mr. Friedman and his wife, also resident of Illinois. When Mr. Friedman became aware that he would not be able to pay the loan, he created a SLLC in Delaware, a state where he is not a resident in nor where his businesses were located. Here, he allocated different trusts and assets in different Series within the SLLC to protect these from being taken from the bank when he inevitably ended up defaulting on his loan payment. While the Court's final opinion is not published, one can determine that this is one of the issues that lack of standardized regulation for SLCCs can pose non-residents trying to benefit from Delaware law to protect their interests at all costs, even in events of default to a lender.

This leads to a separate question. There is also much debate as to how SLLC will be treated, in a courtroom[58] and how SLLCs will be seen in a bankruptcy court.[59] It is not yet clear if bankruptcy courts will recognize Series as their own separate entities, or rather if they will be considered part of the parent SLLC since bankruptcy courts have held a very restrictive view on this. Currently, the standard practice is for the SLLC and its Series to

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[53] Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware.
[54] MATTHEW FERRIS, *supra* note 53.
[55] Sandra Feldman, *The Series LLC: An organizational structure that can help mitigate risk*,WOLTERS KLUWER N.V. (Feb 18, 2022) https://www.wolterskluwer.com/en/expert-insights/the-series-llc-an-organizational-structure-that-can-help-mitigate-risk.
[56] *Id.*
[57] Northside Cmty. Bank v. Friedman, Civil Action No. 8405-VCG, 2013 Del. Ch. LEXIS 282 (Del. Ch. Nov. 20, 2013).
[58] *Id.*
[59] FELDMAN, *supra* note 37.

consolidate into one.[60] This leads to many problems. For example, Series are not able to file for bankruptcy on their own since their assets and liabilities would all be meshed with the parent SLLC and its other Series. Additionally, this makes the company more vulnerable to having their corporate veil pierced as anyone looking to sue the company may attack any of its Series or the very own parent SLLC and the whole company would have to respond.

VII. PROPOSED SOLUTIONS

A. Regarding taxes

As stated above, each Series within a SLLC as well as the parent SLLC, is required to have its own federal employer identification number (FEIN or EIN) and must file federal taxes.[61] In 2008, the federal government issued its first federal regulation related to the Internal Revenue System ("IRS) and taxation for SLLCs via private letter ruling ("PLR").[62] Said PLR held that each Series of a SLLC was, in fact, its own separate entity for federal income tax purposes and, therefore, each Series should be entitled to choose its own entity classification – independently of its parent SLLC or the other associated Series. The IRS has created a proposed regulation for the purposes of taxing Series LLCs.[63] Said proposed regulation states that each Series of a SLLC should be treated as a separate taxable entity for the purposes paying federal income taxes.[64] This would allow for individual Series to not have to answer for the federal income taxes related to any other Series or that of the parent SLLC. This would allow for SLLCs to segregate their assets and business purposes as well as their Series' tax liabilities, at least at a federal level.

B. Regarding filing with the State

The IRS has stated that Series will always be seen as their own entities in their eyes and must file taxes as such. Therefore, state law should recognize them the same way. In order to be treated as a separate entity, Series must be permitted to register as their own entities with the Department of State.

Since it is not a requirement, it makes Series vulnerable in the eyes of the law. The fact that Series have their own EIN numbers and must file federal taxes as their own entities but are not registered as their entities is confusing for outsiders – specifically creditors and loaners who will not know who they are giving their money to and how they return on investment is going to be secured. Filing as individual entities to the State establishes legitimacy for the entities and makes the Series within an SLLC able to present themselves in front of third parties with validity that they are in fact legally entitled to do business with them. Their filing can be shorter and simpler for purposes of maintaining the benefits of Series within a SLLC but should be granted the opportunity to establish domicile within their state for purposes of outside business as well as local protections.

CONCLUSION

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[60] *Id.* .

[61] *How to Start a Series LLC in Delaware,* NORTHWEST REGISTERED AGENT https://www.northwestregisteredagent.com/llc/delaware/series (last visited May 26, 2023).

[62] I.R.S. Priv. Ltr. Rul. 122811-07 (January, 18, 2008).

[63] *Id.*

[64] *Id.*; *See also* Paola Zaragoza Cardenales, *Corporaciones De Responsabilidad Limitada En Serie: Búsqueda De Orientación En La Ley De Delaware*, ACADEMIA (last visited May 26, 2023), https://www.academia.edu/38273095/Corporaci%C3%B3n_Delaware.

The only way for business owners to protect their Series and parent SLLCs is by ensuring that company managers/members keep everything separate and operate as if each Series is its own individual entity. "Funds shouldn't be commingled between [Series] and transactions between them that aren't objectively arm's length should be avoided at all costs. This way, investors can maintain *liability protection* between and among the various LLCs in the [S]eries."[65] Under Delaware and Puerto Rico law alike, each Series is considered a separate entity that can only be held accountable to itself, in the eyes of the law, if it has demonstrated to comply with the following requirements: (i) all assets, liabilities and other relative bookkeeping records associated with each Series is separated from all other relative entities and is always individually accounted for and prepared for each entity; and (ii) the OA for the SLLC allows for the company to create one or more Series.[66] This is all to say that if anything is redundant between jurisdictions is this: the only way to protect your Series is to treat it as its own entity, even if your current jurisdiction does not recognize it as such still.

Nonetheless, with the number of liberties that LLCs are granted, there is no question that SLLCs are the future of the business world. Companies that are looking to invest in a variety of markets, want to maintain a diverse portfolio or simply want to secure their assets and liabilities, while simultaneously enjoying the time and cost benefits, will see SLLCs as the best strategy for their businesses.

Therefore, it is important that the law provides further guidance on the topic to ensure that all businesses, as well as their attorneys, are prepared to organize such entities. Additionally, as more case law starts to surface regarding the topic, businessmen and women will also get a better idea of what to expect when controversies arise regarding Series and SLLCs. In the grand scheme of things, twenty years of SLLCs is not a long time. We should be looking forward to more jurisdictions adapting to the Delaware model and if not, looking for more ways to adapt to the inevitability of more SLLCs surging the business world.

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[65] Bryan Johnson, *The Series LLC: Is it a good fit for your real estate investment?,* RE JOURNALS (December 18, 2019), https://rejournals.com/the-series-llc-is-it-a-good-fit-for-your-real-estate-investment/. (Emphasis added)
[66] ZARAGOZA CARDENALES, *supra* note 23.