Limited Liability Partnerships in Guernsey

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A Guernsey limited liability partnership ("**LLP**") is a popular structure and regularly adopted by professional advisory firms and by certain fund structures. An LLP consists of a general partnership but with the benefits of limited liability for its members.

This note briefly explains the key features and uses of LLPs under the Limited Liability Partnerships (Guernsey) Law 2013 (the "**LLP Law**").

Key features

The key features of an LLP are that:

- It is a body corporate with separate legal personality and unlimited capacity.
- It may be formed for any lawful purpose and carries on business and owns it assets in its own name.
- It must have at least two members.
- Members are not liable for the debts of the LLP, and in the ordinary course their liability is limited to the capital that they have agreed to contribute to the LLP.
- It is transparent for Guernsey tax purposes.
- It must have a written LLP agreement to govern the relationship between the members and the LLP, which agreement is private to the LLP and is binding on all members and the LLP itself.
- Members have almost total freedom to agree the ownership, operation and management of the LLP.
- The names and addresses of members of the LLP must be notified to the registrar of companies, but there is no requirement to file profit-sharing or other account details.

LLP agreement

Every LLP is required to have a written agreement which sets out the relationship between the members, which agreement shall be binding on all members and the LLP as if they had each executed it. Members have a great deal of flexibility to organise the LLP to suit their business requirements, but in the absence of express provisions the LLP Law imposes certain standard terms which may not be appropriate in the circumstances. It is therefore important to adopt a comprehensive LLP agreement that accurately reflects the intention of the parties. Carey Olsen has a standard form template LLP agreement which can be used with minimal changes for a simple LLP or can form the basis of a more bespoke agreement.

Incorporation, records and filings

As a hybrid between a company and a partnership, many of the administrative requirements of those bodies apply equally to LLPs. An LLP is capable of being formed by a corporate services provider by way of online application, in much the same way as a company in Guernsey. Each LLP is required (unless exempted by law) to have a resident agent who is responsible for identifying the beneficial owners of the LLP. An LLP must keep statutory books and records at its registered office (which must be in Guernsey), including the register of members, the LLP agreement, accounting records and the minutes of all meetings of the members. All of the above records must be made available for inspection by the public during ordinary business hours unless the members' agreement provides otherwise. However, the register of members must be open during ordinary business hours for inspection by any member or any member of the public for a fee.

Conversions and migrations

An existing Guernsey partnership is able to convert to LLP status by following the procedure laid down in the LLP Law. Upon incorporation by the registrar, all property, liabilities and obligations vested in the firm are transferred to and vest in the LLP, and the firm is dissolved. All agreements, contracts (including employment contracts) security documents and licences issued in the name of the firm continue and are enforceable against the LLP. LLPs are also capable of migrating into and out of Guernsey in accordance with the procedures laid out in the LLP Law. Such migrations will preserve the existing legal entity of the LLP (together with its assets and liabilities) and merely transfer it into or out of the jurisdiction of Guernsey law.

Uses

Their inherent flexibility means that LLPs are a popular choice in a number of different commercial scenarios. Professional services firms that have historically structured themselves as partnerships have been attracted by the limited liability and flexible management arrangements afforded to members of an LLP. In addition to such staffed businesses, LLPs are ideally suited to special purpose "Mancos" and general partner vehicles, particularly in light of the changes to the UK's Partnership Accounts Regulations in 2015. Similarly LLPs are used for real estate joint-ventures and other investment "clubs" where participants can take an active part in the management of the LLP and its investments without giving up their limited liability. Given the ability to tailor the economics of LLPs, they are also attractive as simple asset holding vehicles, even in the absence of any active investment management.

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