Ogier

Private Equity snapshot: Recent themes in Jersey PE fund structuring

Insights - 20/04/2023

With a myriad of exciting asset management topics to choose from, this briefing focuses on key trends driving PE fund and deal structuring in Jersey.

Bespoke solutions: tailored structures

Put another way, "personalisation" is an overarching key topic. It encompasses a huge array of outcomes, from the bespoke carry or co-investment opportunity to the joint venture, from family office private investment funds, to dedicated investor feeder funds. We are seeing both established asset managers and first time managers, creating increasingly bespoke structures with key clients, personnel and partners, to accommodate and align interests with a view to building successful, long-term relationships.

The varied types of Jersey vehicle (including the recently introduced Limited Liability Company (**LLC**)) and Jersey's regulatory landscape offer a flexible and diverse range of structuring options to help enable asset managers and their key clients to achieve initial deal objectives while also offering appropriate regulatory registration options to accommodate any plans for the future. This better serves clients who have built a particularly successful deal structure to replicate it or even diversify the investing group or strategy.

It is encouraging to have worked with a number of different clients each of whom are specialists in their fields but who have been equally focused on building bespoke legal and structuring solutions to deliver the sought-after returns and desired outcomes of the parties.

Retailisation

Put simply, this trend sees alternative asset managers expand the investor base to include "ordinary" or "retail" investors in their list of offerees, either "directly" or via employer-sponsored retirement accounts. The definition of "retail" will be informed by the marketing rules of the relevant target jurisdiction and, perhaps to their detriment, retail investors will often be defined as those not meeting the definition of "professional" in their home jurisdiction.

Retailisation has been a hot topic for at least a couple of years and, dare we say it, this trend might not be as new and innovative as it sounds. The fact is, large institutions have, for years, catered for their private wealth clients by establishing bespoke investment structures, enabling such "retail" clients to gain exposure to investment opportunities which might not otherwise be available to them.

Jersey has long offered appropriately regulated solutions to facilitate these structures.

What has changed is the ever-growing demand for these structures, from an increasingly diverse range of investors who are ever more alive to the opportunities available in the alternative asset space and willing to take on an appropriate degree of risk. Of course, there are complexities in ensuring that sufficient protection is afforded to investors of this type to ensure that the desired exposure to the investments is carefully balanced given such structuring is typically longer term/illiquid in nature.

The Ogier team has substantial experience in assisting larger institutions (such as banks) on the establishment of fund vehicles to cater for such institutions' high-net-worth client investment objectives, combined with a deep understanding of which Jersey vehicles and fund labels might provide the best solutions for managers wishing to meet the demand and complexities of this area.

Secondary funds

Prevailing market conditions continue to drive discussions and activity, with secondary transactions being used by managers as a tool to actively manage and strategically realign their private equity portfolios.

In keeping with the aforementioned personalisation trend, the secondary private equity market is seeing an ever-increasingly diverse and sophisticated number of secondaries transactions and secondary funds seeking to purchase LPs' existing commitments.

In its most straightforward guise we tend to think of a private equity secondary transaction as a limited partner (**LP**) selling its fund interests to another party to generate early liquidity for itself rather than waiting for the fund’s life to end. The buyer subsequently steps into the shoes of the seller and assumes the selling LP's rights and obligations (including its partnership interests and commitments).

Secondaries are not only viewed as a means for generating liquidity (although this is certainly one attribute driving the upward trend) but the huge growth of secondaries over the last decade has been supported by the development and expansion of the market's intermediary network, including the availability of specialist secondaries advisory firms to support and co-ordinate transactions.

General Partner (**GP**) or manager-led secondary transactions have been on the increase over the last few years and whilst GP-led transactions can take a wide variety of different forms, they all essentially revolve around the same basic structure whereby existing investors have an option to either 'roll over' their initial interest or exit into a new structure, with secondaries buyers underwriting the transactions and any corresponding purchase price.

Perhaps the most commonly seen GP-led transaction is the 'continuation vehicle transaction'. During this process, a GP will sell its existing portfolio to a newly established special purpose vehicle (the continuation vehicle). The GP will then offer the existing LPs the option to cash out and gain liquidity, 'roll over' their current investment or invest additional capital alongside the new investors in the longer life continuation fund. Bespoke deal mechanics usually incorporate the rollover of the sponsor's commitment (or a proportion of it) to the continuation fund and modified management fee and carry provisions.

In another popular form of GP-led transaction a proportion or 'strip' of all or a select group of one or more assets are sold to provide LPs with liquidity. A new vehicle is established to purchase the strip of assets and typically this vehicle will be liable for future calls on a pro-rata basis with the main fund.

We are also seeing a number of bespoke and hybrid transactions which take elements from the above or other transaction structures falling within the GP-led secondary 'umbrella'.

The Funds and Corporate teams at Ogier have acted for LPs, GPs and managers on a number of high-profile secondaries transactions and has significant experience of guiding stakeholders through the lifecycle of a secondaries transaction.

Future trends in PE transactions

Our colleague, James Fox, a partner in Ogier's Corporate team, has prepared a round-up of some hot topics and likely opportunities for PE deal activity.

Please get in touch with your usual Ogier contact if you require any further information or wish to understand any of these trends or how we may assist you in this respect.

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