

Why the Foundations Company Law in Cayman Could be right for your Business

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Conyers Dill & Pearman (“Conyers”) has successfully incorporated *The Conyers Dill & Pearman Foundation*, being one of the first Cayman Foundation Companies to be established and incorporated under the *Foundation Companies Law* (“the Law”), which came into force on 18 October 2017.

A leader in Corporate and Private Client services, Conyers is well positioned to provide advice and assistance in respect of the incorporation and administration of Cayman Foundations and their application as flexible structuring tools for private clients or in commercial securitization transactions.

Creation of a Cayman Foundation

The Law is prescriptive as to the incorporation, administration and management of a Cayman Foundation. In establishing one, the drafter may choose to either convert a current Cayman exempted company to a Cayman Foundation, or to create an entirely new Cayman Foundation from scratch. In all cases, it will be a body corporate with separate legal personality and will have the capacity to sue and be sued and to hold property.

Key features of a Cayman Foundation:

- May be formed by any person (the “founder”) for any lawful object, which need not be beneficial to other persons.
- May be limited by shares, or by guarantee with or without share capital.
- Is incorporated with one or more members, whose liability is limited.
- Once formed, a Cayman Foundation can cease to have members at any time, provided that it continues to have one or more “supervisors”.
- Must have a memorandum:
 - that states that the company is a Foundation Company;
 - describes its objects;
 - provides for the disposal of any surplus assets the company may have on winding up; and
 - prohibits dividends or other distributions of profits or assets to its members or proposed members.
- Must adopt articles of association.
- Must, at all times, have a secretary who is “a Qualified Person”, being someone who is licensed or permitted by Cayman’s *Companies Management Law (2003 Revision)* (as amended) to provide company management services in the Cayman Islands.
- The secretary’s office will be the registered office of the Cayman Foundation, where the statutory records regarding the Cayman Foundation must be kept.
- Is managed by a board of directors.

- May have one or more beneficiaries who may benefit from the Cayman Foundation carrying out its objects – but may also have no beneficiaries at all.
- Is subject to the same requirements regarding documentation and filings as any other Cayman exempted company, and, in particular, must maintain certain registers and information at the Registrar of Companies, including a minute book and records for anti-money laundering purposes.
- The provisions for winding up a Cayman company apply to Cayman Foundations with consequential amendments.
- Once incorporated, cannot be revoked. However, if a founder is so empowered pursuant to the Constitution, he or she can be given powers with a similar effect to revocation (for example, a power to appoint foundation property to himself or herself).
- Is subject to Sections 92 and 93 of the *Trusts Law (2011 Revision)*, which operate to deny heirship rights to the property of a living person and will apply to property contributed to the Cayman Foundation.

The Conyers Dill & Pearman Foundation will, among other things, be used to facilitate the firm's philanthropic local fundraising efforts and contribute to the advancement of other charitable initiatives both in the Cayman Islands and globally.

Further Information

For further information, please contact Robert Lindley and Bernadette Carey of Conyers Dill & Pearman's Cayman office.

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ABOUT CONYERS DILL & PEARMAN

Conyers Dill & Pearman is a leading international law firm advising on the laws of Bermuda, the British Virgin Islands, the Cayman Islands and Mauritius. Conyers has over 130 lawyers in eight offices worldwide and is affiliated with the Conyers Client Services group of companies which provide corporate administration, secretarial, trust and management services.

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