

Jersey Limited Liability Company Law

On 1 September 2022, the Limited Liability Companies (Jersey) Law 2018 (the "LLC Law") came into force as amended by Limited Liability Companies (Amendment) (Jersey) Law 2020 and the Limited Liability Companies (Amendment No. 2) (Jersey) Law 2022.

The introduction of Jersey LLCs significantly enhances the structuring options available to US advisers and their clients who understand the advantages of using investment vehicles registered in Jersey, as a well-regulated international finance centre.

Possible Uses of a Jersey LLC

An LLC can be used for many varied types of corporate investment, fund structuring and other financial transactions. LLCs may be preferable to existing vehicles for some types of transaction structuring, including, in particular, investment funds (such as general partner, management vehicles, carried interest distribution vehicles, portfolio-holding vehicles or joint venture vehicles), investment management or structured finance business.

In particular, the ability to provide greater symmetry with onshore investment vehicles is likely to be attractive. For example, utilising an LLC in an onshore-offshore fund structure should allow for greater ease and cost efficiency of administration and may help to better align the rights of investors in the different vehicles in such structures.

Key Features of an LLC

The following are the key features of a Jersey LLC:

- **Legal Status:** An LLC has separate legal personality with the capacity in its own name to sue and be sued, to incur debts and obligations and to acquire and dispose of assets. However, it is not a body corporate.
- **Capacity and Powers:** An LLC may be formed for any lawful business, purpose or activity, whether or not for profit. An LLC has unlimited capacity and can exercise all powers and privileges granted by the LLC agreement or law.
- **Membership and Limited Liability:** An LLC must have at least one member. No member need have a Jersey nexus. Generally, liability is limited to the amount a member has contractually agreed to contribute to an LLC, whether in the LLC agreement or otherwise.
- **Registration:** The formation and registration of an LLC is a simple process.
- **Name:** An LLC must use one of the following suffixes in its name: "Limited Liability Company", "LLC" or "L.L.C.".
- **LLC Agreement:** An LLC agreement (also known as an operating agreement) must be in writing and will be governed by Jersey law. A member is deemed bound from the

date of such member's admission. An LLC is deemed bound by the terms of its LLC agreement, even though it is not obliged to execute it. An LLC agreement executed prior to registration will only take effect from the date of registration of the LLC.

- **Capital Structure:** Members of an LLC may have their economic interests represented by way of a capital account, may (but need not) make capital contributions (which may be in cash, property, other assets, services rendered or simply an obligation to contribute assets or perform services) and may agree that profits and losses will be allocated among the members and among classes or groups of members as provided in the LLC agreement.
- Different classes of membership interests (with differing voting, economic and other rights) can be created in the LLC agreement.
- **Governance:** An LLC affords considerable flexibility to its members to agree among themselves the internal workings and management arrangements of the LLC, subject to certain statutory minimums. Managers can be appointed to manage the LLCs, acting in effect as directors of a company, or alternatively, if no managers are provided for in the LLC agreement or none are appointed, the members will be responsible for the management of the LLC. A member may also be a manager.
- **Fiduciary Duties:** Where a manager is appointed, it is under no fiduciary duties, when exercising its powers and duties, to the LLC itself or any member of the LLC other than a duty to act in good faith in respect of the management of the LLC. The duty of good faith can be expanded or restricted by providing expressly in the LLC agreement. Any breach of duties may be authorised or ratified by all members of the LLC if the LLC is cash flow solvent, i.e. will be able to discharge its liabilities as they fall due.
- The members are also not subject to any fiduciary duties, including when no managers have been appointed. In addition, subject to the LLC agreement, the LLC may indemnify a member and / or a manager against all claims and demands.
- **Distributions:** An LLC can make a distribution provided that it is not insolvent at the time. An LLC will be insolvent if it is unable to meet its debts as they fall due. Unlike Jersey companies, no formal solvency statement or 12-month look forward insolvency test is required.
- **Statutory Registers:** An LLC is required to maintain (and, in certain circumstances, make available to the Registrar) the following registers:
 - a document containing a list of the names and addresses of each member and manager of the LLC;
 - a copy of the declaration establishing the LLC;
 - a copy of any other statement delivered to the Registrar of Companies under the LLC Law;
 - a copy of the certificate of formation;
 - a copy of the LLC agreement and each amendment made to it;
 - a statement of the amount of any contributions agreed to be made by each member and the time at which, or events on the happening of which, the contributions are to be made;
 - a statement of the amount of money and nature and value of any other property or services contributed by each member and the dates that the contributions were made;
 - a statement of the amount of contributions returned to members and

- the dates that the contributions were returned; and
 - such other particulars as may be prescribed.
- **Winding Up / Dissolution:** the registration of an LLC may be cancelled or formally liquidated by a winding up process. The winding up mechanics closely resemble the regime applicable to Jersey companies.
 - In addition, the LLC (or its administrators) must maintain copy documentation of the ultimate beneficial ownership of the LLC in order to comply with Jersey's anti-money laundering rules. A limited partnership formed or registered under a foreign law without legal personality, may apply for continuance in Jersey, as long as the foreign governing law does not prohibit it.

The above features make the Jersey LLC a more flexible, simplified vehicle combining various features of both limited companies and partnerships.

How can the Maples Group help?

The Maples Group's Jersey office has prepared a comprehensive [legal guide](#)¹ detailing the advantages of a Jersey LLC for US Private Equity and Fund Managers. If you would like further information, please contact your regular Maples Group contact or any of the persons listed below.

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¹ <https://maples.com/en/knowledge-centre/legal-guides>