

Foundations

ILS World works with international clients to successfully use Isle of Man foundations for wealth planning and philanthropy.

A foundation is an incorporated, self-owning legal entity, which although has much in common with limited companies and trusts, possess its own unique features. They are regarded as one of the most certain and robust vehicles for holding assets and eventually delivering them to their exact intended destination.

Historically a foundation was mainly established in civil law jurisdictions as an alternative to a common law trusts but now there are also a limited number of common law jurisdictions offering foundations, a favorable one is the Isle of Man.

Foundations offer the founder and beneficiaries a high degree of protection against creditors. They provide for a great degree of certainty in forced heirship issues and allow for a high degree of confidentiality.

Key features of a foundation:

Founder – This is the person or corporate that establishes the foundation (similar to the settlor of a trust).

Registered agent – Every foundation must have a registered agent, who is usually required to be a licensed corporate service provider, (particularly in the Isle of Man). It is the registered agent who must apply to the Companies Registrar in order for the foundation to be established.

Council – This is the body charged with the day-to-day administration of the foundation, similar to the board of directors of a company or the trustees of a trust. The registered agent may be, but is not obliged to be, a member of the council. The founder may also act as a member of the council to exercise control over the assets of the foundation.

Enforcer – This is a person that may be charged with policing the council to ensure it acts in accordance with the foundation's objects. The role is comparable to that of the protector of a trust. It is not mandatory but often recommended and the Founder may retain this role to allow for a high level of control over the running of the foundation.

Beneficiaries – It may be the case there are no beneficiaries, for example if the foundations sole object is to hold assets, however, this is at the founder's discretion. Even if there are named beneficiaries they have no right to receive distributions and no automatic right to information or documents about the foundation. This ensures the council and enforcer can fulfill their roles without undue influence from the beneficiaries.



Foundation documents – similar to a limited company, a foundation needs only two official documents. These are the “foundation instrument” (also known in some jurisdictions as the “foundation charter”) and the “foundation rules”.

- **Foundation Instrument** – this is similar to a company’s Memorandum of Association and must set out the name of the foundation, the purposes of the foundation in the form of an “objects clause” and the members of its council. This is a public document and should be in English.
- **Foundation Rules** – comparable to the Articles of Association of a company, contain the substantive provisions concerning the management and running of the foundation in accordance with the founder’s wishes. The rules are a private document and do not need to be filed with the Registrar. However, most jurisdictions require the rules to be drafted by a duly approved local lawyer.

Assets - The assets of a foundation may originate from any lawful business and may consist of property of any nature, present or future. The transfer of property to the foundation’s assets may be affected by public or private document and can either be transferred or donated. Foundations cannot directly engage in commercial trading, however, they can hold a trading subsidiary. The foundation owns and controls its assets, not the council members.

Time period – a foundation can be established for fixed or indefinite period of time and this is usually dependent on an event or will be perpetual.

Practical uses of a foundation:

- Charitable and philanthropic purposes
- Estate and succession planning
- Wealth preservation
- Asset protection
- Consolidation of worldwide assets
- Centralised reporting
- Inheritance tax planning
- Avoidance of forced heirship rules
- Privacy
- Separation of voting and economic benefit
- Maintenance of corporate control
- Employee share option schemes
- Commercial.

How ILS World can help:

- Planning the use of a foundation
- Structuring/establishing a foundation
- Establishing related corporate structures



- Preparation of the foundation instrument, foundation rules and associated documentation
- Providing council members
- Acting as registered agent
- Administration
- Establishment of bank accounts
- Accounting and bookkeeping.

For further information on foundations please contact either Richard MacNee at richard.macnee@ils.world or Gemma Davies at gemma.davies@ils.world

Please note: ILS World does not offer tax advice and would therefore recommend that you obtain your own tax advice. If you require an introduction to a tax advisor we would be happy to assist.

