

Key Facts

DIFC Foundations

The Dubai International Financial Centre ('DIFC') passed legislation in March 2018 enabling the creation of foundations in the DIFC. Foundations created under the law are governed exclusively by the laws of the DIFC, with limited exceptions allowed where the original endowed property is outside the DIFC and the founder or contributor does not have power to dispose of it according to the law of the place where the property is situated.

Foundations generally combine features of both a trust and a company. A foundation has legal personality. Foundations may be used for wealth management, succession and inheritance planning and general asset-holding purposes. They are also used for owning private trust companies (often in the case of families whose members and business interests are located in both civil and common law jurisdictions). The DIFC supports a full spectrum of financial and non-financial business activities, including banking and capital markets, professional services, insurance, wealth management, technology and trading.

Establishment

- Minimum of one founder
- Minimum of two members of the council
- A foundation shall at all times have a registered office/presence in the DIFC. This requirement may be satisfied by establishing an office in the DIFC, sharing an office with an affiliate entity already present in the DIFC, or by appointing a Registered Agent.
- A standard foundation charter can be used
- The foundation charter and regulations can be tailored to a client's requirements.

- The foundation should appoint a guardian subject to the following conditions:
 - If a foundation has a charitable object, or a specified non-charitable object, the foundation must have a guardian in relation to that object.
 - A foundation may, but need not, have a guardian in respect of an object to provide some or all of its property to a person or class of persons: (a) whether or not immediately ascertainable; or (b) ascertained by reference to a personal relationship.

Purpose

- A foundation's objects: (a) must be certain, reasonable and possible; and (b) must not be unlawful or contrary to public policy in the DIFC.
- A foundation may be established for: (a) objects which are exclusively charitable; or (b) one or more of the following: (i) objects which are not exclusively charitable; or (ii) objects to benefit persons by name, category or class.
- A foundation may not carry out any commercial or charitable activities, except those necessary for, and ancillary or incidental to, its objects.

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Governance

- A foundation must have a council to administer its property and to carry out its objects.
- A founder or a body corporate may be appointed as a member of the council.

Founder Rights

- The founder can amend, revoke or vary the terms of the charter, by-laws or objects of the foundation.
- The founder can terminate the foundation during his lifetime.

Registered Agent

- A foundation may have a Registered Agent, but this is not required.
- Any Registered Agent appointed must be a qualified person, i.e., licensed by the DIFC Authority to undertake the activity of acting as a Registered Agent of foundations, and registered with the DFSA as a Designated Non-Financial Business or Professional (DNFBP).

Qualified Recipient

A foundation may have a provision of a benefit to a person or to a class of persons as specified in the charter or the by-laws. Such information is not placed on any public register and is not accessible to the public.

Provision for Depository Receipts

A foundation is allowed to issue securities, such as depository receipts or certificates, representing the value of the contributed assets to the contributor. The certificates serve as contracts representing the value of the underlying assets that the contributor owns.

Accounting Requirements

- Preparation of annual accounts in accordance with accepted international financial reporting standards prescribed or approved by the Registrar
- Accounts approval by the foundation council and signed by two members of the council within six months of the end of the foundation's financial year
- Within 30 days of approval of the foundation accounts, a copy must be filed with the Registrar (where no registered agent is appointed) or a copy provided to the Registered Agent where there is one
- Audit of accounts is not required

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