

## KEY FACTS

# CORPORATE COUNCIL SERVICES

THE ROLE OF A COUNCIL MEMBER IN A DIFC FOUNDATION (THE “FOUNDATION”) IS ESTABLISHED BY ARTICLE 7 OF THE FOUNDATION LAW (DIFC LAW NO. 3 OF 2018) (THE “BY-LAWS”), WHEREBY A COMMITTEE MUST BE FORMED CONSISTING OF AT LEAST TWO MEMBERS, OFTEN CONSISTING OF A CHAIRPERSON AND AT LEAST ONE ADDITIONAL MEMBER, COLLECTIVELY REFERRED TO AS THE COUNCIL MEMBERS (THE “COUNCIL”).

The Council is responsible for overseeing and managing the Foundation’s day-to-day activities whilst ensuring compliance with the Foundation’s Charter and By-Laws.

### ROLES AND RESPONSIBILITIES OF THE COUNCIL

The Council, akin to a company’s Board of Directors, holds the following key roles and responsibilities:

- > Fiduciary duty: act in the best interest of the Foundation and its beneficiaries, referred to as “Qualified Recipients”
- > Governance and oversight responsibilities: ensure the Foundation operates in alignment with its objectives and complies with legal requirements
- > Decision-making duties: manage key decisions regarding the Foundation’s assets, distributions and operations in accordance with its objectives, expectations and legal and regulatory frameworks
- > Reporting requirements: ensure the Foundation maintains transparency and accountability through proper and accurate record-keeping and reporting
- > Duty of honesty and good faith: uphold a standard of reasonable prudence

In addition to the above, the following powers are typically entrusted to the Council:

- > Accept a contribution to the Foundation
- > Distribute income to Qualified Recipients of the Foundation
- > Accumulate income
- > Apply capital to Qualified Recipients<sup>1</sup>
- > Resettle capital and/or income to another holding
- > Distribute all remaining Foundation properties to Default Recipient at the end of the Foundation period
- > Bind the Foundation subject to the Charter and By-Laws

### BENEFITS OF APPOINTING A CORPORATE COUNCIL

#### Expertise and Experience

A corporate Council, such as an independent service provider, brings specialized knowledge and experience in fields relevant to the Foundation’s objectives, such as finance, law, family governance, or philanthropy. Their expertise can enhance the Foundation’s operations and strategic direction. Since a corporate Council may handle similar cases on a day-to-day basis, they can apply best practices and provide informed guidance based on industry experience.

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<sup>1</sup> Certain decisions or powers may require prior or simultaneous approval of the Founder whilst alive or the Guardian thereafter.

### Regulatory and Statutory Compliance

Foundations must adhere to specific legal and regulatory requirements both locally and globally (FATCA & CRS). An independent service provider acting as corporate Council and with compliance expertise can help ensure that the Foundation meets all its legal obligations and operates within the framework of both local and global laws. Corporate Councils can assist with statutory record-keeping, documentation, and transaction oversight.

### Objectivity and Independence

Appointing an independent corporate Council provides the Foundation with an unbiased perspective, supporting objective decision-making that prioritises the interests of the Foundation and its Qualified Recipients, free from internal conflicts of interest.

### Confidentiality and Asset Protection

Appointing a corporate Council strengthens the Foundation's independence and provides demonstrable evidence that the assets are managed independently from the individual Founder. It also provides an additional layer of privacy for Founders and Qualified Recipients.

### Streamlined Administrative Processes

An independent service provider acting as corporate Council can reduce the Founder's administrative workload by handling record-keeping, regulatory filings and reporting, allowing the Founder and Qualified Recipients to focus on strategic goals and objectives rather than administrative or operational tasks.

### Enhanced Reputation and Credibility

A reputable independent service provider can enhance the Foundation's credibility, which is advantageous for banking, tax advisory, and legal relationships.

## HOW TRIDENT CAN ASSIST

Trident is one of the largest global providers of corporate and fiduciary services and can assist with the establishment of DIFC Foundations, as well as provide corporate Guardian and Council Member services from our local office in DIFC. We offer corporate formation and administration services in more than 20 internationally recognised corporate domiciles and trust establishment, and professional trustee services in over 15 jurisdictions worldwide. For more information, please contact your usual Trident Trust representative or our office at [dubai@tridenttrust.com](mailto:dubai@tridenttrust.com).

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