

Jersey Fund Structures

Service area / [Investment Funds](#)

Legal jurisdiction / [Jersey](#)

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A Jersey fund can be established as:

- a limited partnership, separate limited partnership or incorporated limited partnership or limited liability partnership;
- a company: a standard Jersey company, protected cell company ("PCC") or incorporated cell company ("ICC"); or
- a unit trust.

Limited partnerships

Limited partnerships ("LPs") are now the favoured vehicles for closed-ended private equity funds and can be established in three ways:

- "Traditional" Jersey LPs ("JLPs"), which are similar to English LPs, are established under the Limited Partnerships (Jersey) Law 1994.
- Separate LPs ("SLPs"), which have separate legal personality and are therefore similar to Scottish LPs, are established under the Separate Limited Partnerships (Jersey) Law 2011.
- Incorporated LPs ("ILPs"), which have separate legal personality and are bodies corporate, are established under the Incorporated Limited Partnerships (Jersey) Law 2011.

A JLP/SLP/ILP is usually created by a written partnership agreement which is signed after the LP has been issued with a certificate of registration. A JLP/SLP/ILP consists of one or more general partners who are jointly and severally liable for all the debts of the partnership and one or more limited partners, who are not liable for any debts of the partnership beyond the amounts they contribute or agree to contribute. Among the features which make these Jersey limited partnerships

attractive to fund promoters as fund vehicles, GP vehicles and carried interest vehicles are the following:

- JLPs are treated as transparent for all UK tax purposes and counsel's advice is that SLPs and ILPs will receive the same treatment.
- Jersey LPs are "stackable" – a JLP/SLP/ILP can act as a general partner or limited partner to another JLP/SLP/ILP (or any foreign LP) without prejudicing the limited liability of its limited partners. This makes them ideal for carried interest and other profit distribution structures.
- A JLP/SLP/ILP can distribute both capital and profits without formality provided that it is solvent before and after the distribution.
- The names of the limited partners do not appear on any register which is open to public inspection (public information is limited to the limited partnership's name and registered office, the general partner's place of incorporation and registered/principal office and the term, if any, for which the LP is to exist).
- Subject to any requirements of the applicable regulatory category: no Jersey service providers are required; the general partner is not required to be a Jersey company, be resident in Jersey or have Jersey directors, there is no ongoing registration charge, no requirement to file any annual return or accounts and no audit requirement (where the LP is regulated its accounts must be audited but do not need to comply with any GAAP).
- A limited partner may have greater involvement in management than in some other jurisdictions. There is no limit on the number of limited partners who may be members of a limited partnership. The general partner need not make any capital contribution to the limited partnership.

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- There is great flexibility in defining the extent of the limited partners' rights (including rights of redemption), any rights of any partner(s) to receive carried interest, profit share and/or other payments and the scope of any restrictions on the general partner's discretion.
- For SLPs and ILPs, the laws under which they are established have been tailored to reinforce the existence of separate legal personality and body corporate status (e.g. ILPs have perpetual succession and detailed winding up provisions, similar to a Jersey company).

More information on Jersey limited partnerships is available in a separate publication on our website.

Companies

Companies are incorporated under the provisions of the Companies (Jersey) Law 1991 (the "**Companies Law**"). Fund companies which are established as open-ended so that investors have the right to realise their investment in the company will normally issue redeemable preference shares to facilitate this, as par or no par value shares.

All companies formed under Jersey law have separate legal personality and are capable of suing and being sued in their own names. Management and control is vested in a board of directors although, particularly in the case of open-ended companies, it is often the case that investment management will be delegated to a management company.

Protected Cell Companies and Incorporated Cell Companies

Cell company structures (which are popular for umbrella fund structures) are also established under the Companies Law. The cells all share the same registered office and company secretary, but can have different boards of directors, different capital structures and different articles of association. In Jersey, two kinds of cell company structure are available:

- The Protected Cell Company (**PCC**): a "second generation" protected cell company that represents the first significant advance from the PCC model used in other jurisdictions (for example, a cell in a Jersey PCC can invest in other cells within the same PCC) – the PCC and its cells together form a single company, but Jersey's company law provides for the legal segregation of the assets of the PCC and of each of its cells.
- The Incorporated Cell Company (**ICC**): a true innovation which provides unmatched segregation of liabilities and flexibility. Each cell of an ICC is a separate company.

PCCs and ICCs can offer significant advantages and recently introduced changes that further increase their flexibility, while maintaining the "bankruptcy remoteness" of each cell.

More information on PCC and ICC structures is available in a separate publication on our website.

Unit trusts

A unit trust is not a separate legal entity but is constituted by an agreement in writing, commonly known as a "trust instrument", between a manager and a trustee (or by a trustee which also acts as manager). The trust concept has been recognised in Jersey for over one hundred years and trusts generally are now governed by the provisions of the Trusts (Jersey) Law, 1984.

The assets of a unit trust are held by its trustee and are managed by the manager, who may appoint one or more investment managers/advisers to assist it.

Contracts in relation to the management and administration of the trust fund will be entered into by the manager, whereas the trustee will enter into contracts in relation to the assets themselves, such as bank deposits, borrowings and security agreements. There is no limit to the number of investors.

Continued



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