

*Investment Funds*  
*Case Study*

TRAVERS SMITH

*Our experie*

## Private Equity Fund Formation – Benson Elliot Real Estate Partners II, L.P.

### Project brief

Marc Mogull, former head of Doughty Hanson & Co European Real Estate, instructed Travers Smith to work on the formation of a new independent private equity real estate fund manager, Benson Elliot Capital Management LLP ("BECM"), and the subsequent raising of BECM's first fund, Benson Elliot Real Estate Partners II, L.P. in 2006.

### What was done?

The scope of work for BECM included the following:

- ▶ Financial Services Authority in order that BECM could manage and operate the Fund.
- ▶ Determining the most suitable structure for the Fund. Travers Smith tax, regulatory and corporate fund specialists worked together with BECM's tax advisers to consider where the fund should be domiciled and what kind of structure would be most suitable, in light of, amongst other factors, the proposed investment strategy of the Fund. As part of this exercise, it was necessary to consider whether parallel funds or feeder funds would be required.
- ▶ Advising on terms in light of then current market standards.
- ▶ Preparing the necessary fund documentation including the private placement memorandum, limited partnership agreements and subscription agreements.
- ▶ Acting as lead counsel in negotiations with investors on fund terms.
- ▶ Managing the side letter process.
- ▶ Putting in place the necessary documentation in order to effect the addition of new joiners to BECM's team.
- ▶ Working on the carried interest arrangements for BECM's executives.

### What was the result?

BECM successfully raised its first fund, with investor commitments exceeding the firm's target. In particular, the Fund was able to reach a first close in less than two months, raising approximately two thirds of overall fund commitments by that stage. In addition to the Fund being a product investors were attracted to, we believe that our efficient and co-ordinated approach, together with our commercial perspective, greatly contributed to this swift and decisive fund-raising exercise. The Fund attracted twenty institutional investors from Europe, North America and the Middle East, which led to us having to deal with differing requirements from a diverse investor base. This is something we routinely encounter in our funds practice.

### What happened next?

Following the raising of the Fund, we maintained a close relationship with BECM, providing advice on fund administration amongst other matters. We were delighted to be instructed to work on BECM's next fund, Benson Elliot Real Estate Partners III, L.P., in 2008 and were able to field the same team of partners and senior lawyers who worked on the prior fund, thereby ensuring those involved had an in-depth knowledge of BECM and its business as well as the funds market generally. We consider that consistency of our teams is one of the hallmarks of our success as a firm.

# *Our experience*

## Private Equity Fund Formation – Abris CEE Mid-Market Fund LP

### Project brief

In mid-2007 we were approached by Abris Capital Partners to advise on the establishment of their debut fund, Abris CEE Mid-Market Fund LP. This would involve establishing the Fund, setting-up the management structure and acting as lead counsel on the fundraising process.

### What was done?

The scope of work for Abris included the following:

- ▶ Determining the structure for the Fund. This involved providing tax advice, considering the investment strategy of the Fund, analysing the likely make-up of investors, identifying the most suitable domicile for the Fund and ensuring that the Fund's structure would compliment the expected structure of investments to be made.
- ▶ Advising on the carried interest arrangements for the executives.
- ▶ Setting-up the management vehicle for the Fund, including the required regulatory advice.
- ▶ Negotiating with the cornerstone investor, both on the commercial terms of the Fund and in respect of the cornerstone's participation in the management entities.
- ▶ Drafting the key documentation, such as the PPM and the limited partnership agreement for the Fund, and advising on fund terms.
- ▶ Drafting the ancillary documents for the Fund.
- ▶ Co-ordinating the closings of the Fund and dealing with side letter requests.

### What was the result?

Within two months of the project starting, the 'Credit Crunch' hit the global economy. However, by the end of the Fund's 12-month closing period, it had substantially exceeded its fundraising target and had a group of blue chip investors on board. We feel this was partly due to the commercial advice we provided on fund terms and the professional approach we took to organising the closings and dealing with investors. Because we work in small, close-knit teams, we were able to quickly react to the changes in the market and worked hard to finalise the closings before the adverse consequences of the Credit Crunch were felt in the fundraising market.

### What were the benefits?

Having successfully completed its fundraising, Abris is now able to concentrate on identifying and executing quality investments and producing strong returns for its investors. Despite the tough environment that Abris faced during their fundraising phase, they were able to rely on the service and advice that we provided. This has produced a strong relationship between Travers Smith and Abris and we look forward to developing and strengthening this relationship further.

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## About Travers Smith

Travers Smith is a premium quality, partner-led corporate law firm with a wealth of experience in its chosen areas of specialisation. At 250 lawyers, the firm's size allows it to be entrepreneurial and exceptionally efficient. We fight only the battles that are worth winning, focusing all the time on the results we can achieve for our clients rather than the points we can score. We pride ourselves in combining our extensive technical expertise with industry sector experience to provide practical, commercially aware advice. This approach has attracted a long and loyal list of clients.

We are one of the leading UK firms offering investment funds capability. We advise on a wide range of fund structures, from open-ended LP structures to listed closed-ended vehicles. We particularly focus on private equity, real estate and hedge funds. Our cross-departmental group offers breadth and experience, drawing on expertise from our funds, corporate finance, real estate, regulatory and tax departments.

## Our services

We act on both fund formation work and advising investors participating in funds. Through our detailed knowledge of the market position on fund terms, structuring issues and the requirements of key jurisdictions, we are able to adopt a commercial and proactive approach for our clients to ensure a successful outcome to the particular transaction.

We also provide ongoing advice to fund managers on a range of issues from reorganisations and further fundraisings to more sensitive issues such as changes in carried interest arrangements and succession planning.

We regularly compete with larger city firms by providing a premium quality service through close-knit, partner-led, consistent teams.

For further information about our Investment Funds practice please contact:



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