



Foundations Regime



Introduction

Foundations provide a mechanism to consolidate family holdings of various assets into a single top holding entity.

Using a Foundation to hold family assets, whether business interests, property, financial investments or any other assets, allows very clear instructions to be legalised as to the transfer of assets upon succession.

Transferring ownership of all assets that are held under a single top entity is efficient. It is also cost effective compared to the complicated process of having to separately and individually transfer a wide range of asset holdings. Having clear wishes and plans set out in the Foundations Charter and By-Laws makes succession arrangements far less challenging, and helps avoid many of the common issues that arise upon the death of a senior family member. Establishing a Foundation ensures a far higher degree of certainty and comfort that assets will be distributed in accordance with the Founder's wishes, with the life of the Foundation continuing perpetually after the Founder's death.

The ADGM Foundations Regime provides an alternative to trusts for financial planning and structuring.

ADGM Foundations allow the High Networth Individuals (HNWI), families and corporate community to locally access a much sought after product from a world-class international financial centre.

Features of the regime were benchmarked globally and have been developed to be highly flexible and to strike an appropriate balance between regulatory obligations, confidentiality, governance and operations. ADGM Foundations are fast and simple to set up and manage with straightforward ongoing reporting requirements.

ADGM Foundations can be used for a variety of purposes, including wealth management and preservation, family succession planning, tax planning, asset protection, corporate structuring, and for Public Interest Purpose Foundations.

Benefits of Foundations

- A type of legal entity – A Foundation operates like a common law trust yet has features more similar to a company.
- Robust governance mechanisms – ADGM Foundations Regulations follow international best practice and set a legislative standard for the Foundation Council. This standard includes statutory duties, similar to common law and equitable duties imposed on company directors.
- A Guardian supervises the Foundation Council and ensures that it acts in accordance with the Foundation’s Charter and By-Laws. Appointment of the Guardian is optional during Founder’s lifetime and compulsory upon Founder’s death.
- Distinct legal personality, unlike a Trust – having a legal personality provides Foundations with flexibility to enter into contracts and arrangements directly, as a company would be able to.
- Separation of ownership whilst maintaining control of assets – the Foundation is a distinct legal entity which allows for separation of liability between Founder and the Foundation.
- Perpetual existence after lifetime of Founder – like a company, a Foundation is a perpetual concept, allowing arrangements to continue and therefore providing certainty after the Founder’s death.
- Asset protection – ADGM Foundations Regulations include firewall provisions designed to assist in protecting the rights of beneficiaries and preserve the Foundation’s assets from bankruptcy claims, claims in the event of divorce and from the effect of forced heirship rules.

Why ADGM for Foundations

ADGM Framework

- ✓ Highly reputed International Financial Centre
- ✓ Common law jurisdiction
- ✓ Best-in-class regulatory framework
- ✓ Independent ADGM Courts
- ✓ ADGM is a tax friendly environment
- ✓ Access to UAE’s extensive Double Tax Treaty network
- ✓ Access to a world-class advisory community

Foundations Regime

- ✓ First jurisdiction in the UAE to offer foundations
- ✓ Protects confidentiality of Foundation’s arrangements
- ✓ In-built governance controls to safeguard the wishes of the Founder
- ✓ Fully digital registration process
- ✓ No attestation required for documents
- ✓ Allows migration from other jurisdictions into ADGM
- ✓ Availability of a variety of complementary legal structures in ADGM

Highlights of ADGM Foundations Regime

- Redomiciliation of Foundations into and out of ADGM allowed
- Flexibility to amend governance structure once established
- Low set-up cost
- Commit initial assets of as little as USD \$100 to the Foundation
- Appointment of Company Services Provider (registered in ADGM) is mandatory for Non-exempt Foundations.
- No physical office requirement - Foundations are required to maintain a registered office address in ADGM through an appointed ADGM registered Company Service Provider (for non-exempt Foundations) and through use of registered office address of a parent entity or related entity (for exempt Foundations)
- All Foundation roles can be performed by either individuals or body corporates
- Limited public disclosure with no individuals' names on public register. Whilst disclosure to public is minimal, there is full disclosure to the Registrar. This provides for balance, preserving client confidentiality whilst maintaining transparency where required, in order to fulfil the objectives of ADGM in relation to reporting standards and international treaties to which UAE is party.





Setting up in ADGM

Foundation applicants are divided into two categories – exempt and non-exempt. These categories will dictate the means by which applicants can lodge their applications with ADGM RA . In summary, Exempt applicants will not have to appoint a Company Service Provider for the application and management of the Foundation, whereas Non-exempt applicants are required to appoint an ADGM Company Service Provider to submit the application and maintain the foundation. Further details on the conditions of an Exempt and Non-exempt applicants can be found below.

Exempt Applicants under the Foundations Regulations 2017

The foundation which fails to demonstrate substantial resources, adequate presence in the United Arab Emirates and adequate governance, policies and procedures will be subject to the requirements to appoint a Company Service Provider.

In accordance with subsection 18(2) of the Foundations Regulations, a Foundation that has demonstrated to the satisfaction of the Registrar to have–

- (a) substantial resources, experience and personnel in the United Arab Emirates, and
- (b) adequate governance policies and procedures, in each case as may be specified by rules made by the Board or guidance issued by the Registrar, need not have a Company Service Provider.

Substantial resources, experience and personnel

Only applicants seeking Exempt status are required to include supporting documents demonstrating substantial resources, experience and personnel of the legal entities directly or indirectly owned and/or controlled by the founder of the ADGM foundation. A non-exhaustive list of evidence acceptable to the Registrar is set out below:

- Copies of the current commercial licenses (or similar document) issued by the local relevant regulatory authorities of operational legal entities currently operating in the UAE.
- List of the assets – physical assets, buildings, machinery, factories.
- Information on the number of personnel employed by the operating legal entities and annual turnover.
- Copies of the current ‘establishment card’ (also known as ‘immigration card’) of each operating legal entity along with the list of the UAE residency visas issued for each legal entity/commercial license holder.
- Organization structure for each operating legal entity clearly demonstrating governance structure and number of full time employees in each operating entity within the group chart.
- Links to the company’s website where information on the board of directors and board committee can be found. Alternatively, please provide information indicating board of directors’ composition and board committees’ structure, including members of the committees, governance of the decisions and reporting lines within the structure.
- Detailed description of the resources available in the compliance and/or in-house legal department or company secretarial division showing number of full time employees, along with their professional qualifications and roles held.
- Other information which may demonstrate substantial assets.

Adequate governance policies and procedures

Please see below non-exhaustive list of evidence acceptable to the Registrar:

- Business ethics policy;
- Corporate Governance policy or statement/structure;
- Compliance policy;
- Bribery and corruption policy;
- Economic substance policy;
- Risk management policy;
- Anti-Money Laundering Policy;
- Others (please specify).

The Registrar reserves the right to request additional information to assess whether or not the applicant should be Exempt from appointing a company service provider.

How to Apply

Application information and documentation

Provide the application documentation to the Registrar via the online registry solution www.registration.adgm.com

Registration

The certificate of registration and the commercial license is issued electronically.

There are no requirements for personal visits to ADGM during the setup process or for the delivery of original hard copies of any documents.

Foundation applicants will fall under two categories, which will dictate the means by which their applications can be submitted, “Exempt and Non-exempt”. In summary, Exempt applicants will not have to appoint a foundations (FDN) for the application and management of the foundation, whereas Non-exempt are required to appoint an ADGM CSP to proceed with the application.

Application Information Documentation Requirements

- Details of Councillor, Guardians, Beneficiaries and Founder
- Copies of ID documents and evidence of appointment
- Details of the registered office address in ADGM
- Details of the Company Services Provider for Non-exempt Foundations (see Exempt criteria)
- Details of the Designee (only in the scenario where there are no beneficiaries)
- Foundation Charter (a model Charter is available for use)
- As an integral part of the application, certain declarations must be made in relation to each including the Founder, Councillor and Guardian

Disclosure requirements:

Full disclosure to ADGM Registrar	Yes
Publicly accessible information	No
Beneficial ownership publicly disclosed	No
Filing of accounts	No
Audit requirement	No
Data Protection	Yes

Foundation fees:

Registration of Foundation	\$200
Annual renewal of Foundation	\$200
Continuation into / out of ADGM	\$500
Notification of changes	\$100

Require more information?

For further information on how to commence the process of registration of a foundation in ADGM, please visit relevant pages on ADGM website

<https://www.adgm.com/setting-up/family-offices-and-foundations>



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