



## Jersey LLCs – The Latest Offshore LLC Option

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For decades, the Limited Liability Company (“LLC”) structure has been familiar to US managers and investors, with onshore and offshore options combining desirable features of companies and partnerships in one flexible vehicle.

Jersey has recently entered the LLC market with the passing of The Limited Liability Companies (Jersey) Law 2018 (the “LLC Law”), and since September 2022, the Jersey LLC has been the newest addition to the offshore toolbox.

In the US market, LLCs are typically employed as a carried interest vehicle or feeder vehicle; to act as a general partner or manager; or by corporates as SPVs for financing purposes, joint venture vehicles or as the ultimate holding company for large public company structures.

Figures show that Jersey has a growing profile in the US as a gateway to European capital or assets – in the past five years, assets under administration in Jersey by US promoter origin rose by 230%.

That growing profile and awareness makes the launch of the Jersey LLC particularly well-timed.

This short note explores some of the basic features of the Jersey model – which differs slightly from the existing onshore and offshore versions.

### Ten things to know about Jersey LLCs:

1. **Limited Liability** – members of the LLC benefit from limited liability protection, meaning that although they are liable for their contribution, beyond this they cannot be held personally liable for any debts or losses of the LLC (unless they expressly agree otherwise in the LLC agreement).
2. **Separate legal personality (but not a body corporate)** - LLCs have their own separate legal personality, and so they can own assets in their own right, sue and be sued.
3. **Tax** – a Jersey LLC is tax transparent for Jersey taxation purposes, but it is envisaged that it can elect to be treated as either a partnership or a company for US purposes. From a UK tax perspective, the existing Jersey LLP has historically been a popular choice for those wishing to benefit from the features of separate legal personality, yet retaining tax transparency, none the less LLCs are aimed at facilitating investment through familiar Jersey structures by US clients / promoters.
4. **Flexibility** – the LLC agreement is the main constitutional document of the LLC, and is an agreement in writing setting out the rights and obligations of the manager and members. It offers a large degree of freedom to decide the terms upon which the LLC operates. For example, the LLC agreement can confer enforceable rights on a third party, and in the future may be drafted to create separate series which will be similar to protected cells in a company, each with their own assets and liabilities. Under the LLC Law, there is no requirement for an LLC agreement to be made publicly available and so the terms upon which the LLC operates remain private.



5. **Managers (rather than directors)** can be appointed to manage the affairs of the LLC, or if preferred, the members can do this themselves. An LLC may be formed with a sole member.
6. **Members hold LLC interests** - members of an LLC acquire LLC interests, in contrast to the shareholders of a company who hold shares in that company.
7. **Regulated corporate services provider** - LLCs must have a registered office in Jersey and this will usually be provided by a regulated Jersey corporate services provider (a "CSP") appointed to administer the LLC. The CSP will also usually supply a secretary (to fulfil the requirement under the LLC Law to have a secretary) and a 'nominated person' (for the purposes of the Financial Services (Disclosure and Provision of Information) (Jersey) Law 2020 (the "Disclosure Law")).
8. **LLCs must register with the JFSC and disclose beneficial ownership and controllers** – the registration process is quick, with fees varying according to whether a 2 hour or a 5 day service is required. LLCs are subject to the usual requirement for a 'COBO consent' under the Control of Borrowing (Jersey) Order 1958, which will be issued upon registration. Like companies and partnerships, LLCs must comply with the provisions of the Disclosure Law in relation to the disclosure of ultimate beneficial owners and controllers to the JFSC.
9. **LLCs must comply with Jersey's AML/CFT regime.**
10. **Economic Substance** – if LLCs conduct certain "relevant activities", they must ensure that they meet the economic substance test set out in the Taxation (Companies – Economic Substance) (Jersey) Law 2019.

The new Jersey LLC follows in the footsteps of similar legislation introduced in other offshore jurisdictions, such as the Cayman Islands and Bermuda, where Walkers has practised for many years and where we have significant experience in the structuring and use of LLCs.

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