

## Series Restrictions vs. Non-Series Affiliated Organizations

FEATURE	Uniform LLC Protective Series Act	ULLCA P/S, ETC.
Operating agreement	Protected series does not have its own operating agreement. The (operating agreement) OA of the series LLC functions as the OA of each protected series. The protected series act is the gap-filler; and if neither the series LLC or the protected series act deals with an issue, then the LLC act is applicable.	Each LLC in the affiliated group has its own OA. Each entity in the affiliated group that is not an LLC has its equivalent internal affairs document (partnership agreement, bylaws and /or shareholder management agreement in a corporation).
Formation	File protected series designation — amendment of series LLC certificate of formation.	Separate certificates of organization for parent and any affiliated organization.
Type of organization	Protected series must be an LLC.	Affiliated organization can be any type of corporate or unincorporated entity.
Name	Name of protected series must include the name of the series LLC at the beginning or the end, as well as the phrase “protected series” or an abbreviation (e.g. “PS”).	Name of each entity in the affiliated group must meet the usual requirements of the name requirements in the statute authorizing that type of entity.
Statutory agent for service of process	Protected series must have same agent as series LLC.	Separate statutory agents for each affiliated organizations possible.
Service of Process	Service of summons and complaint on the series LLC is effective notice of the complaint and the content of the complaint to all the protected series. Service of process on any protected series is effective notice to the series LLC and all the protected series of the series LLC of the complaint and the content of the notice.	Service of process must be made on the LLC and each of the affiliated entities and members and managers that are intended to be parties in the action. No imputed service on any other entity in the affiliated group.
Annual report	Part of series LLC annual report; must include the name of each protected series.	Separate annual reports for series LLC and all affiliated organizations.
Recordkeeping	Detailed statutory rules for associated property – series LLC must establish and maintain records that a disinterested reasonable person can identify as associated.	No similar statutory limitations — associated property concept unique to protected series. Normal recordkeeping rules apply.
Restrictions on membership	Yes. Only members of the series LLC can be associated members of a protected series of the series LLC.	No similar restriction; except there are some restrictions on who can be a member of an entity that is taxed under Subchapter S.

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Effect of dissociation of an associated member of a protected series from the series LLC	The associated member is automatically dissociated from every protected series where the dissociated member was an associated member.	Dissociation of a member of one of the affiliated entities has no effect on membership status in any other entity of the affiliated group.
Transferable interests	A protected series transferable interest must be owned initially by an associated member of the protected series; and if a protected series has no associated members at the time the protected series is established, the series LLC owns the entire transferable interest in the protected series.	No member required for formation of an LLC. After formation only a member (or the equivalent term) or former member of an entity in the affiliated group has a transferable interest.
Management	Default rule is that the series LLC is the manager of each protected series whenever the protected series has no associated members.	No similar default rule.
Enforcement of Judgment	Supplement proceedings against the series LLC and all protected series of the series LLC seeking to attach assets that are claimed to be owned by the protected series but are not associated assets of the protected series. Other remedies, e.g. charging order (subject to any restrictions in the state's LLC statute and voidable transfer law) are applicable.	Associated property concept is unique to protected series.
Continued existence after dissolution etc. of parent	No.	Yes.
Foreign series qualification to do business in another state	Foreign series can file a registration statement and are treated as if the series is a separate legal entity, <u>but</u> with these additional disclosure requirements: (1) the name and jurisdiction of the foreign series LLC that established the foreign series; (2) if the foreign series has other series, the name and contact information for every other series; and (3) the name and contact information for the manager(s) and agent for service of process for all the other series.	Each foreign entity of the affiliated group must file separate registration statements that do not have to contain the additional disclosures required for a protected series registration statement. In many existing state LLC statutes that have series provisions, a foreign protected series cannot file a foreign registration statement. The registration statement can only be filed the foreign series LLC.

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Disclosure requirements when the series LLC or any protected series of the series LLC is a party in an adjudicative tribunal in this state	Same requirements for a foreign series filing a registration statement in this state.	A foreign series cannot register. No special disclosure requirements for any of the affiliated entities that are named as parties to an adjudicative tribunal in this state.
Piercing	Yes, forward and reverse. However, no safe harbor for failure to observe formalities.	Yes. Specific safe harbor lack of formalities provision.
Ability of an affiliated entity group to form tiers of its own separate affiliated group	Protected series cannot have its own separate affiliated group, nor be an associated member of another protected series.	No similar restriction. Each entity in the affiliated group treated as an independent entity.
Merger, conversion, etc.,	No. Only alternative is to dissolve.	Yes.