



## Jersey launches consultation on the proposed creation and use of limited liability companies | 1

As part of Jersey's constant and continuous effort to evolve its offering as a leading international finance centre ("IFC"), the States of Jersey has launched a consultation in connection with an exciting proposal to enact a new law (the "**Draft Law**") enabling the creation in Jersey of limited liability companies which would innovatively combine various features of Jersey limited companies and statutory partnerships ("**LLCs**").

The global appeal of the LLC (most notably the US LLC) is largely due to its flexibility. Uses vary from simple business activities to complex finance and fund structures. It's believed that the introduction of the LLC would increase Jersey's already established attractiveness for US (and equivalent European) business.

### What is proposed?

A brief summary of the proposals are as follows:

- the LLC would have a separate legal personality without being a "body corporate" (therefore combining elements of both Jersey limited companies and statutory partnerships);
- subject to the terms of the Draft Law, the LLC would be governed by the terms of a private "LLC agreement" binding on the LLC, each member and manager (if applicable) whether or not they are party to it (the "**LLC Agreement**");
- the LLC would not have perpetual succession. Pursuant to the Draft Law, an LLC shall be dissolved and have its affairs wound up pursuant to the LLC Agreement or the Draft Law (the LLC Agreement can provide, however, that the LLC may have perpetual succession or cease upon the occurrence of certain events);
- the LLC would be a transparent entity for tax purposes (it would be possible, however, to elect to be treated for tax purposes as a company instead – this would be a "tick-box" election made in the registration document filed with the Jersey Taxes Office);
- the name of the LLC must end with "Limited Liability Company", "L.L.C." or "LLC";
- the LLC must have a registered office in Jersey;
- an LLC would consist of one or more members (akin in substance to partners in a limited liability partnership) and, if appointed, one or more managers (in substance akin to directors of a company) who may also be members;
- the LLC would be formed by the filing of a declaration and may be formed for any lawful purpose by one or more members who, subject to the terms of the LLC Agreement, may be required to contribute cash, property, promissory notes or services (or promises of the same) to the LLC with capital accounts credited for such contributions;
- managers must act in good faith while performing their management duties (the LLC Agreement may reduce or expand this obligation);
- the LLC would have the ability to create series (like cells in a protected cell company) with each series having its own legal identity separate from the LLC and therefore each series would be able to contract/holds assets in its own name (this is essentially a "ring fencing" exercise which in addition to the advantages it offers is also cost and time effective);
- rules of customary law applicable to partnerships will apply to LLCs (except if inconsistent with the Draft Law or the nature of the LLC); and
- subject to the terms of the LLC Agreement:



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- all management powers would be vested in its members unless managers (who may also, but not necessarily, be members) are appointed;
- each member would have an “interest” (which may be assignable in whole or in part) in the profits and losses and a right to receive distributions of the LLC property. The assets and liabilities, however, of the LLC would belong to the LLC;
- members/managers may be divided into classes with regards to voting and payment/distribution entitlement rights and may hold meetings with each having the authority to bind the LLC; and
- a member would not owe any fiduciary duties to the LLC or any other member in exercising its rights/performing its obligations.

### Regulation of the LLC

It is paramount that the LLC fits within Jersey’s existing statutory and regulatory framework in order to maintain Jersey’s status as a leading and regulatory compliant IFC.

The principal regulatory points to be noted in relation to the LLC are as follows:

- Jersey’s current disclosure requirements regarding beneficial owners/controllers will apply to LLCs;
- the LLC will require registration at the Companies Registry and consent under the Control of Borrowing (Jersey) Order, 1958;
- the Jersey Financial Services Commission’s “Sound Business Practice Policy” will be applicable to the LLC;
- it is proposed that the LLC would need to engage a local financial services provider; and
- Jersey’s AML/CFT regime will apply.

Whether or not an LLC may conduct regulated financial services business (for example funds services business) is currently under review.

### Closing date for comments

The closing date for comments on the proposed Draft Law has now expired. Voisin actively participated in this consultation stage.

### Why use Voisin?

Our focussed, proactive and friendly team provides efficient, seamless and prompt advice and boasts a portfolio of clients which includes some of the world’s leading players. Our close relationship with, amongst others, local regulatory authorities, service providers and advisers worldwide enables us to work as part of any team.

We are passionate about our work and strive for excellence in everything we do. For further information or specific advice on the use of Jersey companies, please contact [Jeffrey Giovannoni](#) or [Kate Anderson](#) of Voisin.



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*This note is intended to provide a brief rather than a comprehensive guide to the subject under consideration. It does not purport to give legal or financial advice that may be acted or relied upon. Specific professional advice should always be taken in respect of any individual matter.*