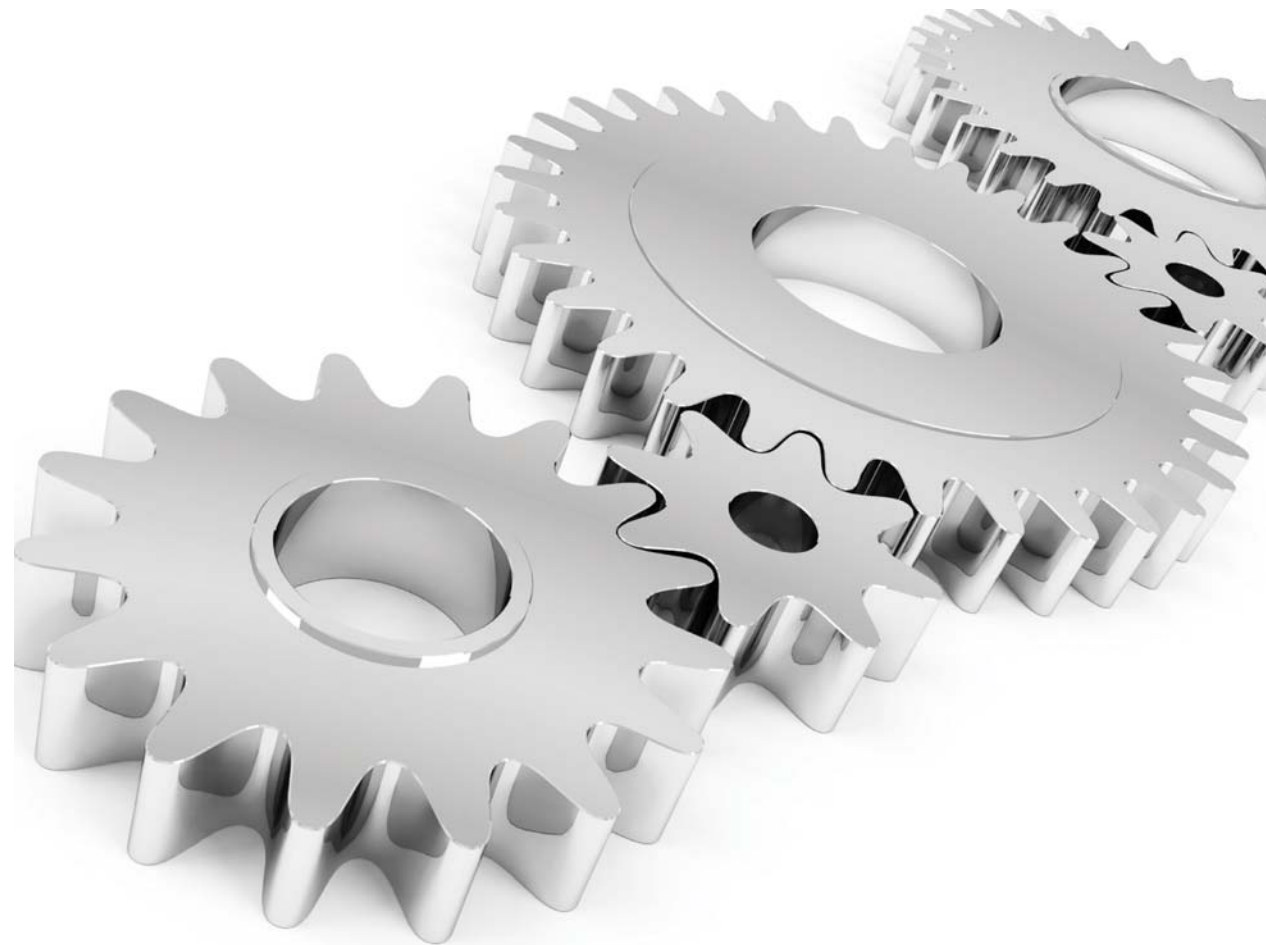




Corporate

Incorporating a Jersey Company



Introduction

Jersey is a popular jurisdiction in which to incorporate companies for use on a wide range of transactions, including investment funds, private equity, structured finance and securitisation transactions as well as listings on the Alternative Investment Market of the London Stock Exchange.

This briefing highlights the types of company available under Jersey law, the main steps involved in incorporating a Jersey company and typical issues to be addressed as part of the incorporation process.

Further information on the corporate structures used, and other issues relating to, investment funds, private equity, structured finance and securitisation transactions and listings on the Alternative Investment Market of the London Stock Exchange can be found in our separate briefings on those subjects.

Types of Jersey company

The key governing legislation in Jersey is the Companies (Jersey) Law 1991 (the “**CJL**”).

The CJL provides that a company may be formed:

- as a public or private company (save that a company may not be registered as private if it has more than 30 subscribers, unless the Jersey Financial Services Commission is satisfied that by reason of the nature of the company’s intended activities its affairs may properly be regarded as the domestic concern of its members), and
- having the liability of all or any of its members:

- (a) limited by shares (ie. limited to the amounts unpaid on their shares),
- (b) limited by guarantee (ie. limited to the amounts which they undertake to pay on a winding-up), or
- (c) unlimited, and

- which is a par value, no par value or guarantee company.

Types of companies permitted under the CJL include cell companies, being either protected cell companies (which can create protected cells, not having their own separate legal identity), or incorporated cell companies (which can create incorporated cells with their own separate legal identity).

A company could for example be formed which is a private par value company limited by shares. This is in fact the most common type of company formed in Jersey. Or a company could be formed which is a public no par value unlimited company, although unlimited companies are unusual in practice given the unlimited liability imposed on members.

A company (other than a cell company) cannot have both par value and no par value shares.

The CJL provides mechanisms whereby companies formed as one type of company can later be re-registered as another type of company.

A private company is subject to CJL as though it were a public company in certain circumstances, including where it circulates a prospectus in respect of a public offering of its securities or where its securities are admitted to trade on a regulated market.

Main incorporation steps

To incorporate a company under CJL, the following must be delivered to the Registrar of Companies:

- a statement of particulars, signed on behalf of the original subscribers. These particulars include the name and intended registered office address of the company and, in the case of a public company, details of its proposed directors and financial year end date.
- memorandum and articles of association, in a form suitable for the type of company.
- cheque or other payment of the prescribed fees, which are currently £200 for an incorporation in normal timescales (typically 2 or 3 working days) or £400 for a same day incorporation.

In addition, it will be necessary to make an application to the Jersey Financial Services Commission under the Control of Borrowing (Jersey) Order 1958 for consent to issue shares in the Company.

Other issues

A. Anti-money laundering and know your client

Services providers in Jersey, including law firms, require certain information from clients to satisfy applicable anti-money laundering and KYC rules. In addition, certain information (which is not placed on public record) must be provided to the Jersey Financial Services Commission, including details of the ultimate beneficial owners of the company.

B. Administrators

The Jersey company without its own local operating presence will need certain ongoing administration services provided by a local service provider. These may involve a simple registered office service (including holding the statutory records) or a fuller service to include the provision of professional directors to sit on the board, where local directors are required. There are various professional administration firms in Jersey that can provide such services.

C. Tax status

In general terms, a Jersey incorporated company is subject to Jersey income tax at a flat 0% rate in respect of its income, unless it is treated as being within a restricted sector of local financial services companies or utility companies.

A financial services company, which is regulated in Jersey in respect of certain types of financial services, is subject to Jersey income tax at a 10% rate.

A utility company, which provides local utility services, is subject to Jersey income tax at a 20% rate.

Please note that this briefing is only intended to provide a very general overview of the matters to which it relates. It is not intended as legal advice and should not be relied on as such.

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