

Panama Private Interest Foundations

Introduction

A Foundation is a separate legal entity (unlike a trust) managed by a Foundation Council, that has no members or shareholders (unlike a company).

It is usually used to preserve assets for the benefit of a family, often as an estate planning vehicle; it enables the separation of assets from the estate of the Founder and ensures their independence and autonomy.

The Regulations are a legally binding document which govern the actions of the Foundation Council, and contain the identity of Beneficiaries and their respective interest in the Foundation. The Regulations constitute a private document that is not registered before any government authority, and it may be changed at any time by the founder, protector or first beneficiary, as set forth in the Regulations.

Beneficiaries can include the Founder, family members, third parties or institutions. The Founder or client may generally retain full control over the assets held by the Foundation throughout his lifetime, and the Founder may at all times amend his dispositions or dissolve the Foundation.

A Foundation is capable of holding any assets including stocks, bonds, cash deposits, real estate, art collections etc., in its own name particularly.

Registration and Administration

The client's estate planning requirements are reflected in the Foundation's Charter and Regulations, which will be drafted in accordance to his/her particular needs. The client is often named as First Beneficiary.

The client may place restrictions on the amount a beneficiary should receive and stipulate conditions that should be met before they are entitled to any benefit. Consideration should be given as to the distribution of a beneficiary's entitlement, should they die before receiving their full entitlement from the Foundation; note that corporations may be beneficiaries of a Panamanian Foundation.

The Foundation Council is responsible for the administration and disposition of the Foundation's assets in accordance to the Charter and the Regulations. As a legal entity, the Foundation can open bank accounts and enter into contracts in its own name, although this may be delegated to a subordinate holding company for discretion and simplicity.

If the client wishes, a Protector and Substitute Protectors may be appointed. The Protector is a supervisory organ with the rights and power established in the Charter and/or the Regulations. The Protector may reserve the power to approve all acts of the Foundation Council and may add or delete beneficiaries, as well as amending the Regulations. The Protector is usually the client, and Substitute Protectors may be a family friend or a trusted professional adviser.

Advantages

- **Freedom to Choose your Foundation Council.** The Panamanian Foundation law imposes no restrictions on the location, nationality or domicile of the members of the Foundation Council. Therefore, the Foundation Council may be composed of family advisers, associates or persons intimately familiar with the Founders' intentions in the creation of the Foundation.
- **Confidentiality.** The identity of the Beneficiaries, and their respective interests are not filed with the public registry.
- **Avoid Probate Proceedings.** Assets are transferred to the Beneficiaries without the need of probate proceedings.
- **No Forced Heirship.** The existence of legal provisions regarding successions in the domicile of the Founder or of the beneficiaries may not be opposed to the Foundation, nor shall they affect its validity or prevent the attainment of its objects in the manner provided in the Charter or its Regulations. Moreover, there are no "Forced Heirship" laws in Panama.
- **Protection of Assets.** Excepting situations when the Founder's transfer to the Foundation constitutes an act in fraud of creditors, the rights and actions of creditors of the Founder or of third parties shall be time-barred after three years counted from the date of the contribution or transfer of the asset to the Foundation.
- **Flexibility.** Foundations can be tailored to attend sophisticated estate planning needs.