

DUBAI INTERNATIONAL FINANCIAL CENTRE ('DIFC') FOUNDATIONS

The Dubai International Financial Centre (DIFC) passed Law No. 3 of 2018 ('Foundations Law') on 14th March 2018 which enable creation of foundations in DIFC.

About

Foundation and trust are generally used as a tool for asset protection, wealth management and succession planning. However, unlike a trust, Foundation is a separate legal entity without shareholders or members and can hold assets in its own right. It provides flexibility to the Founder to donate assets to the Foundation whilst at the same time maintaining control over the working of the Foundation.

In the context of Dubai, a DIFC Foundation can be used as a vehicle for holding Real Estate Assets in the Emirate of Dubai and other personal assets of individuals, shares in family business etc.

The constitution of a foundation consists of its Charter, a public document, which outlines the object(s) and duration of the foundation and its by-laws, which describe how the foundation will be governed and operated.

Legal Structures:

- Minimum of one Founder
- Minimum of two members of the Council
- Foundation shall at all times have a registered office in the DIFC. This may be satisfied by establishing an office, sharing an office with an affiliate entity already present in the DIFC or by appointing a Registered Agent.
- A Foundation may not carry out any commercial activities, except those necessary for, and ancillary or incidental to, its objects.
- A Foundation that has a charitable object or a specified non-charitable object must have a Guardian.
- A Foundation may have a Registered Agent but it is not mandatory.

Requirements

A DIFC Foundation should have foundation council members to manage its property and to carry out its object.

It should appoint a guardian subject to:

- 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:
 - whether or not immediately ascertainable or
 - ascertained by reference to a personal relationship.

A Founder has the right to amend, withdraw the Charter, by laws or objects of the foundation.

Compliance

Foundation is required to keep and maintain accounts and make them available as required under this Law.

The accounts shall be approved by the Council and signed on their behalf by at least two members of the Council.

These should be filed with the Registrar through the Registered Agent within 30 days of approval by the Council.

Audited accounts are not required.

For more information, please email us at info@betaconsultants.ae

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