

Enhancements to Jersey's Limited Partnership Law

The Jersey limited partnership structure is used extensively for international fund structures, especially in the private equity and venture capital asset classes. Reasons for its popularity include that the limited partnership structure offers tax neutrality and limited liability to its limited partners.



How has the Law been enhanced?

Jersey has introduced changes to the Limited Partnership Law to modernise it and build greater flexibility, recognising developments in other jurisdictions. The amendments also create a clearer termination process and provide wider amendment powers, by way of secondary legislation, to facilitate quicker and more efficient legislative change in the future. The changes complement an amendment made in 2020 to enable foreign limited partnerships to migrate to Jersey quickly and seamlessly.

What has changed



Safe Harbours

The amendments to the Law provide wider protections for the limited liability of the limited partners. This is being achieved in the amended Law by expanding the 'safe harbours' in terms of participation in the management of the limited partnership (LP), in line with the safe harbours that are available in competitor jurisdictions.



Clarifications of note:

- Specific provisions in relation to the delivery and registration of electronic forms and communication from LPs.
- Confirmation that a general partner can be an unincorporated body.
- The addition of express provision that the disclosure of the records of LPs are subject to the terms of the applicable partnership agreement; and
- Confirmation that contributions made by a limited partner to LPs may be paid up or left owing.



Increased Flexibility

The new provisions for the Law increase the flexibility of the Law going forward. These provisions include:

- Allowing third parties to have enforceable rights under the partnership agreement, while not being a partner of the LP.
- Making statutory provision for the general partner to be liable for the debts and obligations of the LP, in the event the LP has insufficient assets to meet its liabilities.
- Increasing the flexibility of LPs by allowing the limited partnership agreements to, except in certain circumstances, override the Law, with the law operating more as a statutory back stop where the partnership agreement is silent. The amendments proposed to achieve this include:
 - The removal of overriding statutory restrictions on the general partners' rights and powers in respect of the limited partnership. The powers and the rights of general partners are now made subject to the partnership agreement only.
 - A partner's entitlement to receive a return of his or her contributions is to be expressly made subject to the terms of the partnership agreement.
 - A limited partner's liability to the limited partnership is to be expressly made subject to the terms of the partnership agreement. A limited partner's liability for the debts or obligations of the limited partnership are expressly made subject to the partnership agreement in addition to the Law; and
 - New provisions allowing for the winding up of the partnership to be undertaken by a person other than the general partner if authorised by the partners or by the partnership agreement or by the court.



Termination

The previous provisions of the Law regarding the termination of limited partnerships raised practical issues for LPs in Jersey.

The proposals have amended the Law to create a clearer order of events for the termination process, with the dissolution being the final act of the limited partnership (similar for example, to the winding-up of a company under Jersey law). The changes also provide a mechanism for the removal of a limited partnership from the Register for non-compliance with its statutory reporting and annual fee payments. This allows historic limited partnerships that failed to follow a correct de-registration process to be removed from the Register.

The new termination process is:

- For a voluntary termination: the winding-up of the limited partnership will be triggered in accordance with the terms of the partnership agreement, upon which the limited partnership is obliged to be wound-up. Upon the winding-up being completed, a request for cancellation of its registration must be delivered to the Registrar. Dissolution will occur once the limited partnership is de-registered, reversing the current statutory position, which is based upon customary law.
- For an involuntary termination: the variety of methods to bring the LP to an end whilst recognising rights and protections of limited partners and creditors has been expanded.

In addition to the above new process, the amendments to the Law also introduce the power to reinstate a limited partnership, to address the possible adverse consequences of a limited partnership having its registration cancelled by the Registrar for the continued default of the general partner, or for being mistakenly de-registered whilst it still has assets. Any application to reinstate the limited partnership can be brought by a partner, creditors or any other interested party at any time before the tenth anniversary of it being de-registered (a provision similar to equivalent legislation for reinstating companies under Jersey law).



Enhanced reporting obligations

As previously noted, the amendments to the Law provide new reporting obligations and powers to the Registry, to ensure that the Register is kept up-to-date and correct. These include:

- A new annual confirmation, bringing the reporting obligations in line with obligations of other legal entities in Jersey. This will provide the Registrar with regular updates as to the status of the limited partnership and of any changes to the information previously provided to the Registrar;
- As already mentioned, the new process regarding the termination of limited partnerships will allow the Registrar to remove defaulting limited partnerships from the Register for any continued default
- The amendments also include a new power for the Registrar to apply to the Court for a limited partnership to be wound up where its activities are bringing the reputation of the Island into disrepute.



Wider amendment powers

Finally, the amendments allow for further additional amendments to be made to the Law by way of regulations, rather than the requirement to amend the primary legislation.

Looking ahead

It is worthwhile noting that there are no transitional arrangements and, whilst in most cases, there will be no need to amend existing limited partnership agreements, these could be reviewed to benefit from this added flexibility and clarity.

The amendments serve to modernise, clarify and increase the flexibility of the Jersey Limited Partnership Law, with a view to ensuring that Jersey remains competitive and the best in class.



US\$632.6 bn
net asset value of regulated funds up 103% since 2016

Cumulated JPF and regulated value of funds (June 2022)



Venture Capital & Private Equity Funds
represent 41% of this total net asset value

September 2022



2,525
limited partnerships in Jersey up 110% since 2016

Jersey Financial Services Commission
12 July 2022



320
Jersey fund promoters

Monterey 2022

Disclaimer: This factsheet is only intended to provide a general overview of the subject matter. It does not constitute, and should not be treated as, legal advice.

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