

Service area / [Banking and Finance](#)

Location / [Jersey](#)

Date / [November 2020](#)

Jersey property unit trusts (or “JPUTs”) have been for some time and continue to be a popular choice of vehicle for investment and fund structures that hold UK real estate. As the largest law firm in Jersey with the busiest funds practice, Carey Olsen continues to receive instructions to establish new JPUTs especially due to the recent changes to the UK capital gains and corporation tax regime.

What is a JPUT?

A JPUT is a legal structure whereby legal ownership of assets (primarily non-Jersey real estate) is vested in one or more trustees who hold the assets on trust for the benefit of unitholders upon the terms of a written trust instrument.

Why use a JPUT?

JPUTs have many plus points:

- **Familiarity:** JPUTs are generally recognised and accepted by investors, lenders, advisers, regulators and tax authorities in the UK and elsewhere.
- **Flexibility:** There are very few restrictions in Jersey on the terms of the governance arrangements of a JPUT (such as trustee powers, reserved matters and distribution entitlements and arrangements) so these may be customised to suit commercial objectives.
- **Tax-efficiency:**
 - No income or capital gains tax payable in Jersey by a JPUT trustee.
 - No stamp duty payable in Jersey or the UK on transfers of units in a JPUT.
 - Possible to structure in such a way as to be transparent for UK income tax purposes.
 - A JPUT may elect to be treated as exempt or transparent for UK capital gains tax and corporation tax purposes (including on the sale of the JPUT’s underlying real estate).
- **Ease of establishment:** A JPUT is straightforward to establish requiring a trust instrument, an initial trust fund (usually a nominal cash amount), one or more trustees and an appropriate consent or regulatory approval.

JPUT trustee(s)

A JPUT requires a person or entity (usually a Jersey private limited company) to act as trustee. Due to English property law requirements, it is often preferable for a JPUT to have two trustees that jointly hold the underlying real estate upon the terms of the trust instrument.

It is usually recommended that a special purpose company is established to act as a trustee of a JPUT which can usually be exempt from regulation. A variety of professional Jersey service providers are available to administer those SPC trustees for you.

Although legal ownership of assets vests in the trustee(s), Jersey law imposes certain fiduciary duties on the trustee(s) that are owed to the unitholders of the JPUT.

The trustee(s) may appoint a manager (for example, to manage the property and deal with matters such as tenant issues or rent collection) or other adviser, depending on the needs of the client and the nature of the property held. Alternatively, this function can be undertaken directly by the trustee(s).

Trust instrument

A written trust instrument is required to constitute a JPUT which sets out, in effect, the terms on which the trustee(s) hold the trust assets for the unitholders.

Jersey’s trust law regime is very flexible and modern in various respects, particularly in comparison to other jurisdictions. This means that the commercial intentions of investors can generally be well-reflected in the terms of the trust instrument.

Regulation of JPUTs in Jersey

There is great flexibility in the regulation of a JPUT – from being exempt to various types of regulated fund options:

- **Non-Fund JPUTs:** Typically, single asset with one/two investors. Only requires a straightforward consent to the raising of money and issue of units under the Control of Borrowing (Jersey) Order 1958 (known as a COBO Consent).

OFFSHORE LAW SPECIALISTS

- **Jersey Private Fund (JPF):** For joint ventures or multiple investors (<50), especially where the JPUT will hold multiple assets. JPFs have proven to be very popular since their introduction in 2017 due to a fast-track approval system and light touch regulatory approach.
- **Eligible Investor (Notification only) funds:** For JPUT funds with multiple sophisticated investors where neither the trustee nor JPUT need be regulated.
- **Collective Investment Fund (CIF):** Where a JPUT is a fund with multiple assets and investors, it may be regulated as a CIF (typically, as an Expert fund).

To find out more about Jersey funds regulation [click here](#).

Recent UK CGT Changes

In April 2019, the UK's CGT and CT regimes were revised to bring non-UK investors into scope on any direct or indirect gains in relation to investments in UK property. However, certain exemptions were made available which have contributed to the continued popularity of JPUTs:

- **Transparency election:** JPUTs may elect to be treated as transparent for any gains subject to satisfaction of certain conditions. Investors in JPUTs making a transparency election will be taxed in their own hands on any gain made in respect of investments in UK property and therefore: i) the status of exempt investors is preserved; and ii) no double-tax will result as a consequence of investment through these vehicles.
- **Exemption election:** UK property-rich Jersey fund structures (including JPUTs) which are widely held and prepared to fulfil certain reporting requirements are able to elect to be treated as exempt. This means that not only the fund itself but also any underlying holding entities will be disregarded for CGT/CT purposes (in respect of UK property gains), and investors will be taxed in their own hands on any gain made on their interests in the fund.

The Carey Olsen team

- As the largest Jersey law firm, the Carey Olsen team has extensive experience of JPUTs, regularly advising purchasers, vendors, investors, trustees and finance parties both on the establishment of the structure and on an on-going basis.
- In particular, we have recently advised on issues relating to distressed JPUTs and the enforcement of security over JPUT units and JPUT assets. We have also advised on changing the regulatory status of JPUTs, either to permit a wider offer of units or to cancel certificates issued under the CIF Law.
- We work closely with other stakeholders on legal developments (both in Jersey and the UK) that impact JPUTs. This provides us with insight enabling us to best assist our clients on their existing and future structures.
- We have good relationships with all of the key corporate service providers in Jersey who provide administration, accounting and other services to JPUTs and their trustee(s).



FIND US

Carey Olsen Jersey LLP
47 Esplanade
St Helier
Jersey JE1 0BD
Channel Islands

T +44 (0)1534 888900

E jerseyco@careyolsen.com



FOLLOW US

Visit our banking and finance team at careyolsen.com



PLEASE NOTE

Carey Olsen Jersey LLP is registered as a limited liability partnership in Jersey with registered number 80.

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. © Carey Olsen Jersey LLP 2020.