



Practical Guide on UAE Foundations

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UAE Foundations

A Practical Guide to Private Wealth Structuring

The foundation structure has rapidly emerged as a cornerstone of the UAE's private wealth ecosystem. This guide provides a practical overview of the foundation structure – its key features, participants, and mechanics – followed by a comparative analysis of the three UAE jurisdictions where foundations can be established: ADGM, DIFC, and RAK ICC.

Introduction

Since the Abu Dhabi Global Market (ADGM) pioneered the region's first foundation framework in 2017, followed by the Dubai International Financial Centre (DIFC) in 2018 and the Ras Al Khaimah International Corporate Centre (RAK ICC) in 2019, adoption has accelerated dramatically – from just 128 registrations per year in 2020 to an estimated 700 by the end of 2025, representing a near 5.5-fold increase[1]. This surge mirrors the UAE's broader trajectory as a global wealth hub; the country is projected to attract the highest net inflow of millionaires globally, with 9,800 high networth individuals expected to relocate, bringing an estimated USD 63 billion in wealth.

Combining the governance discipline of a corporate entity with the protective features of a trust, the UAE foundation offers families a flexible, private, and tax-efficient vehicle for asset protection, succession planning, and intergenerational wealth transfer.

What is a Foundation?

Core Concept

Those of us familiar with trusts will find the foundation concept intuitive – both structures hold and manage assets for the benefit of designated persons. However, unlike a trust, where a trustee holds legal title on behalf of beneficiaries, a foundation is an independent legal entity that holds assets in its own name. The founder(s) contribute assets to the foundation, and once contributed, those assets belong to the foundation itself.

The beneficiaries (typically family members) are entitled to benefit from the foundation but hold no ownership interest in it. Day-to-day management is carried out by the Council, functioning much like a company's board of directors.

Key Participants

Founder(s)

Contribute assets to the foundation

Council

Day-to-day management, like a board of directors

Guardian

Oversees the Council; ensures compliance with charter and by-laws

Registered Agent

Professional consultant responsible for statutory compliances

Beneficiaries

Entitled to benefit; hold no ownership interest

The key feature, at the cost of repetition, is that a foundation is an independent legal entity that holds assets in its own name and in its own right. While not strictly a hybrid of a company and a trust, it shares functions and mechanisms with both. What sets it apart is its unique position: it has no shareholders, no members, and no beneficial ownership in the traditional sense. It is a so-called **orphan structure**. This makes it particularly suited for long-term, purpose-driven asset holding.

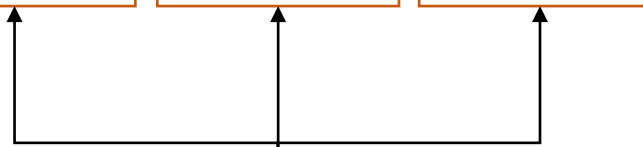
Guardian
Oversees the council members. When the council members deviate from the foundation's governing documents, the guardian and his powers come into force. Any person except a council member can be a Guardian.

Beneficiaries
Any person can be a beneficiary, in a foundation. They have no rights concerning the assets held by the foundation – but entitled to payments/distributions from the foundation as per the governing documents

Guardian/Protector



Council Members



UAE Foundation
DIFC | ADGM | RAK-ICC



Founder

Foundation Assets

Council Members
The managers of foundation – they decide how to deal with the assets as per governing documents.
(i) No local council member requirement.
(ii) Can be a beneficiary
(iii) Can be the founder himself/herself

Founder
The founder contributes assets to the foundation and can reserve powers by stating them in the governing documents. A foundation can have multiple founders.

Why Use a UAE Foundation?

Just like it was with private trusts, the real question is "*When would you really want to use a UAE foundation?*" We have endeavoured to respond to this comprehensively. Realizing that there is a lot of information on the subject, often coated with some generic statements. We have carefully laid it out for your consumption black & white.

With foundations, there is an additional question "*Why would I use a foundation over a private trust?*" For this question, the answer is pretty simple. It is totally up to you. If a jurisdiction offers you a choice between a trust and a foundation, you can choose either, and fundamentally there would be no big impact on your estate plan. It is like deciding between a water-bottle and water-pouch – these are essentially the same things serving the exact same purpose, except that they look and feel different. However, trust has no separate legal identity and foundations have a separate legal identity. Further, some jurisdictions offer only foundation structures (and do not recognize trusts) whereas others have it the other way around – so, it is not really a choice in such cases.

Continuity Meets Customisation

Avoidance of Probate Process

In the UAE, including free zones, wills must undergo probate before estate distribution. Probate is a court-driven process that is inherently slow and may be further delayed by disputes from heirs or creditors. Until completion, the estate remains frozen under an executor or administrator, with legal and administrative costs accruing.

A foundation avoids this entirely. Once assets are transferred, ownership vests in the foundation, not the individual. Upon death, the will has no effect on such assets, and the foundation continues uninterrupted without probate.

- ❏ So you don't need a Will? Of course not. It has an important use in your estate plan, distinct from a foundation.

Flexibility

Foundation regulations set the structural and legal framework while allowing founders flexibility to shape internal workings. Key matters – such as council powers, founder's reserved powers, composition of council, guardian's powers, distribution mechanisms, and amendment procedures – are provided as default rules, subject to modification through the charter and by-laws.

A foundation has two constitutional documents, the charter and by-laws, analogous to a company's memorandum and articles. Subject to limited regulatory constraints, governance and decision-making provisions may be placed in either, offering significant drafting flexibility.

- ❏ The procedures for amending these documents differ, so carefully decide what provision goes where. A mistake in this can cost your heirs dearly in terms of time and/or money!

The Estate Planning Fundamentals?

Tax Transparency

Where a UAE family foundation undertakes no business activity and has only individual beneficiaries, it may be treated as tax transparent and not taxed in its own right [2]. Its income is attributed to, and taxed in the hands of, the beneficiaries as if earned personally.

In the UAE, for individuals, personal investment income, real estate income, wages, and business income up to AED 1 million turnover are exempt[3]. Accordingly, where beneficiaries are individuals, income from securities and real estate held through the foundation is effectively not taxed.

- ❑ For foundations, tax-transparency is not an automatic relief. If the foundation fulfils a few simple & objective conditions, it can then apply to the tax authorities to award it this exemption.

Ring-fencing of Assets

Perhaps the most compelling advantage of a UAE Foundation is the legal wall it erects between the founder's personal estate and the foundation's assets.

As stated in the foundation regulations of all jurisdictions, once assets are transferred to a foundation, they become the property of the foundation (as a separate legal entity). This means they are insulated from creditors of the founder, legal claims against the founder and foundation assets (including foreign ones), and the uncertainties of probate.

- ❑ It must be ensured that a foundation is not established to defraud known or potential creditors. For example, transferring personal assets to a foundation during divorce proceedings to defeat a spouse's potential claim may be challenged.

Interplay with Foreign Laws

Overriding Foreign Laws

Foundations established in any of the three UAE jurisdictions are governed by common law[4], with the ultimate authority resting with the relevant jurisdiction, overriding conflicting foreign laws. The regulations of all the jurisdictions state that any transfer of assets to the Foundation and any distribution to the beneficiaries shall not be void on account of any foreign statute, judgement or order of a foreign court or any foreign rule of heirship.

These are very strongly worded statutory mandates in all the three UAE Foundation regimes. While they are yet to be tested in the relevant jurisdictional courts, in certain scenarios, these provisions would most certainly provide significant weight to cross-border claims on the foundation property through the founder.

Escape Forced Heirship

Forced heirship regimes, such as France's *réserve héréditaire*, Scotland's *legitim*, and the UAE's *faraidh*, grant fixed shares to heirs, limiting testamentary freedom. For non-Muslims in the UAE, a registered will governs succession, with an option to elect home country law[5]; however, foreign forced heirship rules may still apply. Ex: In the case of French-domiciled[6] individuals whose movable assets are governed by French law regardless of location[7].

A UAE foundation breaks this link. As assets vest in the foundation, they fall outside the estate and are not subject to probate or succession laws, including foreign forced heirship. These UAE free zone laws expressly provide foreign forced heirship protection, allow by-laws govern distributions, enabling flexible succession.

- ❏ If a UAE court finds the transfer to foundation was intended to deprive protected/forced heirs, it may set aside the transfer entirely.

Selecting the Right Jurisdiction

The decision of incorporating a foundation involves factors common across jurisdictions and those which make a specific jurisdiction lucrative. ADGM, though being the first to roll out such regulations, still maintains the most flexibility pertaining to foundations with lesser intervention of the court and registrar. DIFC and RAK ICC offer clearer procedures and newer concepts such as conversion of foundations but confer a wider range of powers to the authorities.

Factors	ADGM	DIFC	RAK-ICC
Legal System	Common Law	Common Law	Common Law <i>(option to select courts of ADGM or DIFC)</i>
Minimum Initial Capital value (any kind of asset)	\$ 100	No such requirement	\$ 100
Statutory fees on incorporation	\$ 1,000	~\$1,400	~\$3,800
Tax transparency [8]	No UAE tax on foundation's income	No UAE tax on foundation's income	No UAE tax on foundation's income
Reserving powers for founders	Broad list of powers with no time limit of reservation	<u>Powers limited</u> to amending charter & by-laws and termination of foundation. <u>Time limit:</u> Lifetime (individual) or 50 years (legal person)	Same as DIFC but includes power of investing activities and appointment/ removal of council members & guardian.

Selecting the Right Jurisdiction

Factors	ADGM	DIFC	RAK-ICC
Privacy & Confidentiality [9]	Public information: Details of the foundation and registered agent [10]	Public information: > Details of the foundation, founder, council members and registered agent. > The charter can be accessed by a person with sufficient interest [11].	Complete confidentiality
Ring fencing – Clawback period [12]	Not expressly mentioned	3 years from the date of transfer to the foundation	3 years from the date of transfer to the foundation
Annual filing	No such provision	Mandatory to file annual accounts	Mandatory to file annual return
Risk of dissolution by the authorities <i>(and consequent transfer of remaining foundation property to the authorities)</i>	No such provision	DIFC Authority can apply to the court for dissolving the foundation if the foundation’s registration is prejudicial to the interest of DIFC.	Same as DIFC (the authority in this case is RAK ICC Authority)
Migration and Conversion	Migration of foundations to ADGM from other jurisdictions and vice versa is permitted.	Migration of foundations to DIFC and vice versa is permitted. A company can be converted to a foundation.	Same as DIFC
Guardian Appointment	Mandatory after the founder’s demise	Not mandatory if the beneficiaries are the founder’s family members.	Same as DIFC

Closing Remarks

The UAE Foundation offers what few structures can – legal separation of assets from the founder's personal estate, avoidance of probate, statutory protection against foreign heirship claims, and a high degree of flexibility in how wealth is governed and distributed across generations – all within a credible, regulated, common law environment.

Structure is Only as Strong as its Design

The choice of jurisdiction matters – as this guide illustrates, ADGM, DIFC, and RAK ICC differ meaningfully on confidentiality, founder's reserved powers, filing obligations, and the extent of regulatory intervention.

Charter vs. By-Laws: A Critical Decision

The allocation of provisions between the charter and the by-laws demands careful thought; a misstep here can cost future generations in time, money, or both.

Not Off the Shelf

A UAE Foundation is not a product to be purchased off the shelf. It is a bespoke legal structure that demands careful design, precise documentation, and informed jurisdiction selection.

The families that benefit most from it are those that plan it well.

References

[1] Report by International Comparative Legal Guides [<https://iclg.com/practice-areas/private-client-laws-and-regulations/05-foundations-in-the-uae-a-premier-vehicle-for-wealth-preservation-and-family-governance>]

[2] Article 16 (unincorporated partnership is not a taxable person) and Article 17 (family foundation being treated as unincorporate partnership) of the Federal Decree-Law No. 47 of 2022

[3] Cabinet Decision No. (49) of 2023

[4] ADGM and DIFC are free zones governed by common law principles, while RAK-ICC allows foundations to select ADGM or DIFC courts for governance.

[5] Federal Decree-Law No. 41 of 2022 on Civil Personal Status

[6] Domicile is where you have your permanent home. Different than Residence & Citizenship. Where you intend to return one day for good.

[7] This is as per the rule of private international law called *lex domicilii*.

[8] Note that this transparent status and the tax benefit itself is not automatic, it is subject to fulfilment of certain conditions mentioned under law as also an approval from the UAE tax authorities. Applies to all 3 jurisdictions.

[9] Though it is widely believed that the charter is a publicly accessible document, in our opinion there is no such statutory right given to the public. Also, this point excludes the disclosure that the registrar of foundations is required to make to any government authority/body/regulator pursuant to any applicable laws or regulations.

[10] As available in the public register maintained by ADGM

[11] A person with sufficient interest consists of the founder, guardian, council members, registered agent, assignee of rights, an unpaid beneficiary, a person appointed under by-laws and a person so determined by Court.

[12] A clawback period is a statutory window during which creditors can challenge and reverse asset transfers to a foundation. Once expired, such claims become time-barred and legally unenforceable.

About



KCMHeirloom is a specialized publication by the Succession Planning team at [K C Mehta & Co LLP](#), Chartered Accountants, focused on inheritance planning, estate structuring, and family business governance. It explores key challenges, evolving regulations, and best practices in wealth succession, offering valuable insights for families, business owners, and trustees.

While reasonable care has been taken to ensure accuracy, it should not substitute professional advice. Readers are encouraged to seek expert guidance before making decisions.

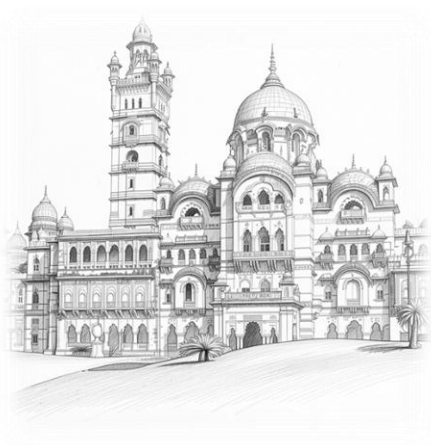
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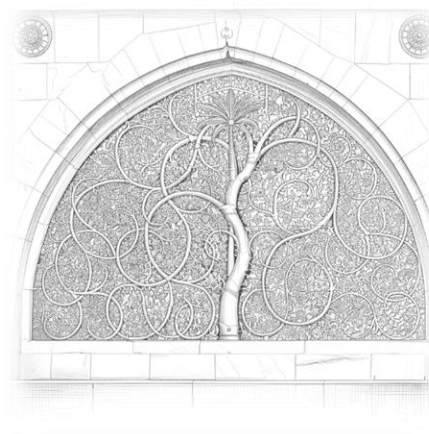
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