



Private Fund Limited Partnership

May 2017

Welcome addition of a new investment funds vehicle

The introduction of the Private Fund Limited Partnership (PFLP) in April 2017 is a welcome modernisation of the tried and tested limited partnership model so commonly used in the investment funds industry.

While the traditional limited partnership remains in place, the introduction of the PFLP as an alternative fund vehicle is designed to remove unnecessary legal complexity, reduce operational costs and administrative burdens and serves as an acknowledgment that the limited partnership, governed by the Limited Partnerships Act 1907 and the Partnership Act 1890, has become outdated and in need of reform to meet the demands of today's investment funds industry.

Changes including amendments to the rules on capital contribution, the introduction of a 'white list' for limited partner involvement in management of the PFLP and the streamlining of certain registration and filing obligations all serve to modernise the UK funds industry and bring it in line with competing European investment funds jurisdictions such as Luxembourg and the Channel Islands.

Private Fund Limited Partnership

The [Legislative Reform \(Private Fund Limited Partnerships Order\) 2017](#) amended the Limited Partnership Act 1907 and introduces a new class of fund vehicle, the PFLP. Existing limited partnerships wishing to convert into PFLPs or newly established limited partnerships wishing to benefit from the new regime will need to:

- be constituted by a written limited partnership agreement, and
- fall within the [s.235\(1\) Financial Services and Markets Act 2000](#) definition of a collective investment scheme, but without regard to the application of any CIS exemption that might apply and therefore broadening the scope of application of the PFLP. A significant majority of investment funds will comply with these criteria.

While an existing limited partnership may apply to alter its designation to a PFLP, once complete, such a PFLP may not revert to being a traditional limited partnership.

Any comments or queries?

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Capital

Limited partners of a PFLP do not have to make a capital contribution to the PFLP. However, any capital that is contributed to a PFLP by a limited partner may be withdrawn at any time without exposing themselves to liability for such amounts. This is a welcome change and will remove the fiction of having a nominal capital contribution to the limited partnership with the majority of an investor's investments structured as a loan or advance to the limited partnership.

White list

Limited partners in a limited partnership benefit from limited liability for the debts and obligations of the limited partnership provided they do not participate in the management of the limited partnership while the general partner has unlimited liability. This principal continues to apply to limited partners in the PFLP but the legislation now provides for a non-exhaustive "white list" of activities which PFLP limited partners may participate in without the risk of participating in the management of the PFLP and risk jeopardising their limited liability.

Such activities include, but are not limited to:

- taking part in a decision about whether the general nature of the partnership business should change to whether a person should become or cease to be a partner in the PFLP
- appointing a person to wind-up the PFLP
- enforcing an entitlement under the partnership agreement (provided that such enforcement does not involve the partner participating in the business of the PFLP)
- approving accounts of the PFLP, and
- consulting or advising the general partner or any other person appointed to manage or advise the PFLP (ie in practice this will be the fund manager) about the affairs of the PFLP.

This is a welcome clarification as where the boundary of 'management' lies in a limited partnership is often ambiguous and to date has, on occasion, been an issue on which the industry lacks certainty. Limited partners in a PFLP continue to have limited liability for the debts and obligations of the PFLP provided they do not participate in management.

Accounts and duty not to compete

Subject to any agreement expressed or implied between the partners of a PFLP, a limited partner in a PFLP is not subject to the obligation to render accounts or the duty not to compete with the PFLP as, in the context of PFLPs where limited partners are passive financial investors, such obligations are no longer relevant.

Administrative changes

The administrative obligations on PFLPs are less onerous than limited partnerships. For instance, there is no requirement to place an advertisement in the Gazette when a PFLP limited partner assigns an interest in the PFLP to a third party.

Conclusion

These reforms are widely acknowledged by the investment funds industry as a welcome modernisation of a tried and tested vehicle. We expect to see the PFLP becoming the investment funds vehicle of choice amongst fund sponsors and investors in the future.

Further details of the PFLP can be found in HM Treasury's [explanatory document](#) and the [impact assessment](#).