

## A guide to Jersey real estate holding structures

	Company	Jersey Property Unit Trust (JPUT)	Limited Partnership (LP)
What is it?	<p>A body corporate which is a separate legal entity where the investors (its shareholders) benefit from limited liability</p> <p>Management of the company will be conducted through its board of directors</p>	<p>A type of Jersey trust where the investors (its unitholders) benefit from limited liability. It is not a separate legal entity</p> <p>Management of the JPUT will be conducted through its trustee (known as a <b>managing trustee</b>)</p> <p>The trustee will usually be a Jersey company</p> <p>It is possible to appoint more than one trustee and/or to appoint a separate manager if so desired</p> <p>For UK property law reasons, if the JPUT owns UK property directly it must generally have a minimum of two trustees (and they will usually be Jersey companies)</p>	<p>A type of Jersey partnership where the investors (its limited partners) benefit from limited liability</p> <p>While a 'standard' LP is not a legal person, it is possible to establish an LP as a legal person (known as a separate limited partnership) or as a legal person which is also a body corporate (known as an incorporated limited partnership)</p> <p>Management of the LP will be conducted through its general partner</p> <p>The general partner will usually be a Jersey company</p> <p>It is possible to appoint more than one general partner if so desired</p>
How is it established?	<p>A company is incorporated when the incorporation documents (which include a statement of particulars and memorandum and articles of association) together with the appropriate fees are delivered to the Jersey Financial Services Commission (the <b>JFSC</b>)</p> <p>It is necessary to apply to the JFSC for consent to issue shares in the company</p>	<p>A JPUT is established by the trustee executing a trust instrument setting out the terms of the trust and the initial trust property being transferred to the trustee to hold on trust</p> <p>It is necessary to apply to the JFSC for consent to issue units in the JPUT</p>	<p>An LP is established by the filing of the declaration of the LP together with the relevant fee with the JFSC, together with the relevant partnership agreement being executed by the general partner and the limited partners</p> <p>It is necessary to apply to the JFSC for consent to create any partnership interests in the LP</p>
How long does it take to establish?	<p>Once all relevant information has been collected, a company can generally be incorporated on a same-day basis</p>	<p>A minimum of five business days</p>	<p>Once all relevant information has been collected, an LP can generally be established on a same-day basis</p>
What are the establishment costs?	<p>The JFSC charges scale fees to incorporate a company:</p> <ul style="list-style-type: none"> <li>• £550 (in two hours)</li> <li>• £350 (in one business day)</li> <li>• £250 (in two business days)</li> <li>• £200 (in three business days)</li> </ul>	<p>No fees are payable to the JFSC</p> <p>Professional fees will be payable</p>	<p>The JFSC charges scale fees to establish an LP:</p> <ul style="list-style-type: none"> <li>• £550 (in two hours)</li> <li>• £350 (in one business day)</li> <li>• £250 (in two business days)</li> </ul> <p>In addition, professional fees will be payable</p>

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What are the establishment costs? <i>continued</i>	<ul style="list-style-type: none"> <li>£150 (in five business days)</li> </ul> In addition, professional fees will be payable		
What are its constitutional documents?	Memorandum and articles of association	Trust instrument	Limited partnership agreement
Does it appear on a public registry?	Yes. The company will have a registered number and name and limited information will be available from a public search (including its memorandum and articles of association and annual return)  The company's annual return will contain details of its registered shareholders as at 1 January in each year, but nominee shareholders can be used to maintain confidentiality  Confidential shareholder arrangements can be included in a separate shareholders' agreement which will not need to be filed provided it is drafted appropriately	No. The JPUT is a private structure and does not have a registered number  The trust instrument and the unit register are not filed and are not public documents	Yes. The LP will have a registered number and name and limited information will be available from a public search (such as the name of the general partner, the duration of the LP and the registered office of the LP)  The partnership agreement and the register of limited partners are not filed and are not public documents
Is my holding certificated?	Yes. Share certificates are generally issued to investors for the shares subscribed  The ultimate record of ownership is generally determined by the share register maintained by the company	Yes. Unit certificates are generally issued to investors for the units subscribed  The ultimate record of ownership is generally determined by the unit register maintained by the trustee for the JPUT	No. Partnership interests are not generally certificated  The ultimate record of ownership is generally determined by the register of limited partners maintained by the general partner for the LP
What variations are available?	A wide variety of different types of Jersey company are available, including no par value companies, guarantee companies, unlimited companies, limited life companies, protected cell companies and incorporated cell companies	While there is no concept of different types of JPUT, the JPUT is sufficiently flexible to be able to accommodate most structuring requirements.	In addition to a 'standard' LP, a separate limited partnership (a limited partnership which is a legal person) and an incorporated limited partnership (a limited partnership which is a legal person and a body corporate)
What is the key piece of legislation governing it?	Companies (Jersey) Law 1991	Trusts (Jersey) Law 1984	Limited Partnerships (Jersey) Law 1994
What corporate administration support will it require in Jersey?	A registered office as a minimum  Most companies will also often require a Jersey administrator to provide a company secretary and directors to the Jersey company as well as general corporate administrative support	A trustee as well as general corporate administrative support  The trustee will either be a newly incorporated private company or a regulated trust company	A registered office as a minimum and usually general corporate administrative support  If the general partner is a Jersey company then it will require corporate administrative support too

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<b>How does it hold assets?</b>	The company's assets will be held by the company directly (or by a nominee on its behalf)	The JPUT's assets will be held directly in the name of the trustee (or a nominee on behalf of the trustee) who will hold the assets on trust in accordance with the trust instrument	The LP's assets will generally be held (or deemed held) by the general partner (or a nominee on behalf of the general partner) as an asset of the partnership in accordance with the partnership agreement
<b>What is the minimum and maximum number of investors?</b>	A minimum of one shareholder There is no maximum but if the company will have multiple shareholders then it may require extra regulatory consents If the company will have more than 30 shareholders then it may be deemed to be a public company A limited number of additional requirements are placed on public companies, including the requirement to file accounts and have their accounts audited If the company is set up as an investment fund then extra regulatory requirements apply	For UK regulatory reasons a JPUT owning UK real estate will generally require a minimum of two unitholders It is quite common for the second unitholder to be a subsidiary or affiliate of the first unitholder There is no maximum but if the JPUT is set up as an investment fund then extra regulatory requirements apply	A minimum of one limited partner and one general partner which must be separate persons There is no maximum but if the LP is set up as an investment fund then extra regulatory requirements apply
<b>Who is responsible for management?</b>	The board of directors of the company will have responsibility for the day-to-day management of the company Certain actions require the approval of shareholders as a matter of law (eg changes to its memorandum and articles of association), and other actions can be made subject to shareholder approval if so provided in its articles of association	The trustee will have responsibility for the day-to-day management of the JPUT, unless a separate manager is appointed with responsibility for management of the JPUT The trustee will usually be a Jersey company Any matters can be made subject to unitholder approval if so provided in the JPUT's trust instrument	The general partner will have responsibility for the day-to-day management of the LP The general partner will usually be a Jersey company Any matters can be made subject to limited partner approval if so provided in the LP's partnership agreement
<b>What duties are owed to the investors?</b>	The directors owe certain fiduciary duties to the shareholders, including a duty to act honestly and in good faith with a view to the best interests of the company and to exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances	The trustee owes certain fiduciary duties including a duty to act with due diligence, as would a prudent person, to act to the best of the trustee's ability and skill, to observe the utmost good faith and to exercise the trustee's powers only in the interests of the unitholders and in accordance with the terms of the trust	Subject to certain restrictions, the general partner has all the rights and powers and is subject to all the restrictions and liabilities of a partner in a partnership without limited partners The general partner will owe certain fiduciary duties to the limited partners by virtue of them being in a partnership
<b>Can the investors participate in management and decision making processes?</b>	Subject to their shareholdings it may be possible for representatives of the investors to be appointed to the board of directors Any matters which are made subject to shareholder approval in the company's articles of association are subject to a shareholder vote Appropriate legal and tax advice will be required	If the trustee is a special purpose company then it may be possible for representatives of the investors to be appointed to the board of directors of the trustee Alternatively the investors may be appointed to the board of directors of a separate company which is appointed to act as manager of the JPUT Any matters which are made subject to unitholder approval in the trust instrument are subject to a unitholder vote	It may be possible for representatives of the investors to be appointed to the board of directors of the general partner It may also be possible for representatives of the investors to be appointed to a 'committee' which will consult with the general partner on certain key matters Any matters which are made subject to investor approval in the partnership agreement are subject to a limited partner vote

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Can the investors participate in management and decision making processes? <i>continued</i>		Appropriate legal and tax advice will be required	Appropriate legal and tax advice will be required
What rights do the investors have?	The Companies (Jersey) Law 1991 provides shareholders with a wide variety of rights  The shareholders will have certain rights under general company law and will also have any rights set out in the articles of association	The Trusts (Jersey) Law 1984 provides unitholders with a number of rights  The unitholders will have certain rights under general trust law and will also have any rights set out in the trust instrument	The Limited Partnerships (Jersey) Law 1994 provides limited partners with a number of rights  The limited partners will have certain rights under general partnership law and will also have any rights set out in the partnership agreement
Can the investors participate in management and decision making processes?	Subject to their shareholdings it may be possible for representatives of the investors to be appointed to the board of directors  Any matters which are made subject to shareholder approval in the company's articles of association are subject to a shareholder vote  Appropriate legal and tax advice will be required	If the trustee is a special purpose company then it may be possible for representatives of the investors to be appointed to the board of directors of the trustee  Alternatively the investors may be appointed to the board of directors of a separate company which is appointed to act as manager of the JPUT  Any matters which are made subject to unitholder approval in the trust instrument are subject to a unitholder vote  Appropriate legal and tax advice will be required	It may be possible for representatives of the investors to be appointed to the board of directors of the general partner  It may also be possible for representatives of the investors to be appointed to a 'committee' which will consult with the general partner on certain key matters  Any matters which are made subject to investor approval in the partnership agreement are subject to a limited partner vote  Appropriate legal and tax advice will be required
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Must an auditor be appointed	No, unless the company is a public company  An auditor may be appointed if so desired	No. An auditor may be appointed if so desired	No. An auditor may be appointed if so desired
How is it funded?	The company can be funded by a variety of means including cash (where an investor will subscribe for shares using cash), assets (where an investor will contribute real estate or assets to the company in return for shares), loans and/or the provision of services	The JPUT can be funded by a variety of means including cash (where an investor will subscribe for units using cash), assets (where an investor will contribute real estate or other assets to the JPUT in return for units), loans and/or the provision of services  The trust instrument will need to be drafted according to any specific requirements	The LP can be funded by a variety of means including cash (where an investor will subscribe for partnership interests using cash), assets (where an investor will contribute real estate or other assets to the LP in return for a partnership interest), loans and/or the provision of services  The partnership agreement will need to be drafted according to any specific requirements

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<b>How does it return cash or assets to its investors?</b>	<p>A company can return cash or assets to its investors by a variety of means, including distributions, share redemptions, share buy-backs and reductions of capital</p> <p>The directors will be required to make a cash flow based solvency statement (other than for a court sanctioned reduction of capital), but otherwise there are limited restrictions under Jersey law</p> <p>Any requirements and/or restrictions can be built into the articles of association</p>	<p>A JPUT can return cash or assets to its investors by a variety of means, including distributions, unit redemptions or returns of capital</p> <p>Provided the JPUT will be solvent after the payment, there are no restrictions on these processes under Jersey law</p> <p>Any requirements and/or restrictions can be built into the trust instrument</p>	<p>An LP can return cash or assets to its investors by a variety of means, including distributions and returns of capital</p> <p>Provided the LP will be solvent after the payment and will remain so for a period of six months, there are no restrictions on these processes under Jersey law</p> <p>Any requirements and/or restrictions can be built into the partnership agreement</p>
<b>Can it borrow, give guarantees and provide security over its assets?</b>	<p>Yes. A Jersey company has unlimited corporate capacity</p> <p>Restrictions can be incorporated in its articles of association if so desired</p>	<p>Yes, subject to the terms of the trust instrument</p>	<p>Yes, subject to the terms of the partnership agreement</p>
<b>Can an investor grant security over its shares/units/partnership interest?</b>	<p>Yes, a shareholder can grant security over its shares in a company in accordance with the Security Interests (Jersey) Law 2012</p>	<p>Yes, a unitholder can grant security over its units in a JPUT in accordance with the Security Interests (Jersey) Law 2012</p>	<p>Yes, a limited partner can grant security over its partnership interest in accordance with the Security Interests (Jersey) Law 2012</p>
<b>Does it have unlimited duration?</b>	<p>Yes, unless its memorandum or articles of association provide otherwise</p>	<p>Yes, provided its trust instrument so provides</p>	<p>Yes, provided its partnership agreement so provides</p>
<b>Jersey taxation</b>	<p>No Jersey income tax or capital gains tax is payable</p> <p>There is no Jersey withholding tax on the payment of dividends or interest payments (assuming none of the shareholders are Jersey resident individuals)</p> <p>No Jersey stamp duty is payable on transfers of shares</p>	<p>No Jersey tax is payable on JPUT income and capital profits and that no withholdings are required on interest payments or distributions (assuming none of the unitholders are Jersey resident individuals)</p> <p>No Jersey stamp duty is payable on transfers of units</p>	<p>An LP is tax transparent for Jersey tax purposes so tax will be assessed on the partners of the LP and no assessment will be made on the LP itself</p> <p>There is no Jersey withholding tax on interest payments or distributions</p> <p>No Jersey stamp duty is payable on transfers of partnership interests</p>
<b>How is it wound up/dissolved?</b>	<p>Summary winding up (if the company is solvent)</p>	<p>Dissolution of a JPUT will be carried out in accordance with the terms of the trust instrument</p>	<p>Dissolution of an LP will be carried out in accordance with the terms of the partnership agreement</p> <p>If the general partner is a Jersey company and is to be wound up, then it can then be wound up via a summary winding up (if it is solvent)</p>

## Contacts

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