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Collas Crill explains... Migrating limited partnerships

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Guernsey Law allows for limited partnerships to change their place of registration and corporate existence without having to create a new limited partnership. In Guernsey, this is usually known as a migration, but may also be referred to as a continuation or redomiciliation. The process is governed by the Limited Partnership (Guernsey) (Migration) Regulations, 2020 (the **Regulations**).

This guide looks at the requirements of the **Regulations** for limited partnerships looking to migrate either into or out of Guernsey.

Into Guernsey

Eligibility

A limited partnership incorporated in a foreign jurisdiction that wishes to migrate to Guernsey must ensure that it satisfies the eligibility requirements under the **Regulations**, namely:

- the migration is allowed under the law of the place (the foreign jurisdiction) where the limited partnership is currently registered;
- the migration has complied with the partnership agreement, or equivalent documents;
- the limited partnership will be able to satisfy the solvency test prescribed by the **Regulations** immediately after registration as a Guernsey limited partnership; and
- where the limited partnership is regulated in the foreign jurisdiction (most notably if it is a fund) or intends to be regulated once in Guernsey, the consent of the Guernsey Financial Services Commission (GFSC) to the migration must be obtained.

Procedure

The application must be made via a corporate services provider to the Greffier (Guernsey's registrar of limited partnerships) to be registered as a Guernsey limited partnership. This application must be accompanied by:

- the migration details, which are details about the limited partnership both in it its current place of registration and as proposed, in Guernsey. These include matters such as the limited partnership's general

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partner(s), registered office, proposed name and nature of business, and whether it is intended that the limited partnership shall have legal personality upon registration;
- any consent of the GFSC that may be required;
- a declaration of compliance;
- other information or documents as required by the Greffier; and
- such fee as may be prescribed by the Limited Partnerships (Guernsey) Law, 1995 (the **Law**).

Once the application is approved, the Greffier will register the limited partnership in the Guernsey Register of Limited Partnerships (the **Register**), issue a certificate of registration, and allocate a registration number. The certificate serves as conclusive evidence that the partnership has been duly registered in Guernsey, and is to be treated as a limited partnership within the meaning of the **Law**. As soon as possible, the partnership must file with the Greffier any certificate or other document evidencing that the partnership is no longer registered in the foreign jurisdiction.

Out of Guernsey

Eligibility

For a limited partnership incorporated in Guernsey that wishes to migrate to a foreign jurisdiction, the **Regulations** require that:

- the migration is allowed by the partnership agreement;
- the partnership is solvent, and able to satisfy the solvency test immediately before deregistration as a Guernsey limited partnership;
- where the limited partnership is regulated (most notably if it is a fund), the consent of the GFSC to its deregulation must be obtained; and
- the general partner(s) must notify every creditor of the limited partnership of its proposed removal from the **Register** not less than 28 days before the proposed removal date.

Procedure

The application must be made via a corporate services provider to the Greffier for its registration to be transferred to the new jurisdiction. This application must be accompanied by:

- any consent of the GFSC that may be required;
- confirmation from HM Procureur and the Director of the Revenue Service that they have no objections;
- evidence as required by the Greffier that the above eligibility criteria are met;
- a declaration of compliance;
- other information or documents as required by the Greffier; and
- such fee as may be prescribed by the **Law**.

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Once the application is approved and the 28 day notice period to creditors has expired, the Greffier shall remove the partnership from the **Register**. As soon as possible, the partnership must file with the Greffier any certificate or other document evidencing that the partnership has been registered in the new jurisdiction.

General

Continuity of existence

The **Regulations** provide for limited partnerships to migrate without having to create a new limited partnership in the new jurisdiction. The effect of this is that the partnership remains subject to all rights, obligations, assets and liabilities to which it was subject prior to the migration.

Limited partner consent

Limited partner consent is not required by the **Regulations** for a migration of the partnership. However, it is important to check the terms of the limited partnership agreement, as such consent may be required in order to comply with the terms of the agreement.

Solvency test

The solvency test mentioned under *Eligibility* is as follows.

Having had regard to the most recent accounts of the limited partnership and having made full inquiry into its affairs, each director reasonably believes that the company is and, if the application to migrate is granted, will immediately before/after its removal from the **Register**:

- be able to pay its debts as they become due; and
- that the value of the company's assets is greater than the value of its liabilities.

It is important to note that there may be additional requirements to consider if the limited partnership is supervised or regulated.

About this guide

This guide gives a general overview of this topic. It is not legal advice and you may not rely on it. If you would like legal advice on this topic, please get in touch with one of the authors or your usual Collas Crill contacts.

About Collas Crill

We are a leading offshore law firm. We are easy to do business with and give practical advice to overcome tough challenges. Through our network of offices, we practise British Virgin Islands, Cayman Islands, Guernsey and Jersey law.

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