

Client Update

Consultation on UK limited partnership law reform for private investment funds

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On Thursday, 23 July 2015, HM Treasury published a consultation paper on certain proposed amendments to the Limited Partnerships Act 1907, the principal legislation governing English and Scottish limited partnerships. The proposed amendments are intended specifically to “ensure that the UK limited partnership remains the market standard structure for European private equity and venture capital funds as well as many other types of private fund”.

The consultation comes after extensive discussions between the British Private Equity & Venture Capital Association (the BVCA) and HM Treasury regarding the state of current UK limited partnership law. Debevoise and a number of other industry participants assisted the BVCA with this process.

The proposed amendments would, if enacted, eliminate a number of uncertainties and peculiarities associated with current UK limited partnership law.

The principal proposed amendments are:

- the introduction of a non-exhaustive list of activities that a limited partner may carry out without jeopardising its limited liability status;
- the removal of the requirement for a limited partner to contribute capital to a UK limited partnership (currently, an investor must contribute capital on admission as a limited partner to a UK limited partnership in order to secure its limited liability status); and
- the removal of the restriction on a limited partner withdrawing any capital contributed to a UK limited partnership during the life of that limited partnership (currently, withdrawal of limited partner capital during the life of a UK limited partnership exposes the limited partner to liability for the debts of the UK limited partnership up to the amount of capital withdrawn).

Other proposed amendments will impact the information that is publicly available in respect of a UK limited partnership – for example, it is proposed that, to the extent a limited partner contributes capital to a UK limited partnership, the amount of that capital contribution will no longer be recorded on the publicly available register of UK limited partnerships maintained by Companies House.

If enacted, the proposed amendments would apply to a UK limited partnership that is a ‘private fund limited partnership’ – meaning, broadly, a UK limited partnership that (a) is constituted by a written agreement and (b) qualifies for UK regulatory law purposes as a ‘collective investment scheme’. Private equity and venture capital funds that take the form of English or Scottish limited partnerships will benefit from ‘private fund limited partnership’ status. This status will be achieved either, in the case of a UK limited partnership registered after the proposed amendments are enacted, by designation at the time of registration or, in the case of an existing UK limited partnership, by designation within one year after the proposed amendments are enacted.

HM Treasury has not consulted on the possibility of allowing English limited partnerships to elect separate legal personality, although it has re-affirmed its commitment to explore that possibility. Scottish limited partnerships already have separate legal personality.

HM Treasury is seeking comments on its proposed amendments. The consultation closes on 5 October 2015, after which HM Treasury will consider the responses and confirm what amendments it wishes to take forward.

The consultation paper itself can be found at:

<https://www.gov.uk/government/consultations/consultation-proposal-to-use-a-legislative-reform-order-to-change-partnership-legislation-on-collective-investment-schemes>.

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Please do not hesitate to contact us with any questions.