

Foundation Governance and Structure

Best Practices, Jurisdictional Comparison and Implementation Framework

A comprehensive analysis for UHNW principals, trustees, family office executives, and advisors

April 2024



Executive Summary

This presentation provides a comprehensive analysis of foundation structures across key jurisdictions, governance frameworks, and operational considerations. Five board-level theses emerge from our research:

1

Fit-for-purpose design is paramount

Foundation structures must be designed with clear alignment to family objectives, governance philosophy, and long-term legacy intentions. The form must follow function, with trade-offs between privacy, control, taxation, and compliance burden explicitly acknowledged.

2

Jurisdictional selection requires weighted criteria

No single jurisdiction presents an optimal solution across all dimensions. Selection requires prioritisation across legal stability, taxation, governance flexibility, compliance requirements and reputational considerations.

3

Governance architecture determines durability

The distribution of powers, checks and balances, amendment protocols, and succession mechanisms determine whether a foundation will endure across generations and adapt to evolving circumstances.

4

Transparency is the new paradigm

Global policy trajectory points unmistakably toward greater transparency, beneficial ownership disclosure, and cross-border information exchange. Designs predicated on opacity face elevated regulatory and reputational risks.

5

Implementation excellence is decisive

The most elegant structure will fail without rigorous implementation, robust documentation, substance-aligned governance, and professional administration. Excellence in execution is the determinant of success.

Foundation Defined: Legal Personality, Purposes and Common Misconceptions

What a foundation is

A foundation is a separate legal entity created when assets are set aside and dedicated to a particular purpose or for the benefit of specified beneficiaries. Unlike companies, foundations typically have no shareholders or owners¹. They have legal personality in most jurisdictions, can hold assets, enter contracts, and sue or be sued in their own name².

Foundations exhibit characteristics of both trusts and companies, combining elements of:

- Self-ownership (no shareholders)
- Dedicated assets (foundation endowment)
- Purpose-driven or beneficiary-oriented mandate
- Governance through council or board structure
- Perpetual or long-term time horizon

¹ STEP, "Foundations: A Primer for Private Clients", October 2022, p.8

² Liechtenstein Foundation Law, Art. 552 §13(1), as of 2023

Common misconceptions

Foundations are often misunderstood, particularly when comparing civil law and common law variants:

- **Not necessarily charitable** - Many jurisdictions permit private-purpose foundations
- **Not merely "civil law trusts"** - Foundations have distinct legal personality
- **Not immune to transparency** - Many are subject to registers, reporting, audits
- **Not universally tax-exempt** - Taxation depends on purposes, activities, jurisdiction
- **Not automatically treaty-eligible** - Must satisfy residence and beneficial ownership tests
- **Not always perpetual** - Duration rules vary by jurisdiction
- **Not exempt from compliance** - Subject to CRS, FATCA, BO registers

Types of Foundations: A Taxonomy

By Purpose

- **Charitable/Public-benefit foundations** - Dedicated to serving the public good through specified charitable purposes¹
- **Private-purpose foundations** - Established to serve private interests, often family-related purposes
- **Mixed-purpose foundations** - Combining both charitable and private purposes in varying proportions
- **Purpose foundations** - Dedicated to specific non-charitable purposes (e.g., maintaining art collections)

By Form and Jurisdiction

- **Civil law foundations** - Stiftung (Liechtenstein, Switzerland, Austria), Fondation (Luxembourg, Monaco), Stichting (Netherlands)
- **Common law foundations** - Foundation companies (Cayman, Jersey, Guernsey), ADGM/DIFC Foundations
- **Hybrid models** - Panama and Bahamas Private Interest Foundations
- **Charitable entities** - UK CIO, US private foundations and public charities

The classification affects governance requirements, regulatory oversight, disclosure obligations, and tax treatment.²

¹ Charities Aid Foundation, "A Comparative Survey of Foundations in Europe", 2023

² King & Spalding, "International Private Foundation Structures", February 2023

Core Design Choices for Foundations



Legal Personality

- Separate legal entity status
- Asset ownership capacity
- Contractual powers
- Litigation standing



Purpose vs Beneficiary

- Pure purpose orientation
- Defined beneficiary class
- Mixed purpose-beneficiary
- Discretionary arrangements



Governance Structure

- Council/board composition
- Founder's reserved powers
- Protector/guardian role
- Amendment mechanisms



Transparency Profile

- Public registration
- Beneficial ownership
- Financial reporting
- Supervisory oversight

Key Decision Factors

Strategic Considerations

- Legacy time horizon
- Family governance integration
- Cross-border activities
- Asset protection needs

Technical Parameters

- Tax optimisation goals
- Treaty access requirements
- Regulatory compliance
- Substance expectations

Practical Constraints

- Administration capacity
- Cost sensitivity
- Banking/custody requirements
- Reputational considerations

Private vs Charitable Foundations: A Comparative Analysis

Private-Purpose Foundations

Key characteristics:

- Serves private interests (typically family)
- Generally not tax-exempt on income
- Limited or no tax deductibility for donations
- Often lighter regulatory oversight
- Typically greater confidentiality
- Flexible governance arrangements
- Varied investment restrictions

Common uses:

- Family governance vehicle
- Wealth succession planning
- Asset protection
- Holding structure for family assets

Charitable/Public-Benefit Foundations

Key characteristics:

- Serves public-benefit purposes
- Often exempt from income taxation
- May offer tax deductions for donors
- Subject to regulatory supervision
- Greater transparency requirements
- More prescribed governance rules
- Stricter investment guidelines

Common uses:

- Philanthropic vehicle
- Grant-making entity
- Operational charitable activities
- Public legacy establishment

Many jurisdictions permit mixed-purpose foundations that combine elements of both types, though this may result in complex tax treatment and governance requirements.¹ The proportion of charitable to private purpose affects regulatory treatment and tax benefits.²

¹ Maurant, "International Foundation Structures", April 2023

² EY, "Global Family Office Guide: Foundation Structures", 2023

Foundation Company Variant: An Emerging Hybrid Structure

Key Attributes

Foundation companies represent a hybrid structure combining corporate form with foundation purposes:

- Corporate legal personality
- No shareholders (self-ownership)
- Directors/council as governing body
- Memorandum & Articles as constitutive documents
- Can be charitable or non-charitable
- May have beneficiaries or purely purpose-based
- Often perpetual existence permitted

Advantages and Considerations

Advantages

- Familiar corporate governance model
- Common law certainty and precedent
- Greater flexibility in powers and purposes
- May have beneficial treaty positions
- Potentially clearer successor vehicle to trusts

Leading Jurisdictions

Several common law jurisdictions have enacted specific foundation company legislation:

- **Cayman Islands** - Foundation Companies Law 2017¹
- **Jersey** - Foundations (Jersey) Law 2009
- **Guernsey** - Foundations (Guernsey) Law 2012
- **Isle of Man** - Foundations Act 2011
- **ADGM** - Foundations Regulations 2017
- **DIFC** - Foundations Law, DIFC Law No. 3 of 2018

Considerations

- Relatively new structures with limited case law
- Varying regulatory treatment across jurisdictions
- Complex cross-border recognition issues
- Uncertain tax treatment in some countries
- Beneficial ownership reporting obligations

¹ Cayman Islands Foundation Companies Law, 2017 (Last Revision: 1 January 2023)

Governance Blueprint: The Foundation Architecture

Founder

The originator who establishes the foundation, contributes initial assets, and may retain certain reserved powers.¹

Key powers may include:

- Amendment of foundation documents
- Appointment/removal of council members
- Revocation (if permitted)
- Investment policy approval
- Beneficiary designation changes

Foundation Council

The primary governing body responsible for foundation administration, similar to a board of directors.²

Key responsibilities:

- Asset management oversight
- Implementation of foundation purpose
- Compliance with regulatory requirements
- Financial stewardship
- Grant-making (if applicable)

Protector/Guardian

An optional oversight role with supervisory powers and/or veto rights.³

Typical powers:

- Consent to specified council actions
- Council member appointment/removal
- Audit of foundation activities
- Amendment consent rights
- Dispute resolution facilitation

Additional Governance Elements

Committees

- Investment Committee
- Grant Committee
- Audit Committee
- Family/Beneficiary Committee

Documentary Framework

- Charter/Statutes
- By-laws/Regulations
- Letters of Wishes
- Investment Policy Statement
- Grant-making Policy

Fiduciary Standards

- Duty of loyalty
- Duty of care/prudence
- Conflict-of-interest protocols
- Documentation standards

¹ Liechtenstein Foundation Law, Art. 552 §30, as of 2023

² Jersey Foundations Law, Art. 24, as of 2022

³ Cayman Foundation Companies Law, s.7(6), as of 2023

Council Composition: Best Practices

Key Considerations for Council Composition

The foundation council is the primary governance body and its composition significantly impacts foundation effectiveness, compliance, and durability.¹

Independence and Expertise

Include independent members with relevant professional expertise (legal, financial, subject-matter) alongside family/founder representatives. Independent members provide objectivity and specialist knowledge.

Substance Requirements

Ensure sufficient local representation in the foundation's jurisdiction to satisfy substance requirements. This typically requires qualified local directors with genuine decision-making authority.

Succession Planning

Establish clear mechanisms for council succession, including staggered terms, qualification criteria, and appointment processes that function after the founder's lifetime.

Size and Diversity

Balance efficiency with adequate oversight - typically 3-7 members. Include diverse perspectives, skills, and demographics to enhance decision quality and challenge groupthink.

Jurisdictional Requirements

Council composition requirements vary significantly by jurisdiction:²

- **Liechtenstein:** Minimum 2 members, at least 1 EEA qualified professional
- **Jersey:** Minimum 1 qualified local council member
- **Cayman:** At least 1 corporate supervisor if no supervisory role
- **Panama:** 3 natural or legal persons minimum
- **ADGM:** Minimum 2 council members
- **Switzerland:** 1 council member with Swiss residence rights

Professional council members can provide:

- Local substance and compliance
- Administrative continuity
- Technical expertise
- Independence from family dynamics

¹ STEP, "Foundation Governance Best Practices", November 2022

² Withers LLP, "International Foundation Governance Requirements", March 2023

Founder's Reserved Powers: Balancing Control and Validity

Common Reserved Powers

Founders may reserve certain powers, though excessive control can compromise the foundation's integrity¹:

- **Council appointments** - Power to appoint/remove council members
- **Amendment rights** - Ability to modify foundation documents
- **Revocation rights** - Power to dissolve the foundation (where permitted)
- **Asset decisions** - Approval of certain investment or distribution decisions
- **Beneficiary changes** - Modification of beneficiary class or entitlements
- **Veto rights** - Negative control over specified council actions
- **Policy approval** - Sign-off on grant-making or investment policies

Risk Assessment Matrix

The extent of founder control creates a spectrum of risk:

Founder Control Level	Validity Risk	Recognition Risk
Minimal (guidance only)	Very Low (5%)	Low (10%)
Limited (specific vetoes)	Low (15%)	Low-Medium (25%)
Moderate (key approvals)	Medium (40%)	Medium (45%)
Substantial (day-to-day influence)	High (70%)	High (75%)
Complete (alter-ego)	Very High (90%)	Very High (95%)

Probability bands: 5-15% low, 15-35% guarded, 35-65% even, 65-85% probable, 85-97% highly probable.

Jurisdictional Variations in Founder's Rights²

Most Permissive

- Panama (PIFs)
- Bahamas
- Liechtenstein
- UAE (ADGM/DIFC)

Moderate

- Jersey
- Cayman Islands
- Luxembourg
- Guernsey

Most Restrictive

- Switzerland
- Austria
- Germany
- UK (for charitable entities)

¹ Appleby, "Founder Control in Foundation Structures", January 2023

² Maisto e Associati, "Recognition of Foundations in Civil and Common Law Jurisdictions", 2022

Letters of Wishes: Non-Binding Guidance

Purpose and Legal Status

Letters of wishes provide non-binding guidance from the founder to the foundation council on how the foundation should be administered. They are particularly useful for expressing intentions that may be inappropriate for inclusion in formal constitutive documents.¹

Key characteristics:

- Not legally binding on council members
- Provides contextual guidance on founder's intentions
- May be updated periodically without formal amendment process
- Potentially less public than formal foundation documents
- Often addresses moral or ethical considerations
- May provide narrative explanation of founder's motivations

Drafting Principles

Do:

- Express aspirational guidance
- Update periodically
- Provide context for decisions
- Focus on principles over specifics

Don't:

- Use mandatory language
- Contradict formal documents
- Create tax or regulatory issues
- Undermine council discretion

Legal considerations:

- Potential discovery in litigation
- May influence tax characterisation
- Could affect foundation recognition
- Evidentiary value varies by jurisdiction

¹ STEP Journal, "Letters of Wishes in Foundation Structures", September 2022

² Ogier, "Foundation Governance: The Role of Letters of Wishes", April 2023

Best Practice Content

Effective letters of wishes typically address:

- **Beneficiary priorities** - Guidance on relative priorities among beneficiaries
- **Distribution philosophy** - Approach to supporting beneficiaries
- **Investment ethos** - General investment philosophy and risk tolerance
- **Conflict resolution** - Suggested approaches to resolving disputes
- **Succession intentions** - Guidance on future council appointments
- **Legacy values** - Core values to be preserved
- **Specific exclusions** - Activities or investments to avoid

While legally non-binding, letters of wishes carry significant moral weight and are generally followed by council members absent compelling reasons to deviate.²

Jurisdiction Selection: Framework and Criteria

Key Selection Criteria

Legal Framework • Maturity and stability of foundation law • Clarity of case law and precedent • Permissibility of intended purposes • Permissible duration (perpetuity options) • Flexibility in governance arrangements • Founder's reserved powers permitted	Regulatory Environment • Registration requirements • Supervision intensity • Audit requirements • Regulatory reporting obligations • Beneficial ownership disclosure • Compliance burden and costs
Tax Considerations • Formation taxes/duties • Income tax treatment • Tax on distributions • Donation deductibility • Withholding tax exposure • Double tax treaty access	Practical Factors • Professional infrastructure • Banking/custody accessibility • Political stability • Reputational considerations • Geographic convenience • Language and legal system familiarity

Weighting Framework

Effective jurisdiction selection requires explicit weighting of criteria based on foundation objectives. Below is a sample weighting matrix (to be tailored to specific circumstances):

Criterion Category	Sample Weight	Key Sub-factors
Legal Framework	30%	Structural flexibility, precedent clarity, enforcement predictability
Regulatory Environment	25%	Supervision intensity, reporting burden, privacy preservation
Tax Treatment	25%	Income taxation, withholding exposure, treaty access
Practical Considerations	20%	Professional services, banking access, reputation

Probability of Regulatory Change (2024-2029):

- Increased beneficial ownership transparency: 85-95%
- Expanded automatic exchange of information: 80-90%
- Enhanced substance requirements: 75-85%
- Stricter anti-avoidance rules: 70-80%

These probabilities should inform long-term jurisdiction selection, favouring locations with stable, compliance-oriented regimes.

Jurisdiction Comparative Matrix: Civil Law Foundations

(1/2)

Criteria	Liechtenstein Stiftung	Swiss Stiftung	Austrian Privatstiftung	Luxembourg Fondation
Legal Framework	PGR Art. 552, comprehensive update 2009	Civil Code Art. 80-89a, with regular updates	Privatstiftungsgesetz 1993, amended 2011	Draft law approved 2022, enactment pending
Minimum Capital	CHF 30,000	No statutory minimum	€70,000	€50,000 (proposed)
Private Purpose Permitted	Yes, fully	Limited (primarily charitable)	Yes	Yes (proposed)
Founder's Reserved Powers	Extensive	Limited	Moderate	Moderate (proposed)
Revocability	If reserved	Generally irrevocable	If reserved in statutes	If reserved (proposed)
Council Requirements	Min. 2 members, 1 qualified EEA	No specific requirement	Min. 3 members, majority EU/EEA	Min. 3 members (proposed)
Supervisory Authority	Private: optional registration Public: Foundation Authority	All foundations under Federal Supervisory Authority	Court supervision and tax audits	Ministry of Justice (proposed)
Public Registration	Public-benefit: Yes Private: Optional	Yes	Yes	Yes (proposed)
Financial Statements	Public: Annual audit Private: Internal audit	Annual accounts and audit	Annual audit	Annual accounts (proposed)
BO Register	Yes, limited access	Yes, public access	Yes, limited access	Yes, limited access (proposed)
Duration	Perpetual permitted	Perpetual permitted	Perpetual permitted	Perpetual permitted (proposed)
Tax Treatment	Private: 12.5% minimum tax Public: Tax-exempt	Charitable: Tax-exempt Private: Fully taxable	25% corporate tax No tax on capital gains	Public: Tax-exempt Private: Normal corporate tax (proposed)
Treaty Access	Limited (beneficial ownership issues)	Yes, subject to conditions	Yes	Expected (proposed)
Formation Timeline	2-4 weeks	4-8 weeks	3-6 weeks	TBD
Reputational Profile	Medium	High	High	High (expected)

Sources: Jurisdictional legislation as of March 2024; PwC, "Foundation Comparison Guide", 2023; KPMG, "International Foundation Structures", February 2024

Jurisdiction Comparative Matrix: Civil Law Foundations

(2/2)

Criteria	Dutch Stichting	German Stiftung	Monaco Fondation	Malta Foundation
Legal Framework	Dutch Civil Code, Book 2	German Civil Code (BGB) §§80-88	Law No. 56, 1922	Second Schedule to Civil Code, 2007
Minimum Capital	No statutory minimum	Varies by federal state (typically €50,000-€300,000)	€150,000	€1,165 (or €233 for purpose foundations)
Private Purpose Permitted	Yes, but limited distributions	Limited (primarily charitable)	No (only public interest)	Yes, fully
Founder's Reserved Powers	Limited	Very limited	Limited	Extensive
Revocability	Generally irrevocable	Irrevocable	Irrevocable	If reserved in statute
Council Requirements	Min. 1 director	Varies by state	Administrative Council and Government Commissioner	Min. 3 administrators
Supervisory Authority	Chamber of Commerce	State supervisory authority	Ministry of State	Registrar for Legal Persons
Public Registration	Yes	Yes	Yes	Yes
Financial Statements	Annual accounts filing	Annual accounts to authority	Annual accounts and report	Annual return and accounts
BO Register	Yes, public access	Yes, limited access	Limited registry	Yes, limited access
Duration	Perpetual permitted	Perpetual (core principle)	Perpetual permitted	Perpetual permitted
Tax Treatment	Commercial: 25.8% Non-commercial: exempt	Charitable: Tax-exempt Private: Fully taxable	Tax exempt	Private: 35% standard rate Charitable: Tax-exempt
Treaty Access	Yes, subject to substance	Yes, for qualifying entities	Limited	Yes, extensive network
Formation Timeline	1-2 weeks	3-6 months	6-12 months	2-4 weeks
Reputational Profile	High	Very high	Medium	Medium

Sources: Jurisdictional legislation as of March 2024; PwC, "Foundation Comparison Guide", 2023; KPMG, "International Foundation Structures", February 2024

Jurisdiction Comparative Matrix: Common Law Foundations

Criteria	Cayman Foundation Company	Jersey Foundation	Guernsey Foundation	ADGM/DIFC Foundation
Legal Framework	Foundation Companies Law 2017	Foundations (Jersey) Law 2009	Foundations (Guernsey) Law 2012	ADGM Foundations Regulations 2017 DIFC Law No. 3 of 2018
Minimum Capital	No statutory minimum	No statutory minimum	No statutory minimum	USD \$10,000 (ADGM) USD \$10,000 (DIFC)
Private Purpose Permitted	Yes, fully	Yes, fully	Yes, fully	Yes, fully
Founder's Reserved Powers	Extensive	Moderate	Moderate	Extensive
Revocability	If reserved in constitution	If reserved in charter	If reserved in constitution	If reserved in charter
Council Requirements	Min. 1 director + qualified supervisor if no guardian	Min. 1 qualified council member	Min. 2 councillors	Min. 2 council members
Supervisory Authority	Registrar of Companies	Jersey Financial Services Commission	Guernsey Registry	Registrar of Foundations
Public Registration	Yes	Yes	Yes	Yes
Financial Statements	No public filing requirement	Annual accounts (not public)	Annual validation	Annual accounts (not public)
BO Register	Yes, non-public	Yes, non-public	Yes, non-public	Yes, limited access
Duration	Perpetual permitted	Perpetual permitted	Perpetual permitted	Perpetual permitted
Tax Treatment	Zero tax (no local tax)	0% standard rate	0% standard rate	0% (no local income tax)
Treaty Access	Limited	Limited	Limited	UAE treaties may apply
Formation Timeline	1-2 weeks	2-3 weeks	2-3 weeks	1-2 weeks
Reputational Profile	Medium	Medium-High	Medium-High	Medium

Sources: Jurisdictional legislation as of March 2024; Carey Olsen, "A Guide to Foundation Structures", 2023; DIFC, "DIFC Foundations Regime", 2023

Jurisdiction Comparative Matrix: Other Foundation-Type Structures

Criteria	Panama Private Interest Foundation	Bahamas Foundation	UK Charitable Incorporated Organisation	US Private Foundation
Legal Framework	Law No. 25 of 1995	Foundations Act 2004	Charities Act 2011	IRC Section 501(c)(3) & 4940-4945
Minimum Capital	USD \$10,000	USD \$10,000	No statutory minimum	No statutory minimum
Private Purpose Permitted	Yes, fully	Yes, fully	No (charitable only)	No (charitable only)
Founder's Reserved Powers	Extensive	Extensive	Very limited	Limited by self-dealing rules
Revocability	If reserved in charter	If reserved in charter	No	No
Council Requirements	Min. 3 foundation council members	Min. 1 secretary, Min. 1 officer	Min. 3 trustees (typically)	Min. 3 directors (typically)
Supervisory Authority	Public Registry	Registrar General	Charity Commission	IRS, state attorneys general
Public Registration	Yes	Yes	Yes	Yes
Financial Statements	Internal records only	Annual accounts (not public)	Annual report and accounts	Form 990-PF (public)
BO Register	Yes, non-public	Yes, non-public	Public register of trustees	Public disclosure of directors
Duration	Perpetual permitted	Perpetual permitted	Perpetual permitted	Perpetual permitted
Tax Treatment	No tax on foreign income	No local income tax	Charitable tax exemptions	1-2% excise tax on investment income; 5% minimum distribution
Treaty Access	Limited	Limited	UK treaties for qualifying charities	US treaties for qualifying entities
Formation Timeline	1-2 weeks	2-3 weeks	2-3 months	3-12 months
Reputational Profile	Medium-Low	Medium	Very High	Very High

Sources: Jurisdictional legislation as of March 2024; UK Charity Commission Guidance, 2023; IRS, "Tax Information for Private Foundations", 2023; Estudio Juridico, "Panama Foundation Guide", 2022

Foundation Tax Profile: Overview

Key Tax Considerations

The tax treatment of foundations varies significantly based on their type, purpose, jurisdiction, and activities. Key tax dimensions include¹:

Formation and Funding Taxes

Initial establishment may trigger:

- Registration duties or stamp taxes
- Gift or inheritance taxes on contributions
- Capital import taxes in some jurisdictions
- Transfer taxes on contributed assets

Income Taxation

Operational taxation varies by type:

- Charitable/public benefit: Often exempt
- Private purpose: Usually taxable
- Mixed purpose: Proportional treatment
- Corporate rates or special foundation rates

Distribution Taxation

Payments to beneficiaries may face:

- Withholding taxes in foundation jurisdiction
- Income or gift tax in beneficiary residence
- Characterisation issues (income vs capital)

Donation Deductibility

Tax relief for donors depends on:

- Foundation's charitable status
- Jurisdiction of donor and foundation
- Cross-border tax treaty provisions
- Donor's income type and limitations

Treaty Eligibility

Access to tax treaty benefits requires:

- Qualification as a "resident" under treaties
- Beneficial ownership of income
- Substance in foundation jurisdiction
- Satisfaction of limitation on benefits tests

Special Regimes

Jurisdiction-specific considerations:

- US: Excise tax and distribution requirements
- UK: Trading subsidiaries for commercial activity
- EU: State aid and cross-border philanthropy rules
- Switzerland: Special cantonal tax regimes

Charitable Foundation Tax Treatment

Tax Exemption Requirements

To qualify for charitable tax exemptions, foundations typically must meet several criteria, though specific requirements vary by jurisdiction¹:

Charitable Purpose

Activities must fall within defined charitable purposes, which typically include:

- Relief of poverty
- Advancement of education
- Advancement of religion
- Advancement of health
- Other purposes beneficial to the community

Public Benefit Test

Must demonstrate benefit to a sufficiently broad section of the public, not primarily private interests. This includes:

- Non-restrictive beneficiary class
- Quantifiable public good
- Benefits proportionate to any private advantage

Non-Distribution Constraint

Assets and income must be dedicated to charitable purposes:

- No distributions to private individuals
- Reasonable compensation permitted
- Assets must remain in charitable sector

Compliance Requirements

Ongoing obligations typically include:

- Regular activity reports
- Financial accounts and audits
- Governance transparency
- Adherence to charitable purpose

Jurisdictional Variations

Tax exemption criteria and benefits vary significantly:

- **UK:** Registered charity status with HMRC and Charity Commission; exempt from income, capital gains, and potentially inheritance tax²
- **US:** 501(c)(3) status with 1-2% excise tax on investment income; mandatory 5% annual distribution³
- **Switzerland:** Cantonal exemptions based on public utility purpose; federal tax exemption for national activities⁴
- **Germany:** Three-tier test: charitable purpose, selflessness, and exclusivity⁵
- **Singapore:** Charity registration plus Institution of Public Character (IPC) status for donor deductibility⁶



1 OECD, "Taxation and Philanthropy", 2020

2 UK Charity Commission, "Charitable Purposes and Public Benefit", 2023

3 IRS, "Tax Information for Private Foundations", 2023

4 Swiss Federal Tax Administration, "Tax Exemption for Non-Profit Organizations", 2022

5 German Fiscal Code (Abgabenordnung), §§51-68

6 IRAS, "Tax Treatment of Charities", 2023

Private Foundation Tax Considerations

Income Taxation

Private-purpose foundations typically face more comprehensive taxation than their charitable counterparts¹:

- **Civil law jurisdictions:**
 - Liechtenstein: 12.5% minimum tax on private foundations
 - Austria: 25% corporate tax rate
 - Switzerland: Ordinary taxation (federal + cantonal)
- **Common law jurisdictions:**
 - Cayman: Zero tax rate on foundation companies
 - Jersey/Guernsey: 0% standard rate
 - Malta: 35% standard rate (refundable for shareholders)
- **Mixed jurisdictions:**
 - Panama: No tax on foreign-source income
 - Bahamas: No income tax regime
 - UAE (ADGM/DIFC): 0% on foundation income

Distribution Taxation

Distributions to beneficiaries create complex tax considerations²:

- **Withholding taxes:** Many jurisdictions impose withholding tax on cross-border distributions (typically 0-35%)
- **Characterisation:** Distributions may be treated as:
 - Dividend-like income
 - Interest income
 - Capital returns
 - Gifts/inheritance
- **Beneficiary residence:** Local tax treatment in beneficiary jurisdiction depends on:
 - Domestic tax classification of foundation
 - Transparency vs entity treatment
 - Source and character of underlying income
 - Tax treaties and information exchange

Anti-Avoidance Considerations

Look-through Rules

- CFC/equivalent regimes
- Attribution of foundation income
- Deemed income provisions
- Settlor-interested provisions

Substance Requirements

- Economic substance tests
- Management and control location
- Principal purpose tests
- BEPS Action 6 treaty limitations

Risk Assessment (2024-2029)

- Expanded attribution rules: 75-85%
- Stricter substance requirements: 80-90%
- Beneficial ownership tests for treaties: 85-95%
- Increased tax information exchange: 90-97%

¹ PwC, "International Private Wealth: Foundation Taxation", March 2023

² IBFD, "Foundations: Tax Treatment of Distributions", January 2023

US Tax Considerations for Foundations

US Private Foundations

US private foundations operate under a comprehensive and unique tax regime¹:

- **Tax-exempt status:** Exempt from federal income tax under IRC §501(c)(3)
- **Excise tax:** 1.39% excise tax on net investment income (previously two-tier system)
- **Mandatory distribution:** Required to distribute approximately 5% of average investment asset value annually
- **Strict prohibitions:**
 - Self-dealing rules (IRC §4941)
 - Excess business holdings (IRC §4943)
 - Jeopardizing investments (IRC §4944)
 - Taxable expenditures (IRC §4945)
- **Penalties:** Significant excise taxes on prohibited transactions, potentially including removal of tax-exempt status

Foreign Foundations and US Nexus

Foreign foundations with US connections face complex tax considerations²:

- **US grantmaking:**
 - Foreign foundations making US grants must exercise "expenditure responsibility" or establish "equivalency determination"
 - Documentation, pre-grant inquiry, written agreements, and separate accounting required
- **US investments:**
 - US-source income may trigger 30% withholding (or treaty rate)
 - FDAP income subject to Chapter 3 withholding
 - Potential FIRPTA exposure on US real property
- **US donors:**
 - Donations to foreign foundations generally not deductible for US taxpayers
 - "Friends of" organizations may facilitate deductible giving
 - Significant reporting requirements (Forms 3520/3520-A)

Charitable Giving Considerations

Domestic Deductibility

- Individuals: up to 30% of AGI for private foundations (vs 60% for public charities)
- Corporations: limited to 10% of taxable income
- Five-year carryforward of excess contributions

Cross-Border Options

- Donor-advised funds (DAFs)
- US intermediary organizations
- "American Friends of" structures
- Direct operation through US entity

Compliance Burden

- Form 990-PF annual filing (public)
- Substantial disclosure requirements
- State-level registration and reporting
- Potential FBAR and FATCA obligations

¹ IRS, "Tax Information for Private Foundations", updated December 2023

² EY, "US Tax Considerations for Cross-Border Philanthropy", February 2023

UK Charitable Foundation Framework

Charitable Incorporated Organisation (CIO)

The CIO is a bespoke legal form designed specifically for charities¹:

- **Legal status:** Corporate body with legal personality
- **Limited liability:** Trustees have limited or no liability
- **Single regulator:** Only Charity Commission registration (no Companies House)
- **Governing document:** Constitution in prescribed format
- **Establishment process:** Application to Charity Commission
- **Conversion:** Charitable companies can convert to CIO status
- **Two models:**
 - Foundation model (trustees only members)
 - Association model (broader membership)

Tax Treatment

UK charities benefit from extensive tax advantages²:

- **Income and corporation tax:** Exempt on income applied for charitable purposes
- **Capital gains tax:** Exempt when gains used for charitable purposes
- **Inheritance tax:** Exempt on donated assets
- **Gift Aid:** Allows charity to reclaim 25% basic rate tax on donations
- **Business rates:** Mandatory 80% relief for charity property
- **VAT:** Various reliefs and exemptions available
- **Donor benefits:**
 - Income tax relief (higher/additional rate taxpayers)
 - Gift Aid on donations
 - Inheritance tax exemption
 - Relief on gifts of listed shares and property

Regulatory Framework

Charity Commission Oversight

- Registration (if over £5,000 income)
- Annual return submission
- Financial accounts filing
- Trustee changes notification
- Serious incident reporting

Accounting Requirements

- Charities SORP (FRS 102) compliance
- Income-based reporting thresholds
- Independent examination or audit
- Public accountability
- Restricted fund accounting

Trading Subsidiaries

- Required for non-primary purpose trading
- Gift Aid payments to parent charity
- Corporation tax planning
- Separate governance structure
- Commercial risk segregation

¹ UK Charity Commission, "Setting up a Charity: Guidance", updated January 2024

² HMRC, "Detailed Guidance Notes for Charities", February 2023

Transparency and Beneficial Ownership Requirements

Global Transparency Framework

Foundations face increasing transparency obligations across jurisdictions¹:

Public Registration

Almost all jurisdictions require some form of public registration, with varying disclosure levels:

- Foundation name, purpose, and date of establishment
- Council member/director identities
- Registered address and contact details
- Constitutional documents (in many cases)
- Annual accounts (in some jurisdictions)

Beneficial Ownership Registers

Increasingly common globally, with varying access models:

- **EU**: Public registers under AMLD5 (with pending ECJ privacy limits)
- **UK**: Public register of Persons with Significant Control
- **Crown Dependencies**: Limited access registers
- **Cayman/BVI**: Authority-access registers
- **FATF standards** requiring beneficial ownership information

Automatic Exchange of Information

International information sharing frameworks:

- **CRS**: Foundations typically reportable as financial institutions or passive NFEs
- **FATCA**: Similar reporting with US-specific requirements
- **DAC6/MDR**: Reportable arrangements involving foundations
- **TIEAs**: Information exchange upon request

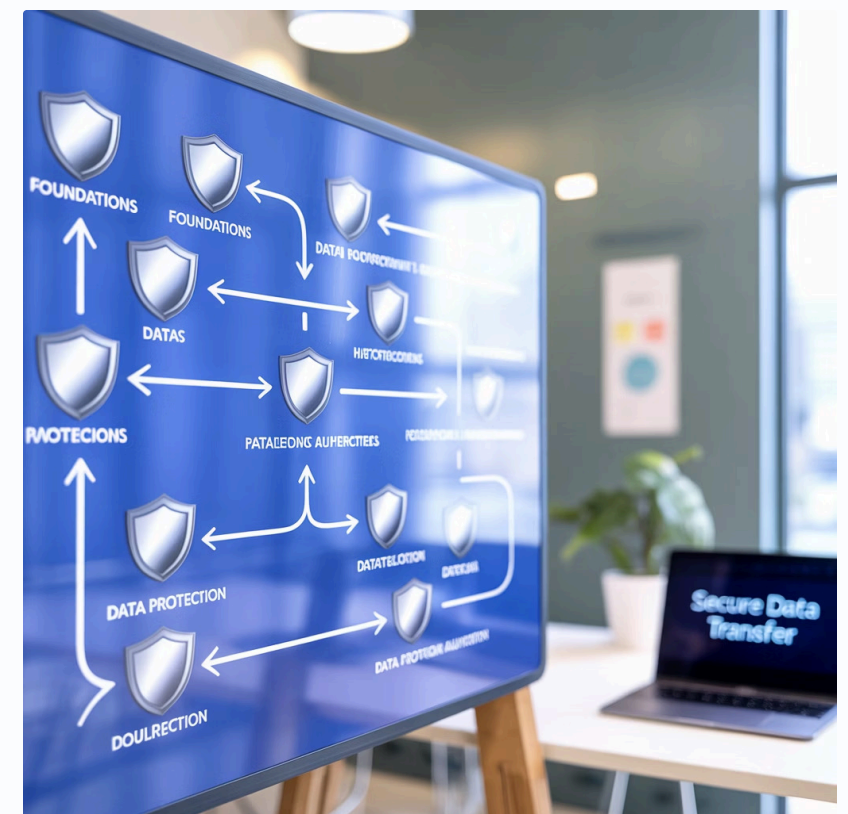
Determining Beneficial Owners

Most regimes define beneficial owners to include²:

- **Founders** with ongoing rights/powers
- **Council members/directors** with control
- **Protectors/guardians** with appointment powers
- **Specified beneficiaries** with fixed entitlements
- **Other controllers** with significant influence

Thresholds typically define "significant" as:

- 25% of assets/benefits (most common)
- 10% in higher-scrutiny jurisdictions
- Any identifiable benefit in strictest regimes



The global trajectory is unmistakably toward greater transparency, with probability of expanded beneficial ownership disclosure requirements in the next five years estimated at 85-95%.³

¹ FATF, "Best Practices on Beneficial Ownership for Legal Persons", October 2023

² European Commission, "Report on the implementation of AMLD5", June 2023

³ PwC, "Global Transparency Trends", January 2024

Supervisory Frameworks: Jurisdictional Comparison

High Supervision Jurisdictions

Some jurisdictions maintain intensive regulatory oversight¹:

- **Switzerland:**
 - Federal Foundation Supervisory Authority
 - Annual accounts submission
 - Regular audits required
 - Prior approval for major changes
- **Germany:**
 - State supervision by Länder authorities
 - Prior approval for certain transactions
 - Annual reporting requirements
 - Investment restrictions
- **UK (charities):**
 - Charity Commission oversight
 - Public annual returns
 - SORP-compliant accounts
 - Serious incident reporting

Moderate Supervision Jurisdictions

Some jurisdictions balance oversight with flexibility²:

- **Austria:**
 - Court supervision
 - Annual audited accounts
 - Less interventionist approach
- **Jersey:**
 - JFSC registration and oversight
 - Annual returns
 - Risk-based supervision model
- **Liechtenstein (public):**
 - Foundation Authority supervision
 - Annual audits
 - Proportionate approach
- **Netherlands:**
 - Chamber of Commerce registration
 - Annual accounts filing
 - Limited substantive oversight

Light-Touch Supervision Jurisdictions

Some jurisdictions maintain minimal ongoing oversight³:

- **Liechtenstein (private):**
 - Optional registration
 - Deposit of formation documents
 - Limited ongoing oversight
- **Cayman Islands:**
 - Registration with Registrar
 - Annual returns
 - Limited substantive review
- **Panama:**
 - Public Registry filing
 - Minimal ongoing supervision
 - Agent requirements
- **ADGM/DIFC:**
 - Registration requirements
 - Annual returns
 - Focus on compliance over substance

¹ Swiss Federal Supervisory Authority for Foundations, "Supervisory Guidelines", 2023

² Jersey Financial Services Commission, "Foundations Guidance Note", 2022

³ Cayman Islands Monetary Authority, "Regulatory Framework for Foundation Companies", 2023

Investment Policy for Foundation Endowments

Strategic Asset Allocation Framework

Foundations require a distinct investment approach aligned with their unique time horizon, spending needs, and purpose¹:

- **Time horizon:** Often perpetual or multi-generational
- **Spending needs:** Regular distributions for charitable or beneficiary purposes
- **Risk tolerance:** Balanced against spending requirements
- **Liquidity profile:** Tiered to match obligations
- **Investment restrictions:** Legal, tax, or mission-driven

Model Asset Allocation Ranges for Foundation Endowments:

Asset Class	Conservative	Moderate	Growth-Oriented
Fixed Income	50-70%	35-50%	15-30%
Public Equity	20-40%	30-50%	40-60%
Alternative Assets	5-15%	15-25%	25-40%
Cash/Liquidity	5-10%	3-7%	2-5%

Illustrative - for pedagogy

Spending Rule Design

The spending rule is a critical policy decision balancing current spending and long-term sustainability²:

- **Simple percentage:** Fixed percentage of assets annually (e.g., 4-5%)
- **Moving average:** Percentage of rolling average value (typically 12-20 quarters)
- **Inflation-adjusted:** Initial percentage adjusted for inflation
- **Yale/hybrid model:** Weighted average of prior spending and formula-based amount
- **Banded approach:** Adjusts based on market value changes

Example: Moving Average Spending Formula

- Annual spending = 4.5% × 16-quarter average market value
- Provides stability through market cycles
- Reduces volatility in annual spending
- Creates lag in responding to sustained market shifts



Investment Policy Statement Elements

Governance Structure

- Investment Committee composition
- Decision-making authority
- Advisor/manager roles
- Reporting frequency

Investment Parameters

- Return objectives
- Risk tolerances
- Asset allocation ranges
- Liquidity requirements
- Diversification targets

Implementation Guidelines

- Manager selection criteria
- Performance benchmarks
- Rebalancing policy
- Risk management tools
- ESG/Impact considerations

¹ Cambridge Associates, "Foundation Investment Management", 2023

² Yale Investments Office, "The Yale Endowment Model", 2022

Liquidity Management for Foundations

Liquidity Tiering Framework

Effective foundation management requires structured liquidity tiering to match assets with time horizons and obligations¹:

Tier 1: Operating Liquidity

- **Purpose:** Immediate spending and operations
- **Time horizon:** 0-12 months
- **Typical allocation:** 5-10% of assets
- **Instruments:** Cash, short-term deposits, money market funds
- **Considerations:** Multiple banking relationships, treasury management

Tier 2: Core Liquidity Reserve

- **Purpose:** Near-term grant commitments, foreseeable expenses
- **Time horizon:** 1-3 years
- **Typical allocation:** 15-25% of assets
- **Instruments:** Short-duration fixed income, high-quality credit
- **Considerations:** Low duration risk, capital preservation

Tier 3: Strategic Investments

- **Purpose:** Long-term growth and inflation protection
- **Time horizon:** 3+ years
- **Typical allocation:** 65-80% of assets
- **Instruments:** Equities, alternatives, longer-duration fixed income
- **Considerations:** Higher expected returns with acceptable volatility

Stress Testing and Scenario Analysis

Foundations should regularly conduct liquidity stress testing to ensure resilience under adverse conditions²:

- **Market stress scenarios:**
 - Severe market correction (-30% equity markets)
 - Extended bear market (multi-year negative returns)
 - Correlation breakdown across asset classes
 - Liquidity freeze in alternative investments
- **Operational stress scenarios:**
 - Significant increase in grant/distribution requirements
 - Unexpected legal or regulatory obligations
 - Banking relationship disruption
 - Currency or cross-border transfer restrictions
- **Mitigation strategies:**
 - Committed credit facilities
 - Staggered investment lock-up periods
 - Secondary market contingency plans
 - Diversified banking relationships

The 2020 COVID-19 market disruption highlighted the importance of robust liquidity planning, with foundations that maintained adequate liquid reserves better positioned to maintain or increase their activities during the crisis.³

¹ Goldman Sachs Asset Management, "Liquidity Management for Endowments & Foundations", 2023

² Cambridge Associates, "Stress Testing Foundation Portfolios", January 2022

³ National Philanthropic Trust, "Lessons from the Pandemic: Foundation Liquidity Planning", 2022

Mission-Related and Programme-Related Investments

Mission-Related Investments (MRIs)

MRIs are market-rate investments that support a foundation's mission while maintaining fiduciary standards¹:

- **Definition:** Investments that generate both financial return and mission alignment
- **Financial expectation:** Risk-adjusted market-rate returns
- **Capital allocation:** From endowment/investment corpus
- **Investment forms:**
 - ESG-screened public market investments
 - Thematic investments (clean energy, affordable housing)
 - Impact-oriented alternative investments
 - Social bonds and sustainability-linked debt
- **Legal considerations:**
 - Subject to prudent investor standards
 - Must maintain appropriate diversification
 - Fiduciary duty remains primary

Programme-Related Investments (PRIs)

PRIs are primarily mission-driven investments that may generate below-market returns²:

- **Definition:** Investments made primarily to accomplish charitable purposes
- **Financial expectation:** Capital preservation to below-market returns
- **Capital allocation:** Typically counted toward grant distribution requirements
- **Investment forms:**
 - Low-interest loans to charities or social enterprises
 - Loan guarantees for mission-aligned organisations
 - Equity investments in early-stage social ventures
 - Social impact bonds
- **Legal considerations:**
 - US: Must meet specific IRS requirements to qualify
 - UK: Must advance charitable purposes
 - Documentation of charitable intent essential

Implementation Framework



1 Ford Foundation, "Mission-Related Investing: A Framework for Foundations", 2023

2 IRS, "Program-Related Investments", Internal Revenue Manual 7.27.18, updated 2022

ESG and Impact Policy Design

ESG Integration Approaches

Foundations can incorporate Environmental, Social, and Governance (ESG) considerations through a spectrum of approaches¹:

Negative Screening

Excludes specific industries, companies, or practices that conflict with the foundation's values:

- Sector-based exclusions (e.g., tobacco, weapons)
- Norm-based exclusions (e.g., human rights violations)
- Controversy-based exclusions
- Geographic exclusions

ESG Integration

Incorporates material ESG factors into investment analysis and decision-making:

- Systematic ESG risk assessment
- ESG scoring and benchmarking
- Climate risk analysis
- Governance quality assessment

Thematic Investing

Focuses on specific sustainability themes aligned with foundation mission:

- Climate solutions
- Healthcare access
- Financial inclusion
- Sustainable agriculture

Impact Investing

Intentionally pursues measurable positive outcomes alongside financial returns:

- Defined impact objectives
- Measurement and reporting frameworks
- Additionality considerations
- Theory of change alignment

Policy Development Process

Creating an effective ESG and impact policy requires a structured approach²:



1. **Values clarification:** Articulate foundation's core values and mission alignment
2. **Materiality assessment:** Identify ESG factors most relevant to the foundation's purpose
3. **Stakeholder engagement:** Consult with beneficiaries, council members, and advisors
4. **Goal setting:** Establish specific, measurable ESG and impact objectives
5. **Implementation strategy:** Determine approaches and asset allocation
6. **Measurement framework:** Define metrics and reporting standards
7. **Governance structure:** Assign oversight responsibilities
8. **Review mechanism:** Schedule regular policy evaluations

Implementation Considerations

Legal and Fiduciary Context

- Jurisdictional variations in fiduciary duty
- ESG as material financial factor
- Documentation of prudent process
- Charitable purpose alignment

Practical Challenges

- Data quality and availability
- Impact measurement complexity
- Manager selection and monitoring
- Balancing financial and impact goals

Emerging Trends

- Climate transition focus
- Biodiversity considerations
- SDG alignment frameworks
- EU SFDR and taxonomy alignment

¹ UN PRI, "ESG Integration for Foundations and Endowments", 2023

² Rockefeller Foundation, "Impact Investing Policy Development Guide", January 2023

Grantmaking Architecture

Grantmaking Strategy Framework

Effective grantmaking requires a structured approach to ensure alignment with foundation purpose and maximize impact¹:

- **Strategic focus:** Clearly defined focus areas and theories of change
- **Grant types:**
 - General operating support
 - Project-specific funding
 - Capacity building grants
 - Research grants
 - Capital grants
- **Geographic scope:** Local, national, or international focus
- **Grant size and duration:** Small vs. large grants; single vs. multi-year
- **Solicitation approach:** Open calls vs. invitation-only; proactive vs. reactive
- **Leverage strategies:** Matching grants, collaborative funding, field-building

Due Diligence Process

Robust due diligence is essential for both compliance and impact²:

- **Organizational assessment:**
 - Legal status verification
 - Governance review
 - Financial health analysis
 - Leadership evaluation
 - Track record assessment
- **Programmatic review:**
 - Alignment with foundation priorities
 - Project design quality
 - Monitoring and evaluation plan
 - Theory of change credibility
 - Impact potential
- **Risk assessment:**
 - Compliance risks
 - Reputational considerations
 - Implementation capacity
 - Sustainability concerns

Grant Management Cycle



¹ GrantCraft, "Foundation Grantmaking Strategy Guide", 2023

² Council on Foundations, "Due Diligence Framework for Grantmakers", January 2023

Cross-Border Grantmaking: Compliance Framework

Equivalency Determination

Equivalency determination (ED) is a process to establish that a foreign grantee is equivalent to a qualifying domestic charity¹:

- **US context:** Determining if a foreign organization is equivalent to a 501(c)(3) public charity
- **UK context:** Establishing if a foreign entity meets UK charitable purposes

Documentation typically required:

- Governing documents (constitution, bylaws)
- Formation documents and registration evidence
- Financial statements
- Description of activities
- Dissolution provisions
- Private benefit limitations
- Affidavit or declaration from authorized officer

Benefits:

- Reduces compliance burden for recurring grants
- Valid for set period (typically 2 years for US)
- May count toward qualifying distribution requirements
- Streamlined process for experienced funders

Expenditure Responsibility

Expenditure responsibility (ER) is an alternative compliance approach for grants to organizations not determined equivalent to domestic charities²:

- **US context:** Detailed process under IRC §4945(h)
- **Similar approaches in other jurisdictions**

Key requirements:

- Pre-grant inquiry into grantee
- Written grant agreement with specific terms:
 - Restricted purpose
 - Detailed reporting requirements
 - Separate account maintenance
 - Return of unused funds
 - Prohibited expenditures
- Regular reports from grantee on fund use
- Detailed reporting by foundation to tax authorities
- Remedial actions for diversion of funds

Applicable for:

- Non-charity grantees
- For-profit social enterprises
- Newer organizations
- Organizations in jurisdictions with limited charity regulation

Additional Compliance Considerations

Anti-Terrorism Compliance

- Sanctions screening (OFAC, EU, UN lists)
- Know Your Grantee procedures
- Sub-grantee monitoring
- Financial channel verification

Anti-Money Laundering

- Source of funds verification
- Beneficial ownership checks
- Transaction monitoring
- Suspicious activity reporting

Data Protection

- GDPR compliance for EU data
- Grantee data security
- Cross-border data transfer protocols
- Information retention policies

¹ NGOsource, "Equivalency Determination Best Practices", 2023

² Council on Foundations, "Expenditure Responsibility Step by Step", January 2023

Operating Models: In-House vs Outsourced Administration

In-House Administration Model

An in-house operating model involves the foundation directly employing staff and managing operations¹:

Advantages:

- Greater control over operations and processes
- Development of institutional knowledge and expertise
- Stronger alignment with foundation mission and culture
- Potentially better stakeholder relationships
- Enhanced confidentiality and privacy management

Disadvantages:

- Higher fixed costs for smaller foundations
- Human resource management responsibilities
- Potential knowledge gaps in specialist areas
- Compliance burden falls entirely on foundation
- Infrastructure and technology investments required

Typically suitable for:

- Larger foundations (>£50M/€60M/\$75M)
- Operationally complex foundations
- Foundations with distinctive mission requirements
- Foundations with significant grant volumes

Outsourced Administration Model

An outsourced model engages third-party service providers for some or all administrative functions²:

Advantages:

- Access to specialist expertise across functions
- Variable cost structure based on activity levels
- Reduced operational management burden
- Technology and systems provided by service providers
- Built-in business continuity and succession planning

Disadvantages:

- Less direct control over day-to-day operations
- Relationship management requirements
- Potential misalignment with foundation culture
- Service level limitations
- Vendor concentration risk

Typically suitable for:

- Smaller foundations (<£50M/€60M/\$75M)
- Recently established foundations
- Foundations with standard operational needs
- Foundations with limited internal resources

Hybrid Model Considerations

Strategic Functions (Often In-House) • Mission and strategy development • Grant strategy and evaluation • Key stakeholder relationships • Investment policy oversight • Governance and board support	Specialist Functions (Often Hybrid) • Legal and compliance (oversight in-house, execution outsourced) • Investment management (policy in-house, execution outsourced) • Communications and public relations • Technology infrastructure and cybersecurity	Operational Functions (Often Outsourced) • Accounting and financial reporting • Grant administration and payment processing • Regulatory filings and compliance reporting • Human resources administration • Document management and record-keeping
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1 Foundation Source, "Foundation Operating Models", February 2023
2 EY, "Foundation Administration: In-House vs. Outsourced Models", 2022

Governance RACI Matrix

The RACI framework (Responsible, Accountable, Consulted, Informed) clarifies decision rights and responsibilities across foundation stakeholders:¹

Function/Decision	Founder	Council/Board	Protector/Guardian	Investment Committee	Grant Committee	Executive Director	External Advisors
Foundation strategy	C/I	A/R	C	C	C	R	C
Constitutional amendments	A/R	R	A	I	I	I	C
Council appointments	A/R	I	C/A	I	I	I	C
Annual budget approval	I	A	I	C	C	R	C
Investment policy	I	A	I	R	I	C	C
Asset allocation decisions	I	A	I	R	I	C	R/C
Manager selection	I	I	I	A/R	I	C	R/C
Grant strategy	C/I	A	I	I	R	R	C
Grant approvals (major)	I	A	I	I	R	R	C
Grant approvals (minor)	I	I	I	I	A	R	I
Risk management framework	I	A	C	R	R	R	C
Regulatory compliance	I	A	C	I	I	R	R
Annual reporting	I	A	I	C	C	R	R
Audit oversight	I	A	C	I	I	R	R
Banking relationships	I	A	I	C	I	R	C

Legend: R=Responsible (does the work), A=Accountable (final decision authority), C=Consulted (provides input), I=Informed (kept updated)

The RACI matrix should be customized based on foundation size, complexity, and specific governance structure. Clear decision rights are essential for effective governance, especially in foundations that must function across generations.²

¹ Deloitte, "Governance Frameworks for Family Foundations", 2023
² Rockefeller Philanthropy Advisors, "Foundation Governance Best Practices", January 2022

Banking and Custody Architecture

Banking Structure Considerations

Foundations require a carefully designed banking architecture to manage operational funds, endowment assets, and cross-border activities¹:

- **Account hierarchy:**
 - Principal operating accounts
 - Grant disbursement accounts
 - Investment funding accounts
 - Reserve/contingency accounts
 - Restricted fund accounts (if applicable)
- **Geographic structure:**
 - Domicile jurisdiction presence
 - Activity jurisdiction accounts
 - Currency requirements
 - International connectivity
- **Banking relationship management:**
 - Primary banking partner
 - Secondary/contingency relationships
 - Specialist services providers
 - Relationship review cadence

Custody Arrangements

Asset custody is a critical component of foundation financial infrastructure²:

- **Custody model options:**
 - Global custodian model
 - Master custody with sub-custodians
 - Multiple direct custody relationships
 - Integrated banking/custody solution
- **Service requirements:**
 - Safekeeping of assets
 - Settlement capabilities
 - Corporate action processing
 - Income collection
 - Tax reclamation services
 - Foreign exchange services
 - Securities lending (if permitted)
 - Performance measurement and analytics
- **Selection criteria:**
 - Financial stability and credit rating
 - Jurisdictional expertise
 - Asset class coverage
 - Technology platform
 - Reporting capabilities
 - Fee structure

Source of Wealth and Source of Funds Documentation

Initial Documentation

- Founder identity verification (enhanced due diligence standard)
- Source of wealth narrative and substantiation
- Foundation formation documents
- Council member/director identification
- Tax identification and substance documentation

Ongoing Documentation

- Significant transaction explanations
- New funding source documentation
- Periodic relationship reviews
- Change in control/council updates
- Activity pattern justification

High-Risk Scenarios

- Cross-border transfers to higher-risk jurisdictions
- Unusual transaction patterns
- Politically exposed person connections
- Transfers to/from unrelated third parties
- Cash or high-value asset transactions

¹ JPMorgan Private Bank, "Banking Architecture for Global Foundations", 2023

² Northern Trust, "Foundation Custody Solutions", January 2022

Accounting and Assurance for Foundations

Accounting Framework Selection

Foundations must select an appropriate accounting framework based on jurisdiction, regulatory requirements, and stakeholder needs¹:

- **Major foundation accounting frameworks:**
 - **IFRS for NPOs** - Under development by IASB
 - **UK Charities SORP (FRS 102)** - Comprehensive UK standard
 - **Swiss GAAP FER 21** - Swiss standard for non-profit organizations
 - **US GAAP for Not-for-Profits** - ASC 958
 - **Local GAAP** - Jurisdiction-specific frameworks
- **Selection factors:**
 - Regulatory requirements in domicile jurisdiction
 - Activity jurisdictions and reporting obligations
 - Stakeholder information needs
 - Complexity of operations and investments
 - Comparability considerations
 - Available accounting expertise

Distinctive Accounting Considerations

Foundation accounting involves several specialized areas²:

- **Fund accounting:**
 - Unrestricted funds
 - Temporarily restricted funds
 - Permanently restricted funds (endowment)
 - Tracking and reporting by restriction type
- **Grant recognition:**
 - Multi-year grant commitments
 - Conditional grants
 - Grant accruals and deferrals
 - Return of unspent grant funds
- **Investment accounting:**
 - Complex investment valuation
 - Alternative investment disclosure
 - Endowment accounting
 - Investment return allocation
- **Related party transactions:**
 - Founder/council transactions
 - Related entity relationships
 - Disclosure requirements

Assurance Framework

Statutory Audit Requirements

Audit obligations vary by jurisdiction and foundation size:

- Mandatory audit thresholds (typically based on asset size or income)
- Jurisdiction-specific auditing standards
- Regulatory filing requirements
- Specialized audit focus areas (e.g., endowment management, grant compliance)

Internal Controls

Robust internal control frameworks are essential:

- Segregation of duties (particularly challenging in smaller foundations)
- Authorization matrices and approval workflows
- Financial close and reporting controls
- Grant management controls
- Investment oversight controls

Risk-Based Oversight

Effective risk management through targeted oversight:

- Risk assessment and prioritization
- Control self-assessment programs
- Internal audit (in larger foundations)
- Third-party assurance reviews
- Specialized compliance reviews (e.g., tax, grants, investments)

¹ Deloitte, "Accounting Frameworks for Charitable Foundations", 2023

² PwC, "Foundation Financial Reporting Guide", January 2023

Interfaces with Wider Structures

Trust Structures

Foundations often interface with trust structures in complementary roles¹:

- **Structural relationships:**
 - Foundation as trust beneficiary
 - Trust as foundation donor
 - Parallel structures for different assets
 - Foundation holding trust interests
- **Coordination mechanisms:**
 - Overlapping governance
 - Administrative alignment
 - Common protector/enforcer
 - Integrated reporting
- **Key considerations:**
 - Information sharing protocols
 - Cross-border recognition
 - Bifurcated tax treatment
 - Regulatory boundary issues

Corporate Structures

Foundations frequently interact with corporate entities²:

- **Holding structures:**
 - Foundation as shareholder
 - Foundation owning holding companies
 - Operating companies under foundation
 - Foundation as governance vehicle
- **Trading subsidiaries:**
 - Commercial activities isolation
 - Tax-efficient profit extraction
 - Risk compartmentalization
 - Jurisdiction-specific activities
- **Operational interfaces:**
 - Service agreements
 - Resource sharing arrangements
 - Transfer pricing considerations
 - Consolidated reporting (where required)

Family Governance Organs

Foundations often form part of broader family governance systems³:

- **Governance integration:**
 - Family council relationship
 - Family constitution alignment
 - Next-generation involvement
 - Succession planning coordination
- **Family office interfaces:**
 - Administrative support
 - Investment coordination
 - Reporting consolidation
 - Shared expertise and resources
- **Legacy planning alignment:**
 - Values perpetuation
 - Coordinated philanthropic activities
 - Family education programs
 - Shared vision implementation

¹ Withers LLP, "Foundation and Trust Structures: Comparative Analysis", 2023

² KPMG, "Corporate Holding Structures for Foundations", January 2023

³ Cambridge Institute for Family Enterprise, "Foundation Governance in Family Enterprise Systems", 2022

Risk Management Framework for Foundations

Key Risk Categories

Foundations face diverse risks requiring structured management approaches¹:

Legal and Regulatory Risks

- Formation document inadequacies
- Governance breaches
- Compliance failures
- Cross-border recognition issues
- Regulatory reporting violations

Tax Risks

- Mischaracterization of foundation status
- Tax residence challenges
- Beneficial ownership determinations
- Substance requirements failures
- Improper distributions treatment

Operational Risks

- Inadequate internal controls
- Key person dependencies
- Process breakdowns
- Vendor/outsourcing failures
- Technology vulnerabilities

Financial Risks

- Investment underperformance
- Liquidity shortfalls
- Concentration exposures
- Currency mismatches
- Counterparty failures

Reputational Risks

- Negative media coverage
- Controversial investments
- Grant recipient conduct
- Founder/council scandals
- Social media crises

Governance Risks

- Council conflicts of interest
- Succession planning failures
- Decision-making dysfunction
- Inadequate oversight
- Information asymmetry

Strategic Risks

- Mission drift
- Ineffective grant-making
- Resource misallocation
- External environment changes
- Stakeholder misalignment

Cybersecurity Risks

- Data breaches
- Ransomware attacks
- Business email compromise
- Third-party vulnerabilities
- Privacy violations

Risk Management Process



¹ Deloitte, "Risk Management for Foundations and Endowments", 2023

Scenario Analysis: Policy and Regulatory Outlook

Transparency Expansion Scenario

Global policy trends point to increased transparency requirements for foundations and related structures¹:

Beneficial Ownership Expansion

Probability: 85-95%

Key developments likely to include:

- Broader definition of "beneficial owner" for foundations
- Lower threshold percentages (from 25% to 10% or lower)
- Increased interconnection of BO registers
- Enhanced verification requirements
- Expanded access models (with privacy safeguards)

Enhanced Exchange of Information

Probability: 75-85%

Expected progression of information exchange frameworks:

- CRS expansion to additional jurisdictions
- Refinement of foundation classification under CRS
- More granular reporting requirements
- Reduced thresholds for reportable accounts
- Increased verification and enforcement

Public Accountability Measures

Probability: 65-75%

Growing expectations for foundation transparency:

- Expanded public filing requirements
- Grant recipient disclosure
- Investment holdings transparency
- Related party transaction reporting
- Digital accessibility of foundation information

Impact Assessment

These transparency developments would have significant implications for foundations²:

Operational impacts:

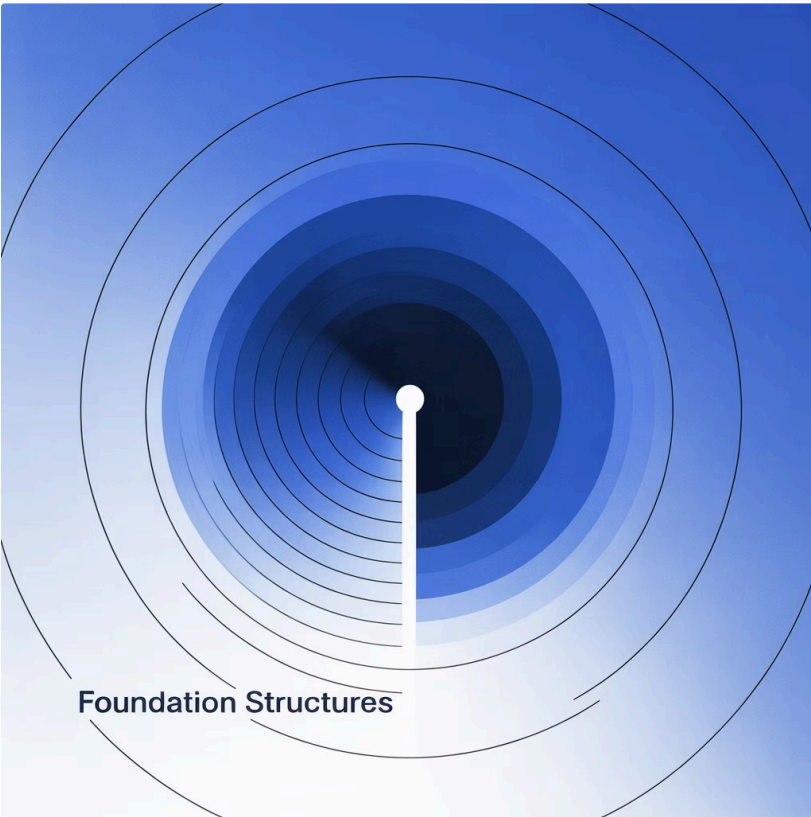
- Increased compliance burden and costs
- Enhanced data management requirements
- More complex reporting processes
- Need for specialized compliance expertise

Structural implications:

- Reduced viability of complex structures
- Premium on jurisdictional substance
- Greater scrutiny of multi-jurisdiction arrangements
- Potential consolidation of structures

Mitigation strategies:

- Proactive compliance planning
- Documentation enhancement
- Governance strengthening
- Substance alignment
- Simplification of unnecessary complexity



¹ FATF, "Strategic Review of Beneficial Ownership Frameworks", February 2023

² Tax Justice Network, "The State of Global Financial Transparency", January 2024

Scenario Analysis: Substance and Economic Purpose

Unshell and Substance Requirement Scenario

Growing focus on substance and economic purpose requirements will likely impact foundations¹:

EU Unshell Directive Implementation

Probability: 70-80%

The EU Anti-Tax Avoidance Directive III (Unshell) and similar initiatives could affect foundations through:

- Application of minimum substance indicators to foundations
- Gateway tests for passive income arrangements
- Presumption of shell entity status without adequate substance
- Tax benefits denial for non-compliant structures
- Increased information exchange on substance deficiencies

Economic Substance Expansion

Probability: 75-85%

Substance requirements likely to evolve with:

- Extension of economic substance rules to foundations
- More jurisdictions adopting substance requirements
- Higher standards for demonstrating substance
- Increased penalties for non-compliance
- Regular substance reporting and certification

Treaty Access Restrictions

Probability: 80-90%

Access to tax treaty benefits will become more challenging through:

- Stricter principal purpose tests
- Limitation on benefits provisions
- Substance requirements for treaty eligibility
- Beneficial ownership tests for income flows
- Anti-conduit provisions targeting foundations

Impact Assessment

These substance-focused developments would significantly affect foundation structures²:

Operational requirements:

- Physical presence in jurisdiction
- Local qualified directors/council members
- Local board meetings with meaningful decisions
- Appropriate staffing and resources
- Documentation of decision-making processes

Structural implications:

- Reduced viability of "letterbox" foundations
- Higher operational costs in substance jurisdictions
- Potential tax residence challenges
- Increased scrutiny of holding structures

Mitigation strategies:

- Substance enhancement in key jurisdictions
- Documentation of genuine economic purpose
- Governance realignment to substance location
- Consideration of jurisdictional consolidation
- Regular substance reviews and certification



¹ European Commission, "Proposal for a Council Directive laying down rules to prevent the misuse of shell entities", December 2021, updated analysis 2023

² OECD, "Preventing Treaty Abuse - Final Report on Action 6", BEPS Project, with 2023 implementation review

Scenario Analysis: Distribution Requirements and Philanthropic Regulation

Minimum Distribution Expansion Scenario

Global policy trends suggest potential expansion of minimum distribution requirements for foundations¹:

US-Style Distribution Requirements

Probability: 50-60%

More jurisdictions may adopt distribution requirements similar to US private foundations:

- Minimum annual distribution percentages (4-5% range)
- Application to broader foundation types
- Potential for higher percentages than current US 5% rule
- Calculations based on asset value averages
- Penalties for non-compliance

Enhanced Effectiveness Measures

Probability: 65-75%

Growing emphasis on measuring foundation impact and effectiveness:

- Impact reporting requirements
- Beneficiary feedback mechanisms
- Minimum program-related spending ratios
- Limitations on administrative expenses
- Diversity and inclusion requirements

Philanthropic Regulation Expansion

Probability: 60-70%

Increased oversight of philanthropic activities:

- Harmonization of charity regulation across jurisdictions
- Stricter definitions of charitable purposes
- Enhanced cross-border grant scrutiny
- Coordination between philanthropic regulators
- Standardized reporting frameworks

Impact Assessment

These developments would have significant implications for foundations2:

Financial impacts:

- Pressure on investment strategies to generate sufficient returns
- Need for more liquid investment allocations
- Reduced capital accumulation
- Potential corpus depletion over time
- Need for spending strategy adjustments

Operational implications:

- Increased grant-making capacity requirements
- Enhanced impact measurement systems
- More complex compliance reporting
- Greater scrutiny of administrative costs

Mitigation strategies:

- Proactive spending policy development
- Investment strategy alignment
- Impact measurement framework implementation
- Administrative efficiency improvements
- Strategic grantee capacity building



1 National Committee for Responsive Philanthropy, "Global Trends in Foundation Payout Requirements", 2023

2 Cambridge Associates, "Foundation Spending Policy in an Era of Mandatory Distributions", January 2023

Scenario Analysis: Capital Controls and Political Risk

Capital Controls and Transfer Restriction Scenario

Foundations face potential challenges from increased capital control measures and cross-border restrictions¹:

Expanded Capital Controls

Probability: 40-50%

Potential developments in capital movement restrictions:

- New or strengthened capital control regimes
- Special approval requirements for large outflows
- Currency conversion limitations
- Sectoral restrictions on outbound transfers
- Enhanced reporting for cross-border movements

Cross-Border Philanthropy Restrictions

Probability: 55-65%

Growing limitations on international philanthropic activities:

- Foreign agent registration requirements
- Restrictions on foreign funding for certain activities
- Prior approval processes for international grants
- Limitations on foreign-funded advocacy
- Increased scrutiny of cross-border philanthropic flows

Geopolitical Fragmentation

Probability: 60-70%

Increasing geopolitical tensions affecting cross-border operations:

- Expanded sanctions regimes
- Secondary sanctions risks
- Jurisdictional blocklisting
- Financial system fragmentation
- Conflicting compliance requirements across regions

Impact Assessment

These developments would create significant challenges for foundations operating internationally²:

Operational impacts:

- Delayed or blocked cross-border transfers
- Increased transaction costs
- Compliance complexity across jurisdictions
- Banking relationship challenges
- Grant implementation difficulties

Structural implications:

- Need for regional operational hubs
- Localized foundation structures
- Rethinking of centralized models
- Jurisdictional diversification

Mitigation strategies:

- Political risk assessment framework
- Diversified banking relationships
- Scenario-based contingency planning
- Local intermediary partnerships
- Alternative fund movement mechanisms
- Enhanced compliance protocols



¹ International Centre for Not-for-Profit Law, "Civic Space and Cross-Border Philanthropy", 2023

² Political Risk Advisory Group, "Capital Controls Risk Assessment for Foundations", January 2023

Case Study: Liechtenstein Family Foundation

Structure Overview

The Liechtenstein family foundation (Familienstiftung) represents a classic private foundation structure for family governance and asset protection¹:

- **Legal framework:** Liechtenstein Persons and Companies Act (PGR) Art. 552 §§1-41
- **Purpose:** Mixed-purpose foundation with family support (80%) and charitable activities (20%)
- **Foundation assets:** €75 million diversified portfolio including financial investments, art collection, and minority business interests
- **Governance:**
 - 3-member foundation council (1 family member, 2 professionals)
 - Protector (senior family advisor)
 - Family advisory committee (non-binding)
- **Key documents:**
 - Foundation statutes
 - By-laws
 - Founder's letter of wishes
 - Regulations on beneficiaries

Implementation Highlights

Substance considerations:

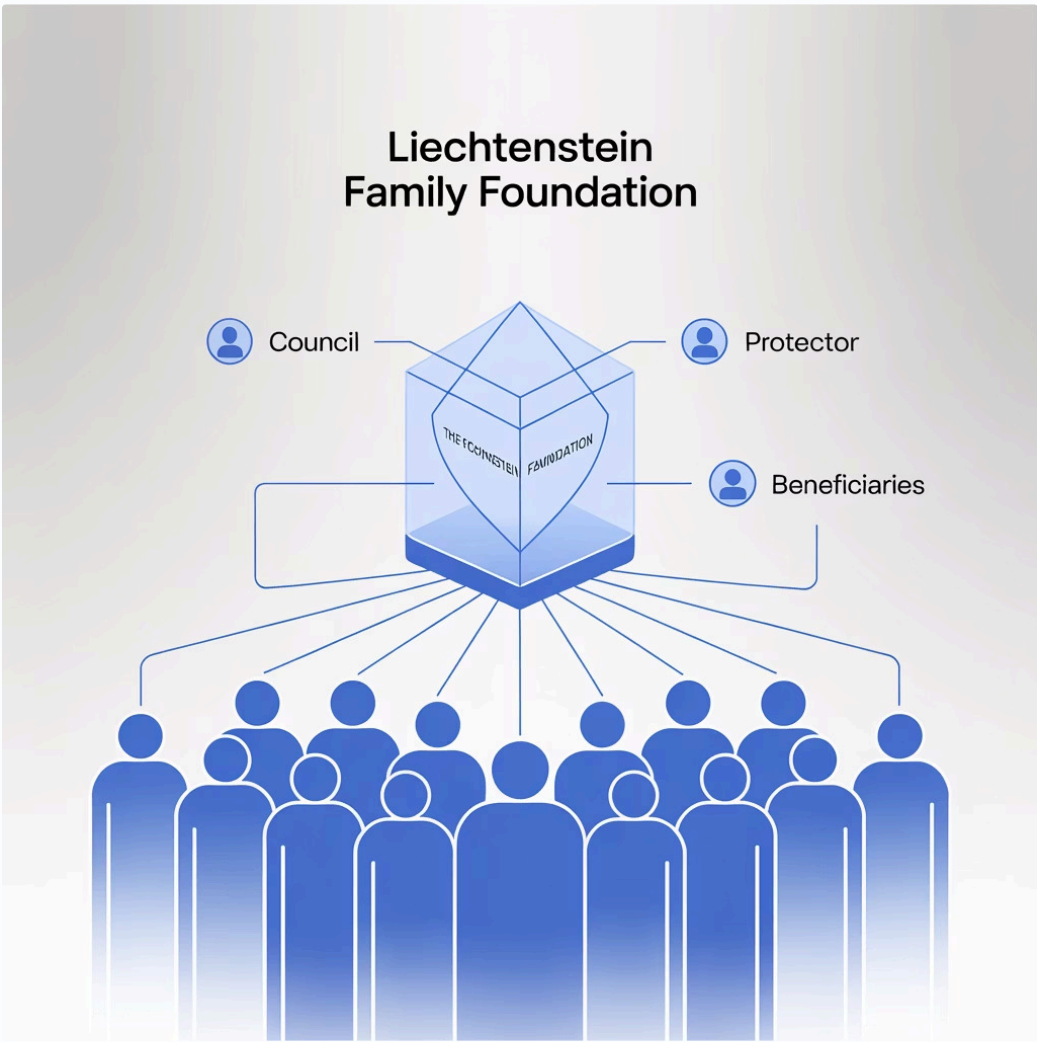
- Qualified Liechtenstein council member with decision-making authority
- Regular council meetings in Liechtenstein with detailed minutes
- Local administrator handling day-to-day matters
- Physical document storage and local registered office

Financial structure:

- Liechtenstein primary banking relationship
- Global custody arrangement
- Diversified investment portfolio
- Separate accounts for charitable activities

Compliance framework:

- Registration with commercial register (public-benefit portion)
- Beneficial ownership reporting
- CRS/AEOI compliance
- Annual audit of accounts
- Tax reporting in relevant jurisdictions



Key Lessons and Considerations

Governance Balance

The foundation achieves an effective balance between:

- Founder influence through letter of wishes
- Professional administration ensuring compliance
- Family involvement without compromising independence
- Clear decision-making protocols

Jurisdictional Advantages

Liechtenstein offers several key benefits:

- Well-established foundation law with extensive case history
- Civil law recognition with common law compatibility
- Privacy balanced with appropriate transparency
- Political and economic stability

Risk Management

Effective risk mitigation through:

- Substance-aligned governance
- Clear documentation trail for decision-making
- Regular compliance reviews
- Professional council member involvement

¹ Case study based on anonymized client implementation with details modified for confidentiality. Reflects structure as of January 2023.

Case Study: UK Charitable Foundation with Trading Subsidiary

Structure Overview

This case study examines a UK Charitable Incorporated Organisation (CIO) with a trading subsidiary to manage commercial activities¹:

- **Legal framework:** CIO established under Charities Act 2011
- **Purpose:** Environmental conservation and education
- **Foundation assets:** £25 million endowment plus conservation properties
- **Governance:**
 - 9-member trustee board (mix of subject experts, financial professionals, and community representatives)
 - 3 sub-committees (Finance, Programs, Governance)
 - Executive Director and professional staff
- **Trading subsidiary:**
 - Limited company wholly owned by CIO
 - Separate board (overlapping with foundation trustees)
 - Commercial activities: visitor centre operations, merchandise sales, facility rentals, consulting services
 - Annual turnover: £1.2 million

Implementation Highlights

Structural separation:

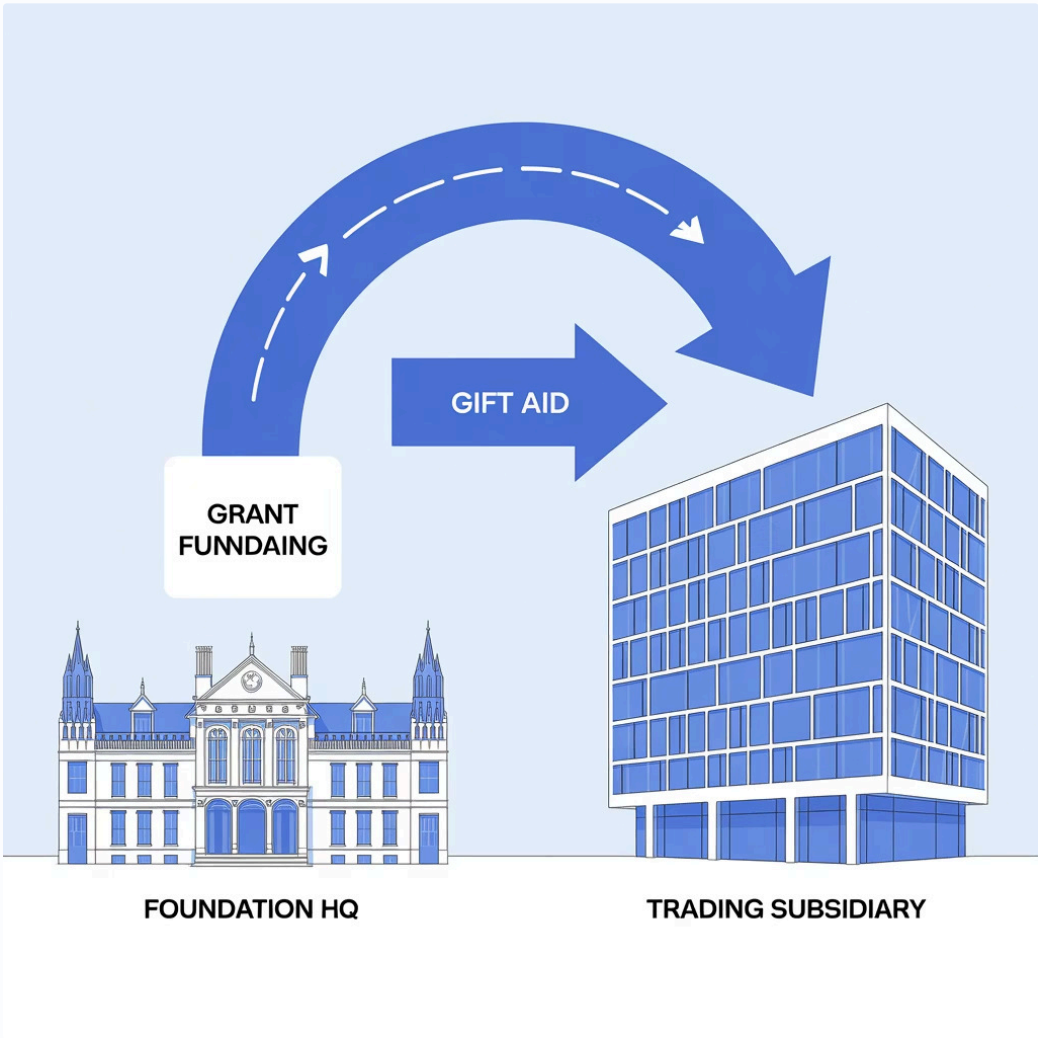
- Clear delineation between charitable and trading activities
- Formal agreements for shared resources and facilities
- Arm's length commercial arrangements
- Separate accounting and banking

Financial flows:

- Trading profits distributed to CIO via Gift Aid
- Market-rate rent for property use
- Transparent cost allocation for shared services
- Separate VAT registration

Compliance framework:

- Charity Commission annual reporting
- SORP-compliant accounts
- External audit
- Companies House filings for subsidiary
- Gift Aid compliance documentation



Key Lessons and Considerations

Tax Efficiency

The structure achieves significant tax advantages:

- Charitable tax exemptions for foundation
- Gift Aid eliminating subsidiary corporation tax
- VAT recovery optimization
- Business rates relief for charitable properties

Risk Compartmentalization

Effective separation of risks through:

- Commercial activities isolated in subsidiary
- Limited liability protection for charity
- Clear governance boundaries
- Separate contractual relationships

Operational Integration

Practical coordination achieved via:

- Integrated strategic planning
- Coordinated branding and messaging
- Shared senior management oversight
- Unified stakeholder engagement

¹ Case study based on anonymized client implementation with details modified for confidentiality. Reflects structure as of October 2023.

Case Study: Cayman Foundation Company for Governance

Structure Overview

This case study examines a Cayman Foundation Company used as a governance vehicle for a multi-generational family enterprise¹:

- **Legal framework:** Cayman Islands Foundation Companies Law 2017
- **Purpose:** Governance coordination and succession planning for family business interests
- **Structure:**
 - Foundation company as apex entity
 - Holding companies beneath foundation in multiple jurisdictions
 - Operating businesses in various sectors and countries
- **Governance:**
 - 5-member board (3 family representatives, 2 independent directors)
 - Family Council as advisory body
 - Supervisor with specific oversight powers
 - Detailed constitutional documents
- **Key documents:**
 - Memorandum and Articles of Association
 - Family Constitution (incorporated by reference)
 - Governance Charter
 - Succession Protocols

Implementation Highlights

Key functions:

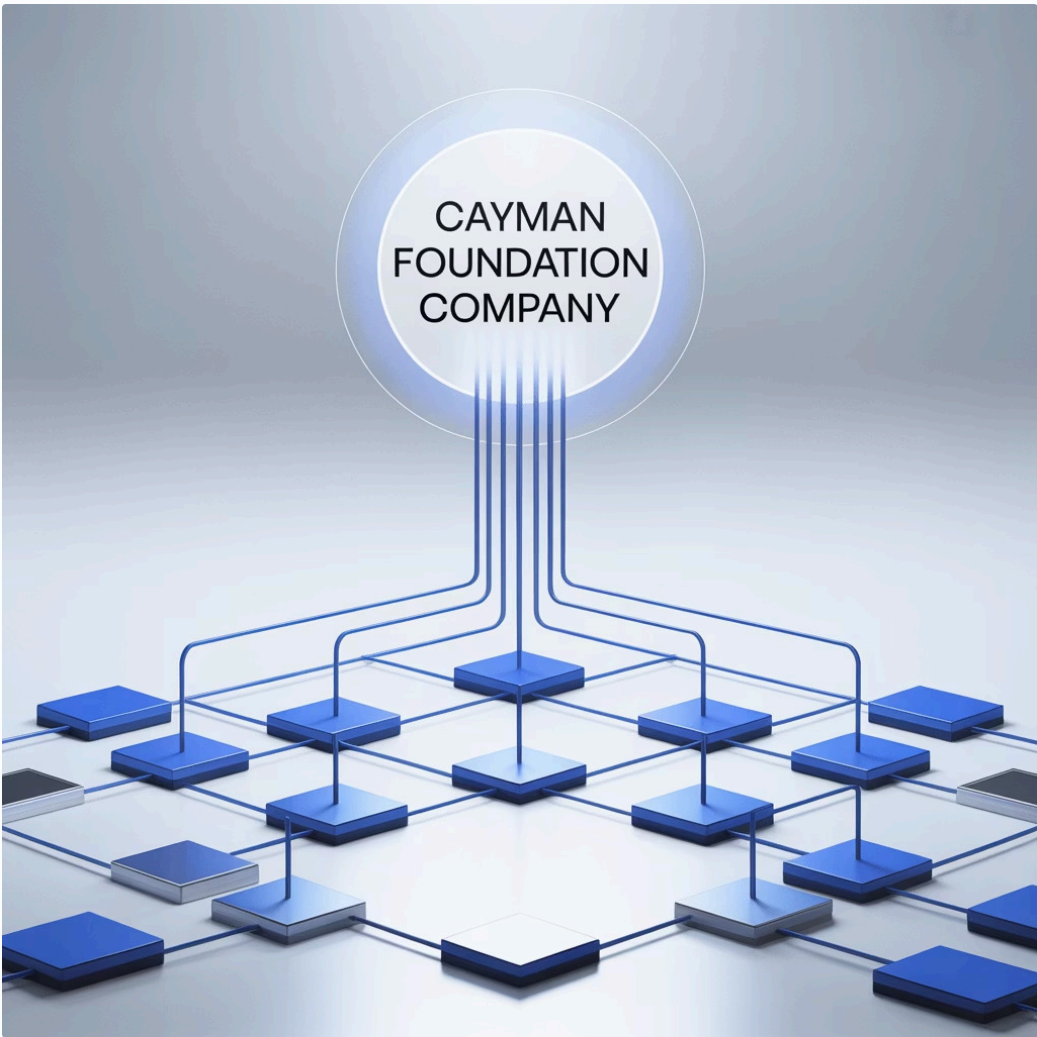
- Coordination of family business governance
- Implementation of succession plans
- Management of family office activities
- Oversight of philanthropic initiatives
- Family education and development programs

Structural considerations:

- Substance-appropriate governance in Cayman
- Regular board meetings with substantive decisions
- Professional administration and documentation
- Clearly defined roles and responsibilities

Compliance framework:

- Registration with Registrar of Companies
- Beneficial ownership reporting
- Annual returns filing
- Professional corporate secretary
- Comprehensive record-keeping



Key Lessons and Considerations

Governance Flexibility

The foundation company offers significant advantages:

- Familiar corporate governance framework
- Purpose-driven structure without shareholders
- Perpetual existence for multi-generational planning
- Flexible constitutional arrangements

Succession Planning

Effective mechanisms for continuity:

- Clear rules for family representation
- Defined qualification criteria for directors
- Staged transition processes
- Dispute resolution protocols

International Considerations

Strategic approach to global operations:

- Jurisdictional substance alignment
- Tax-efficient holding structure
- Treaty access considerations
- Cross-border coordination mechanisms

¹ Case study based on anonymized client implementation with details modified for confidentiality. Reflects structure as of March 2023.

Case Study: UAE ADGM Foundation as Family Governance Anchor

Structure Overview

This case study examines a UAE Abu Dhabi Global Market (ADGM) Foundation used as a regional governance hub for a Middle Eastern family¹:

- **Legal framework:** ADGM Foundations Regulations 2017
- **Purpose:** Mixed-purpose foundation for family governance, business succession, and regional philanthropy
- **Foundation assets:** USD \$150 million in financial assets plus business interests
- **Structure:**
 - ADGM Foundation as regional hub
 - Operating companies in GCC countries
 - International investment portfolio
 - Regional philanthropic programs
- **Governance:**
 - 7-member foundation council (4 family members, 3 professional advisors)
 - Guardian with veto powers over specific decisions
 - Family assembly for broader family engagement
 - Investment Committee and Philanthropy Committee

Implementation Highlights

Regional advantages:

- Cultural alignment with family values
- Geographic proximity to family business operations
- Common law framework within civil law region
- Strong banking and professional infrastructure
- Robust regulatory environment

Substance considerations:

- ADGM physical presence with dedicated office
- Local professional council members
- Regular council meetings in ADGM
- Employment of key personnel
- Administrative functions in jurisdiction

Compliance framework:

- Registration with Registrar of Foundations
- Annual financial statements
- Beneficial ownership reporting
- Comprehensive record-keeping
- AML/CFT compliance program



Key Lessons and Considerations

Regional Integration

The ADGM Foundation provides effective regional coordination:

- Cultural and geographical proximity to family interests
- Alignment with regional business operations
- Understanding of local philanthropy dynamics
- Access to regional financial system

Jurisdictional Benefits

ADGM offers a strong foundation framework:

- Common law system with modern foundation legislation
- Robust regulatory oversight
- Strong confidentiality with appropriate transparency
- Growing ecosystem of professional services

Succession Planning

Effective mechanisms for multi-generational transition:

- Structured approach to next-generation involvement
- Clear protocols for business succession
- Family governance framework embedded in foundation
- Cultural values preservation mechanisms

¹ Case study based on anonymized client implementation with details modified for confidentiality. Reflects structure as of December 2022.

Cost Model: Foundation Establishment and Operation

Foundation Establishment Costs

Initial costs vary significantly by jurisdiction, structure complexity, and asset value¹:

Cost Category	Small Foundation (<£5M/€6M/\$7.5M)	Medium Foundation (£5-50M/€6-60M/\$7.5-75M)	Large Foundation (>£50M/€60M/\$75M)
Legal/Tax Structure Design	£15,000-30,000	£30,000-75,000	£75,000-150,000+
Formation and Registration	£5,000-15,000	£15,000-30,000	£30,000-50,000+
Constitutional Documents	£7,500-15,000	£15,000-30,000	£30,000-60,000+
Governance Framework	£5,000-10,000	£10,000-25,000	£25,000-50,000+
Initial Policies/Procedures	£5,000-10,000	£10,000-30,000	£30,000-75,000+
Banking/Custody Setup	£2,500-5,000	£5,000-15,000	£15,000-30,000+
Total Establishment	£40,000-85,000	£85,000-205,000	£205,000-415,000+

Illustrative ranges in GBP - actual costs may vary based on jurisdiction, complexity, and service providers.

Annual Operating Costs

Administrative and Governance²

Cost Category	Small	Medium	Large
Council/Board Fees	£5,000-15,000	£15,000-50,000	£50,000-150,000+
Administrative Services	£10,000-30,000	£30,000-75,000	£75,000-250,000+
Compliance and Filings	£5,000-15,000	£15,000-35,000	£35,000-100,000+
Banking/Custody Fees	£2,500-7,500	£7,500-25,000	£25,000-75,000+
Professional Fees (Legal/Tax)	£7,500-20,000	£20,000-50,000	£50,000-150,000+
Audit and Accounting	£5,000-15,000	£15,000-35,000	£35,000-100,000+

Investment and Program Management³

Cost Category	Small	Medium	Large
Investment Management	0.60-1.00%	0.40-0.75%	0.25-0.50%
Investment Consulting	0.10-0.25%	0.05-0.15%	0.03-0.10%
Program Staff (if applicable)	£0-50,000	£50,000-250,000	£250,000-1,000,000+
Grant Management Systems	£0-5,000	£5,000-15,000	£15,000-50,000+
Impact Measurement	£0-5,000	£5,000-25,000	£25,000-100,000+

Investment management costs shown as percentage of assets under management.

These costs vary significantly based on jurisdiction, service provider quality, governance complexity, and operational model (in-house vs. outsourced). The illustrative ranges represent typical market costs as of early 2024 but should be validated for specific implementations.

1 Deloitte, "Foundation Establishment Cost Survey", 2023
2 Foundation Source, "Annual Foundation Cost Benchmarking Report", 2023
3 Cambridge Associates, "Investment Management Cost Survey for Foundations", 2022

Compliance and Cost Cadence

Annual Compliance Cycle

Regular annual activities and associated costs¹:

- **Governance:**
 - Council/board meetings (quarterly/annual)
 - Committee meetings
 - Annual general meeting (if applicable)
 - Council compensation and expenses
- **Regulatory:**
 - Annual returns filing
 - Financial statement preparation
 - Audit (if required)
 - Tax filings
 - Beneficial ownership confirmation
- **Operational:**
 - Administrator fees
 - Banking and custody fees
 - Investment management fees
 - Technology and systems costs
 - Insurance premiums

Periodic Review Cycle

Activities occurring at regular intervals beyond annual cycle²:

- **Every 2-3 Years:**
 - Investment policy review
 - Risk assessment update
 - Service provider review
 - Council/board performance evaluation
 - Strategy review
- **Every 3-5 Years:**
 - Governance structure review
 - Constitutional document review
 - Major policy updates
 - Banking relationship review
 - Comprehensive tax review
- **Every 5-10 Years:**
 - Major governance review
 - Succession implementation
 - Structure optimization
 - Long-term strategy reassessment

Event-Driven Activities

Non-routine activities triggered by specific events³:

- **Regulatory Changes:**
 - Legal and tax advice
 - Structure modifications
 - Document updates
 - Compliance implementation
- **Council/Leadership Changes:**
 - Onboarding and training
 - Document updates
 - Regulatory notifications
 - Banking updates
- **Asset/Activity Changes:**
 - Major asset transfers
 - New jurisdiction entry
 - Program expansion
 - Structure modifications

Cost Optimization Strategies

Foundations can manage costs effectively while maintaining governance quality through⁴:

Service Provider Management • Competitive fee benchmarking • Bundled service arrangements • Performance-based fee components • Regular service provider reviews	Technology Leverage • Digital governance tools • Automated compliance monitoring • Cloud-based document management • Virtual meeting capabilities
Governance Efficiency • Optimized meeting cadence • Clear delegation frameworks • Streamlined decision processes • Focused committee structures	Shared Services • Family office integration • Multi-entity administration • Coordinated professional services • Collaborative technology platforms

¹ PwC, "Foundation Governance Annual Cycle", 2023
² Boston Consulting Group, "Foundation Governance Review Cadence", 2022
³ EY, "Event-Driven Governance Activities for Foundations", 2023
⁴ Deloitte, "Cost Optimization Strategies for Foundation Governance", January 2023

Red Flags and Failure Modes

Common Governance Red Flags

Founder Dominance Warning signs of excessive founder control¹: • Council members acting as "rubber stamps" • Absence of independent voices in governance • Informal decision-making outside governance framework • Council unable to function during founder absence • Excessive reserved powers undermining foundation autonomy	Inadequate Substance Indicators of substance deficiencies²: • Minimal local presence in foundation jurisdiction • Decision-making predominantly occurring elsewhere • Professional council members with minimal engagement • Limited or perfunctory board meetings • Insufficient documentation of governance processes	Documentation Gaps Critical documentation weaknesses³: • Ambiguous or conflicting foundation documents • Inadequate meeting minutes and resolution records • Missing or outdated policies and procedures • Informal arrangements without proper documentation • Incomplete record-keeping for key decisions
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Operational Failure Modes

Structural Failures⁴

- **Recognition challenges:**
 - Cross-border recognition denials
 - Recharacterization as other entities
 - Beneficial ownership disputes
- **Tax misalignment:**
 - Unintended tax residence
 - Treaty benefit denials
 - CFC/attribution issues
- **Regulatory breaches:**
 - Missed filings or notifications
 - Non-compliance with local rules
 - Substance requirement failures

Governance Failures⁵

- **Decision paralysis:**
 - Unclear authority frameworks
 - Conflict among council members
 - Unwieldy approval processes
- **Succession breakdown:**
 - No viable succession mechanism
 - Next-generation disengagement
 - Unresolved leadership transitions
- **Fiduciary breaches:**
 - Conflicts of interest
 - Self-dealing transactions
 - Prudence violations

Administrative Failures⁶

- **Resource inadequacy:**
 - Insufficient administrative support
 - Inadequate professional advice
 - Budget constraints undermining operations
- **Control breakdowns:**
 - Financial control weaknesses
 - Compliance monitoring gaps
 - Reporting failures
- **Banking challenges:**
 - Account opening difficulties
 - Relationship terminations
 - Transaction monitoring issues

1 Boston Consulting Group, "Family Foundation Governance Challenges", 2023

2 EY, "Substance Requirements for International Structures", January 2023

3 STEP, "Documentation Standards for Foundation Governance", 2022

4 PwC, "Foundation Structure Risk Assessment", 2023

5 Deloitte, "Foundation Governance Failure Analysis", 2022

6 Northern Trust, "Foundation Administrative Risk Review", 2023

Diagnostic Questions and Remediation

Governance and Structure

Diagnostic Questions1

1. Does the foundation's purpose align with founder and family objectives? Is it clearly articulated in constitutional documents?
2. Is the jurisdiction selection appropriate for the foundation's purpose, activities, and asset profile?
3. Does the governance structure provide appropriate checks and balances while enabling efficient decision-making?
4. Are the founder's reserved powers balanced against foundation autonomy and recognition concerns?
5. Is there sufficient substance in the foundation jurisdiction to satisfy regulatory and tax requirements?

Remediation Approaches

- **Purpose misalignment:**
 - Constitutional document amendment
 - Clarification through by-laws or regulations
 - Letter of wishes update
- **Jurisdictional issues:**
 - Migration to more suitable jurisdiction
 - Enhanced substance in current location
 - Restructuring for multi-jurisdictional operations
- **Governance imbalance:**
 - Council composition adjustment
 - Independent member addition
 - Protector/guardian appointment
 - Committee structure implementation

Compliance and Operations

Diagnostic Questions2

1. Is the foundation meeting all registration, reporting, and filing requirements in relevant jurisdictions?
2. Does the foundation maintain appropriate documentation of decisions, meetings, and key transactions?
3. Are there clear policies and procedures for key operational areas (investments, grants, expenses, etc.)?
4. Is the foundation's tax position clear, documented, and regularly reviewed across all relevant jurisdictions?
5. Are appropriate banking and custody arrangements in place with adequate compliance protocols?

Remediation Approaches

- **Compliance gaps:**
 - Comprehensive compliance review
 - Remedial filings and disclosures
 - Implementation of compliance monitoring system
- **Documentation weaknesses:**
 - Documentation enhancement project
 - Standardized templates and protocols
 - Professional secretarial support
- **Operational issues:**
 - Policy development or updates
 - Process mapping and enhancement
 - Administrative support evaluation
 - Technology solutions implementation

Succession and Continuity

Diagnostic Questions3

1. Does the foundation have a clear succession plan for founder and key governance roles?
2. Are next-generation family members adequately prepared for potential foundation roles?
3. Is there a mechanism to resolve potential deadlocks or conflicts within the governance structure?
4. Are the foundation's purpose and values likely to remain relevant across generations?
5. Is there adequate institutional knowledge transfer and retention?

Remediation Approaches

- **Succession planning gaps:**
 - Formal succession planning process
 - Leadership development program
 - Governance transition framework
- **Next-generation preparation:**
 - Education and training programs
 - Mentorship arrangements
 - Phased involvement in governance
- **Conflict management:**
 - Dispute resolution mechanism implementation
 - Mediation protocols
 - Governance coach/facilitator engagement

1 KPMG, "Foundation Governance Assessment Framework", 2023
2 Deloitte, "Foundation Compliance Review Methodology", 2022
3 Cambridge Institute for Family Enterprise, "Foundation Succession Planning Guide", 2023

Implementation Roadmap: 90-180-365 Day Plan

90-Day Foundation Formation Phase

Key Activities and Milestones¹



Key Deliverables

- **Foundation documents:**
 - Charter/statutes/memorandum and articles
 - By-laws/regulations
 - Initial resolutions
 - Letter of wishes (if applicable)
- **Governance framework:**
 - Council/board composition
 - Committee structures
 - Delegation frameworks
 - Initial policies
- **Operational elements:**
 - Banking and custody accounts
 - Administration arrangements
 - Initial compliance registrations
 - Professional service agreements

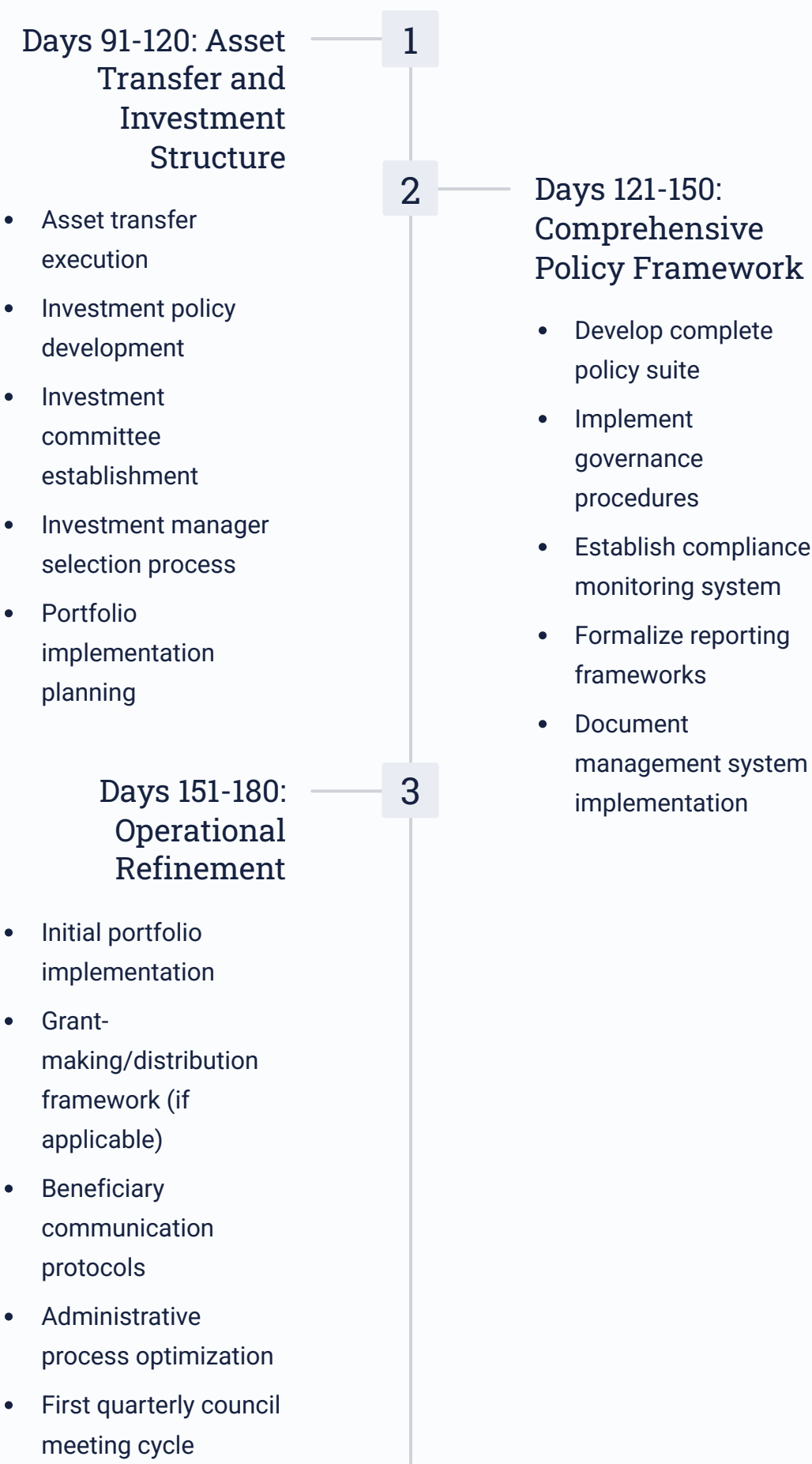
Accountable Owners:

- Legal counsel: Constitutional documents
- Tax advisors: Structure confirmation
- Foundation council: Initial governance
- Administrators: Operational setup
- Banking partners: Financial infrastructure

¹ PwC, "Foundation Implementation Methodology", 2023

Implementation Roadmap: 180-Day Operationalization Phase

Key Activities and Milestones¹



Key Deliverables

- **Investment framework:**
 - Investment policy statement
 - Strategic asset allocation
 - Investment manager agreements
 - Initial portfolio implementation
 - Performance monitoring framework
- **Policy documentation:**
 - Conflict of interest policy
 - Distribution/grant-making policy
 - Expense approval procedures
 - Risk management framework
 - Compliance monitoring protocols
- **Operational systems:**
 - Document management system
 - Regular reporting templates
 - Meeting and governance calendar
 - Communication protocols
 - Administrative workflows

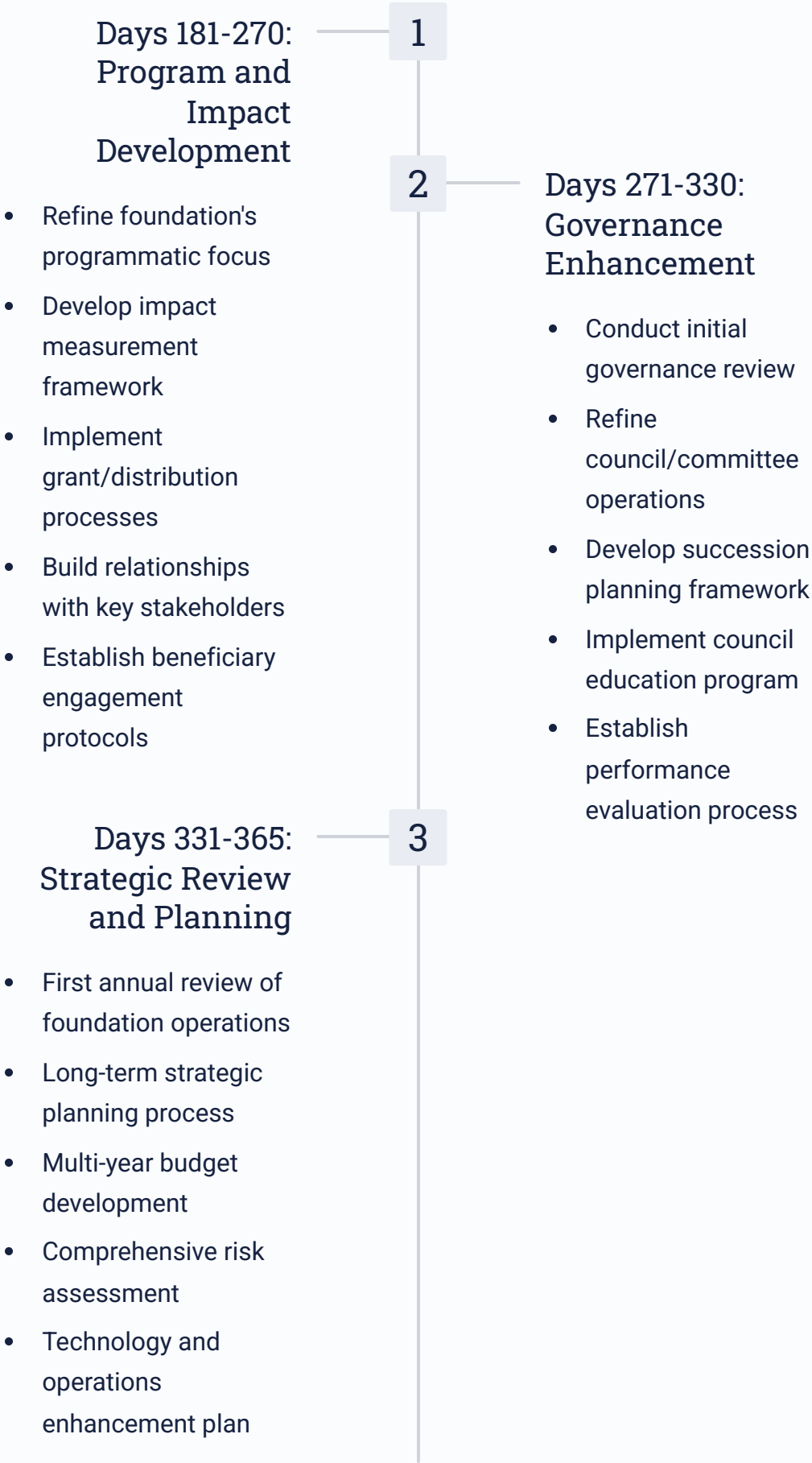
Accountable Owners:

- Investment committee: Investment framework
- Foundation council: Policy approval
- Legal/compliance: Policy development
- Administration team: Operational systems
- Investment advisors: Portfolio implementation

¹ Deloitte, "Foundation Operationalization Framework", 2023

Implementation Roadmap: 365-Day Optimization Phase

Key Activities and Milestones¹



Key Deliverables

- **Program elements:**
 - Program/grant strategy document
 - Due diligence procedures
 - Impact measurement framework
 - Stakeholder engagement plan
 - Initial grant/distribution portfolio
 - **Governance enhancements:**
 - Governance manual
 - Succession planning document
 - Council education materials
 - Performance evaluation framework
 - Committee charters and workplans
 - **Strategic framework:**
 - Three-year strategic plan
 - Annual implementation roadmap
 - Multi-year financial projections
 - Risk register and mitigation plan
 - Technology and operations roadmap
- Accountable Owners:**
- Foundation council: Strategic plan
 - Program committee: Impact framework
 - Governance committee: Governance enhancements
 - Executive leadership: Implementation planning
 - Finance/investment team: Financial projections

¹ Boston Consulting Group, "Foundation Strategy and Optimization Framework", 2023

Frequently Asked Questions: Legal and Structural Considerations

What are the key differences between a foundation and a trust?

A foundation is a separate legal entity with its own legal personality, while a trust is a legal relationship without separate legal personality. Key differences include¹:

- **Legal status:** Foundations have legal personality and can own assets, enter contracts, and sue/be sued in their own name. Trusts are relationships where trustees hold assets for beneficiaries.
- **Registration:** Foundations typically require formal registration; trusts often do not.
- **Governance:** Foundations are governed by councils/boards; trusts by trustees.
- **Perpetuity:** Foundations are often permitted to exist in perpetuity; trusts may face rule against perpetuity limitations in some jurisdictions.
- **Recognition:** Foundations may face recognition challenges in common law jurisdictions; trusts in civil law jurisdictions.

How do I select the optimal jurisdiction for my foundation?

Jurisdiction selection should be based on a weighted analysis of multiple factors relevant to your specific circumstances²:

- **Purpose alignment:** Ensure the jurisdiction permits your intended foundation purposes.
- **Legal framework:** Evaluate maturity, stability, and flexibility of foundation law.
- **Tax treatment:** Consider formation taxes, ongoing taxation, distribution treatment, and treaty access.
- **Regulatory environment:** Assess registration, reporting, audit, and supervision requirements.
- **Practical factors:** Evaluate banking access, professional infrastructure, geographical convenience, and reputational considerations.
- **Long-term outlook:** Consider political stability and regulatory trajectory.

The most suitable jurisdiction will depend on your specific objectives, asset profile, family situation, and long-term goals.

What powers should founders retain, and what should be delegated?

Balancing founder control with foundation autonomy requires careful consideration³:

- **Recommended founder powers:**
 - Initial council/board appointments
 - Limited amendment rights (with protector consent)
 - Foundation purpose guidance
 - Policy framework approval
- **Powers typically best delegated:**
 - Day-to-day administration
 - Investment decisions (within policy framework)
 - Grant/distribution decisions (within guidelines)
 - Regular operational matters

Excessive founder control can compromise the foundation's validity, recognition, and tax treatment. A balanced approach with appropriate checks and balances is generally advisable.

¹ STEP, "Foundations: A Primer for Private Clients", October 2022

² KPMG, "Foundation Jurisdiction Selection Framework", 2023

³ Withers LLP, "Founder's Reserved Powers: Best Practices", January 2023

Frequently Asked Questions: Governance and Operations

How should foundation councils be composed for optimal governance?

Effective foundation councils typically balance multiple perspectives and expertise areas¹:

- **Size:** Generally 3-7 members, balancing efficiency with diversity of perspective
- **Composition mix:**
 - Family/founder representation (typically 25-50%)
 - Independent professionals with relevant expertise
 - Subject matter experts aligned with foundation purpose
 - Local qualified members for substance requirements
- **Expertise coverage:** Legal, financial, investment, program-specific knowledge, governance experience
- **Term structure:** Staggered terms to ensure continuity while enabling renewal

The optimal composition will vary based on foundation size, purpose, jurisdiction, and family circumstances. Regular evaluation of council effectiveness is recommended.

What are the most critical policies a foundation should have in place?

A comprehensive policy framework typically includes²:

- **Governance policies:**
 - Council/board charter
 - Committee terms of reference
 - Conflict of interest policy
 - Code of conduct
- **Financial policies:**
 - Investment policy statement
 - Spending/distribution policy
 - Financial controls framework
 - Expense approval procedures
- **Program policies:**
 - Grant-making/distribution guidelines
 - Due diligence procedures
 - Impact measurement framework
 - Beneficiary privacy policy
- **Operational policies:**
 - Risk management framework
 - Compliance procedures
 - Document retention policy
 - Privacy and data protection policy

How should we approach succession planning for foundation governance?

Succession planning is critical for foundation longevity and should include³:

- **Council/board succession:**
 - Skills matrix for position requirements
 - Identification of potential candidates
 - Development pathways for prospects
 - Staggered term management
- **Next-generation involvement:**
 - Education and capacity building
 - Committee roles as development opportunities
 - Mentorship arrangements
 - Phased responsibility transition
- **Institutional knowledge transfer:**
 - Documentation of key decisions and rationales
 - Codification of values and principles
 - Orientation and onboarding processes
 - Overlap periods for critical transitions

¹ BoardSource, "Foundation Board Composition Best Practices", 2023

² Council on Foundations, "Essential Foundation Policies", January 2023

³ Cambridge Institute for Family Enterprise, "Foundation Succession Planning Framework", 2022

Frequently Asked Questions: Tax and Compliance

How can a foundation achieve tax-efficient cross-border operations?

Tax-efficient cross-border operations require careful planning across multiple dimensions¹:

- **Structure design:**
 - Appropriate jurisdiction selection based on treaty networks
 - Proper substance alignment with activities
 - Consideration of holding company intermediaries where appropriate
- **Compliance framework:**
 - Comprehensive tax analysis in all relevant jurisdictions
 - Clear documentation of tax positions and rationales
 - Robust substance to support tax residence claims
 - Regular monitoring of changing tax laws and treaties
- **Operational considerations:**
 - Proper characterization of income flows
 - Documentation of arm's length arrangements
 - Appropriate withholding tax management
 - Coordination of tax filing obligations across jurisdictions

Tax efficiency must be balanced with substance requirements, compliance obligations, and reputational considerations.

What are the most significant compliance risks for foundations?

Key compliance risks vary by jurisdiction and foundation type, but commonly include²:

- **Regulatory compliance:**
 - Missed registration or filing deadlines
 - Inadequate beneficial ownership disclosure
 - Audit or accounting requirement failures
 - Substance requirement deficiencies
- **Tax compliance:**
 - Uncertain tax residence status
 - Incomplete cross-border reporting
 - CRS/FATCA classification and reporting issues
 - Transfer pricing and related party transaction documentation
- **Governance compliance:**
 - Conflicts of interest
 - Self-dealing transactions
 - Inadequate documentation of decisions
 - Failure to follow constitutional processes

A comprehensive compliance monitoring framework with regular reviews is essential for risk management.

How can foundations manage banking and financial institution relationships effectively?

Successful banking relationships for foundations require³:

- **Proactive documentation:**
 - Comprehensive entity documentation package
 - Clear source of wealth and source of funds narratives
 - Transparent governance structure explanation
 - Purpose and activity documentation
- **Relationship management:**
 - Multiple banking relationships for resilience
 - Regular relationship manager meetings
 - Proactive updates on significant changes
 - Compliance-forward approach to inquiries
- **Transaction management:**
 - Clear purpose documentation for significant transactions
 - Advance notice of unusual activity
 - Consistent transaction patterns where possible
 - Comprehensive supporting documentation

Banking relationships have become more challenging for foundations, requiring greater transparency and documentation.

¹ PwC, "Tax Efficient Structures for International Foundations", 2023

² Deloitte, "Foundation Compliance Risk Assessment Framework", January 2023

³ KPMG, "Banking Relationships for Foundation Structures", 2022

Frequently Asked Questions: Investment and Financial Management

How should foundations approach investment policy development?

Investment policy development should follow a structured process aligned with foundation purpose¹:

- **Foundation-specific considerations:**
 - Time horizon (perpetual vs. limited life)
 - Spending requirements and patterns
 - Liquidity needs and constraints
 - Risk tolerance and capacity
 - Mission alignment requirements
- **Key policy elements:**
 - Investment objectives (return targets, risk parameters)
 - Strategic asset allocation ranges
 - Portfolio construction guidelines
 - Manager selection criteria
 - Performance benchmarks and monitoring
 - Rebalancing protocols
- **Governance framework:**
 - Decision authority and delegation
 - Investment committee structure
 - Advisor/consultant roles
 - Reporting requirements and frequency
 - Policy review cadence

The investment policy should be reviewed regularly (typically every 2-3 years) and updated as foundation circumstances evolve.

What is the optimal spending rule for foundation endowments?

The optimal spending rule balances current needs with long-term sustainability²:

- **Common spending rule approaches:**
 - Percentage of moving average (typically 4-5% of 12-20 quarter average)
 - Inflation-adjusted spending from initial value
 - Hybrid/Yale model (weighted combination of prior spending and formula amount)
 - Banded approach (adjusts within ranges based on market value)
- **Selection factors:**
 - Foundation time horizon (perpetual vs. limited life)
 - Asset allocation and expected returns
 - Inflation expectations
 - Spending volatility tolerance
 - Program consistency requirements
- **Monitoring and adjustment:**
 - Regular sustainability analysis (Monte Carlo modeling)
 - Stress testing under adverse scenarios
 - Periodic rule evaluation (typically every 3-5 years)
 - Special situation flexibility (market dislocations, emergency needs)

Most perpetual foundations have converged on moving average approaches with 4-5% spending rates, though this may need adjustment in different market environments.

How should foundations approach impact investing and ESG integration?

Impact and ESG approaches should align with foundation purpose and values³:

- **Approach options:**
 - ESG integration (incorporating material factors across portfolio)
 - Values-aligned investing (exclusions and positive tilts)
 - Thematic investing (focus on specific impact themes)
 - Impact investing (intentional, measurable impact with financial return)
 - Program-related investments (primarily impact-driven, below-market returns)
- **Implementation considerations:**
 - Clear definition of objectives and scope
 - Portfolio allocation decisions (carve-out vs. full integration)
 - Measurement and reporting framework
 - Manager selection and monitoring approach
 - Alignment with programmatic goals
- **Governance requirements:**
 - Policy framework documentation
 - Decision-making processes
 - Performance evaluation criteria (financial and impact)
 - Regular reporting to stakeholders

The approach should be tailored to foundation circumstances and evolve as the impact investing field matures.

1 Cambridge Associates, "Investment Policy Development for Foundations", 2023

2 Commonfund, "Foundation Spending Policies: A Review of the Options", January 2023

3 Global Impact Investing Network, "Impact Investing for Foundations", 2022

Alternative Solutions with Probabilities: Philanthropy

Objective: Structured Philanthropy

For philanthropic objectives, several structures may be appropriate alternatives to foundations¹:

Donor-Advised Fund (DAF)

Implementation complexity: Low

Regulatory scrutiny probability: 3-year: 30-45% | 10-year: 55-70%

Primary benefits:

- Immediate tax deduction upon contribution
- No minimum distribution requirements (currently)
- Low administrative burden
- Anonymity options for grants

Trade-offs:

- Limited control (advisory capacity only)
- Sponsoring organization governance
- Potential future distribution requirements
- Less suitable for complex philanthropy

Ethical/reputational note: Growing scrutiny of DAF "warehousing" with limited charitable distributions.

Charitable Trust

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 25-40% | 10-year: 45-60%

Primary benefits:

- Flexible governance structure
- Established legal framework
- Greater control than DAF
- Can operate in perpetuity in many jurisdictions

Trade-offs:

- Trustee liability concerns
- Less flexibility than foundation in some areas
- Limited legal personality (jurisdiction-dependent)
- May face recognition issues in civil law countries

Ethical/reputational note: Generally viewed positively when properly governed and compliant with charitable requirements.

Corporate Foundation

Implementation complexity: Medium-High

Regulatory scrutiny probability: 3-year: 35-50% | 10-year: 60-75%

Primary benefits:

- Alignment with business interests
- Brand enhancement potential
- Employee engagement opportunities
- Structured governance

Trade-offs:

- Self-dealing scrutiny
- Conflict of interest management
- Public reporting requirements
- Potential scrutiny of business connection

Ethical/reputational note: Increased expectations for genuine impact versus corporate marketing.

Direct Operating Charity

Implementation complexity: High

Regulatory scrutiny probability: 3-year: 40-55% | 10-year: 50-65%

Primary benefits:

- Direct program control and impact
- Public charity status (in many jurisdictions)
- Potential for broader funding sources
- Direct engagement with beneficiaries

Trade-offs:

- Significant operational responsibilities
- Staff and infrastructure requirements
- Governance complexity
- Higher administrative costs

Ethical/reputational note: Typically well-regarded when effectively delivering services, but exposed to program implementation risks.



1 National Philanthropic Trust, "Philanthropic Vehicle Comparison", 2023

Alternative Solutions with Probabilities: Legacy Governance

Objective: Legacy and Governance Preservation

For governance and legacy objectives, several alternatives to foundations exist:

Family Trust Structure

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 40-55% | 10-year: 65-80%

Primary benefits:

- Flexible governance arrangements
- Established legal precedent in common law
- Potential tax advantages
- Confidentiality in many jurisdictions

Trade-offs:

- Rule against perpetuities in some jurisdictions
- Recognition issues in civil law countries
- Trustee liability concerns
- Beneficial ownership disclosure requirements

Ethical/reputational note: Growing expectation for transparency and substance over form in trust arrangements.

Private Trust Company (PTC)

Implementation complexity: High

Regulatory scrutiny probability: 3-year: 45-60% | 10-year: 70-85%

Primary benefits:

- Customized governance through board structure
- Family involvement in trustee function
- Succession planning through board renewal
- Consolidated administration for multiple trusts

Trade-offs:

- Complex establishment and maintenance
- Higher setup and operational costs
- Regulatory requirements in some jurisdictions
- Substance and governance expectations

Ethical/reputational note: Increasing focus on genuine substance and governance quality rather than form.

Family Limited Partnership

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 35-50% | 10-year: 55-70%

Primary benefits:

- Centralized management through general partner
- Transfer of economic interests while retaining control
- Potential valuation discounts
- Familiar legal form across jurisdictions

Trade-offs:

- Limited liability protection
- Typically not perpetual
- Tax complexity across jurisdictions
- Less formal governance structure

Ethical/reputational note: Generally viewed as legitimate business structure when genuinely operated as such.

Family Constitution with Holding Company

Implementation complexity: Medium-High

Regulatory scrutiny probability: 3-year: 30-45% | 10-year: 50-65%

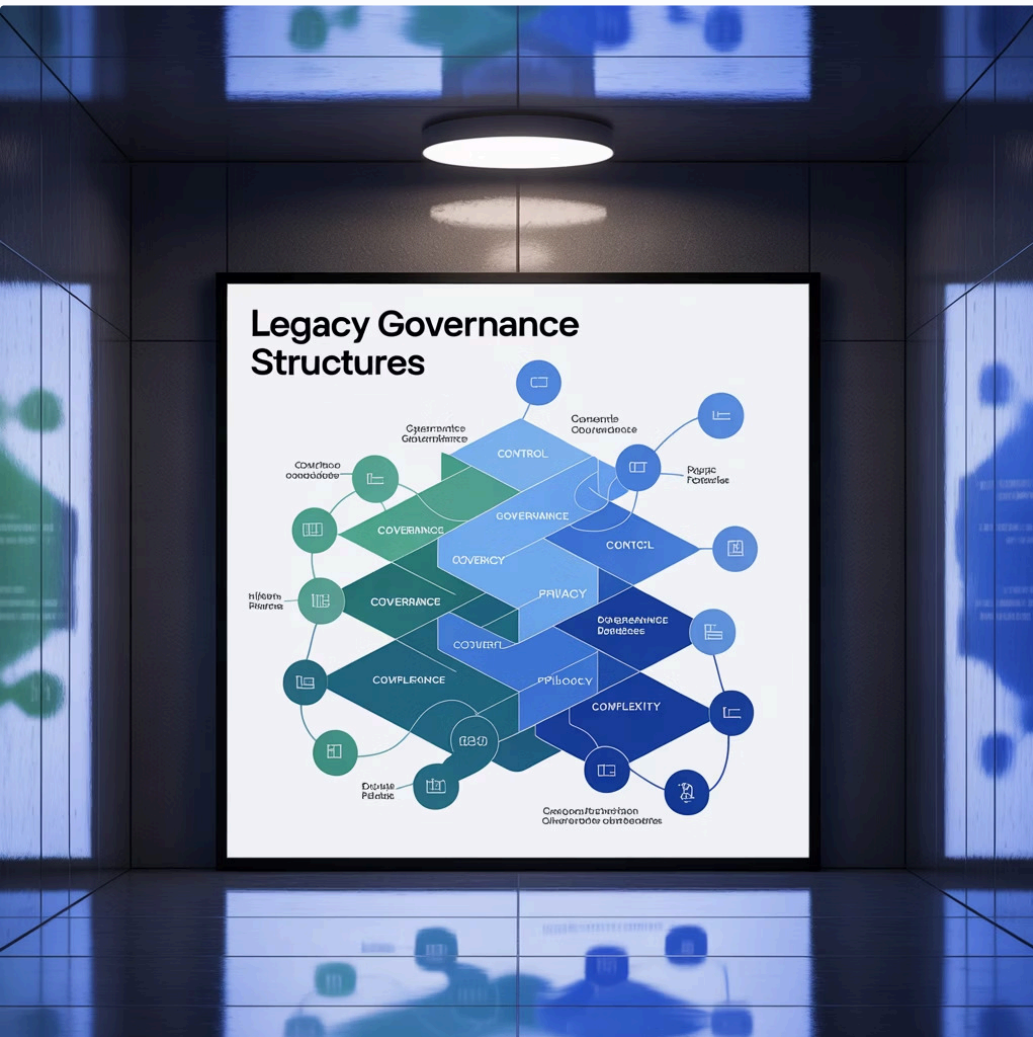
Primary benefits:

- Flexible combination of legal and moral governance
- Corporate governance framework
- Adaptable to multiple jurisdictions
- Can accommodate business and investment assets

Trade-offs:

- Constitution typically not legally binding
- Complex interaction of corporate and family governance
- Substance requirements for holding structures
- Potential beneficial ownership disclosure

Ethical/reputational note: Increased focus on substance and genuine business purpose for holding structures.



Alternative Solutions with Probabilities: Asset Stewardship

Objective: Asset Stewardship and Protection

For asset stewardship objectives, several alternatives to foundations exist¹:

Asset Holding Company Structure

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 45-60% | 10-year: 75-90%

Primary benefits:

- Limited liability protection
- Corporate governance framework
- Jurisdictional flexibility
- Potential tax treaty benefits

Trade-offs:

- Substance requirements
- Economic substance rules
- Beneficial ownership disclosure
- Anti-shell company measures

Ethical/reputational note: Increasing expectation for genuine substance and business purpose for holding structures.

Limited Liability Company (LLC)

Implementation complexity: Low-Medium

Regulatory scrutiny probability: 3-year: 35-50% | 10-year: 55-70%

Primary benefits:

- Liability protection
- Governance flexibility
- Operating agreement customization
- Pass-through taxation (in many jurisdictions)

Trade-offs:

- Limited recognition in some civil law jurisdictions
- Variable treatment across tax systems
- Typically not perpetual by default
- Beneficial ownership disclosure

Ethical/reputational note: Generally accepted as legitimate when properly used for genuine business purposes.

Family Investment Company

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 40-55% | 10-year: 60-75%

Primary benefits:

- Control through voting share structure
- Corporate governance framework
- Potential for tax-efficient succession
- Adaptable to multiple jurisdictions

Trade-offs:

- Corporate taxation
- Dividend tax on distributions
- Beneficial ownership disclosure
- Substance requirements

Ethical/reputational note: Generally accepted structure with growing focus on governance quality and substance.

Private Fund Structure

Implementation complexity: High

Regulatory scrutiny probability: 3-year: 50-65% | 10-year: 65-80%

Primary benefits:

- Professional management framework
- Regulated structure in many jurisdictions
- Established governance models
- Potential for co-investment

Trade-offs:

- Regulatory compliance burden
- Higher establishment and operating costs
- Potential regulatory capital requirements
- Complex cross-border considerations

Ethical/reputational note: Typically viewed as sophisticated approach with appropriate regulatory oversight.



¹ KPMG, "Asset Stewardship Structures for Family Wealth", January 2023

Alternative Solutions with Probabilities: Privacy

Objective: Privacy and Confidentiality

For privacy objectives, several alternatives to foundations exist, though privacy is increasingly challenging in all structures¹:

Nominee Structures

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 70-85% | 10-year: 85-95%

Primary benefits:

- Legal title held by nominee
- Public records show nominee only
- Contractual governance framework
- Flexibility in implementation

Trade-offs:

- Beneficial ownership disclosure requirements
- Potential regulatory view as transparency avoidance
- Limited recognition in some contexts
- Increasing compliance challenges

Ethical/reputational note: Growing regulatory skepticism and potential reputational concerns when used primarily for concealment.

Multi-Layered Corporate Structures

Implementation complexity: High

Regulatory scrutiny probability: 3-year: 65-80% | 10-year: 80-95%

Primary benefits:

- Public information segregation
- Jurisdictional diversification
- Asset compartmentalization
- Liability ring-fencing

Trade-offs:

- Look-through provisions in many regulations
- Substance requirements at each level
- Economic substance reporting
- Beneficial ownership aggregation

Ethical/reputational note: Increasingly viewed with skepticism unless clear non-privacy business purposes exist.

Insurance Wrappers

Implementation complexity: Medium-High

Regulatory scrutiny probability: 3-year: 50-65% | 10-year: 65-80%

Primary benefits:

- Legal ownership by insurance company
- Contractual rather than ownership relationship
- Potential tax deferral
- Regulated structure

Trade-offs:

- Increasing look-through provisions
- CRS/FATCA reporting requirements
- Insurance regulation compliance
- Costs and structural complexity

Ethical/reputational note: Generally acceptable when used for legitimate insurance and estate planning purposes rather than primarily for concealment.

Contractual Arrangements

Implementation complexity: Medium

Regulatory scrutiny probability: 3-year: 55-70% | 10-year: 70-85%

Primary benefits:

- Private contractual documentation
- Limited public filing requirements
- Flexibility in arrangement terms
- Often not subject to registries

Trade-offs:

- May not provide asset protection
- Potential characterization as nominees
- Beneficial ownership considerations
- Limited recognition in some contexts

Ethical/reputational note: Increasing focus on substance over form and potential questions about purpose.



Note: Privacy-focused structures face significant and increasing regulatory scrutiny. The global trend toward transparency is unmistakable, with privacy objectives increasingly difficult to achieve through structural means. Legitimate privacy needs are better addressed through careful information management within transparent structures.

¹ Oliver Wyman, "The Future of Financial Privacy", 2023

Executive Summary: The Five Key Decisions

Purpose Definition

The foundation's purpose is its cornerstone, determining structure, governance, and operations:

- Clearly articulate philanthropic, legacy, governance, and/or asset stewardship objectives
- Determine the balance between public benefit and private purposes
- Ensure purpose alignment with founder/family values and vision
- Consider long-term relevance and adaptability
- Express purpose with sufficient clarity while allowing appropriate flexibility

The purpose definition drives all subsequent decisions and should receive careful attention.

Jurisdictional Selection

No single jurisdiction is optimal for all foundations. Selection requires weighted analysis of:

- Legal framework compatibility with foundation purpose
- Regulatory environment and supervision intensity
- Tax treatment (formation, income, distributions)
- Transparency and compliance requirements
- Substance expectations and operational feasibility
- Long-term stability and international recognition

The optimal jurisdiction balances these factors based on foundation-specific priorities.

Governance Architecture

Governance design determines foundation effectiveness and durability:

- Balance founder influence with foundation autonomy and succession needs
- Design council composition to blend family, professional, and expert perspectives
- Establish clear roles, responsibilities, and decision rights
- Implement appropriate checks and balances
- Develop comprehensive policy framework
- Create robust succession mechanisms

Governance should be substance-aligned, well-documented, and designed for multi-generational effectiveness.

Operational Model

The operational model must balance effectiveness with efficiency:

- Determine in-house vs. outsourced administration approach
- Design investment framework aligned with foundation purpose
- Establish appropriate spending policy and liquidity management
- Implement robust compliance and risk management
- Develop appropriate technology and reporting systems
- Create efficient processes for core activities

The operational model should grow with the foundation's scale while maintaining appropriate controls.

Implementation Approach

Execution excellence is the critical success factor:

- Develop phased implementation roadmap with clear milestones
- Assemble appropriate professional team with relevant expertise
- Ensure comprehensive documentation of all aspects
- Establish substance-aligned operating model from inception
- Implement appropriate governance from day one
- Build compliance framework into foundation DNA

Even the most elegant design will fail without rigorous implementation and ongoing stewardship.

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Professional Guidance Notice

Foundation structures are complex and require coordinated professional expertise across multiple disciplines:

- **Jurisdictional expertise:** Local counsel in relevant jurisdictions is essential to ensure compliance with specific legal requirements
- **Tax counsel:** Tax advice should be obtained in all relevant jurisdictions, including founder residence, foundation domicile, asset location, and beneficiary residence
- **Governance experts:** Specialist advice on foundation governance best practices is recommended
- **Investment professionals:** Qualified investment advisors should guide investment policy and implementation
- **Compliance specialists:** Expertise in cross-border compliance requirements is increasingly critical

Implementation should be coordinated across these disciplines to ensure alignment and comprehensive execution.



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