

# THE BAHAMIAN FOUNDATION

## Comparative Features With Trusts and Companies



	FOUNDATIONS	COMPANIES (IBC)	TRUSTS
Perpetual Duration	Y	Y	N
Registration	Y	Y	N
Registered Office	Y	Y	N
Officers	Y	Y	N
Governing Body	Y Council	Y Directors	Y Protector
Constitutive Documents	Y 1. Charter 2. Articles (opt.)	Y Memorandum & Articles	Y Trust Instrument
Filing Requirements	Minimal Registration Statement	Y	N
Annual Filing Requirements	N	Y	N
Regulation	N	N	N
Asset Requirement	Y \$10K min.	Y	Y
Redomiciliation	Y	Y	Y
Beneficial Interests	Y	Y	Y
Asset Protection	Y	Y	Y
Anti-Forced Heirship	Y	N	Y
Due Diligence Requirements	Y	Y	Y
Restriction Against Alienation	Y	N	Y
Confidentiality	Y	Y	Y

## BAHAMIAN FOUNDATIONS



A Foundation is essentially a hybrid trust and company, having several aspects in common with one or the other:

- Like a Company but unlike a trust, a Foundation may enjoy unlimited duration.
- Like a Company but unlike a trust, a Foundation must be registered and have a registered office.
- Like a trust but unlike a Company, a Foundation can be established by Will.
- A Foundation must have initial assets of a value of not less than US\$10,000.00 whereas there is no such minimum prescribed for trusts or companies, although in practice, all three entities would probably have assets well in excess of US\$10,000.00, if not initially, then most likely when activated.
- A Foundation would usually have a Foundation Council, some of whose duties would be similar to those of a Trustee or the Directors of a company. Instead of a council a Foundation may have some other governing body or supervisory person, such as a Protector. A Foundation must have a Secretary and may also have other officers, which a company would also normally have.
- While a Company must have Articles of Association, a Foundation is not required to have Articles, although they may do so. In the absence of Articles all provisions concerning the conduct and operation of a Foundation would normally be included in its Charter or, where appropriate, a Foundation would simply rely upon the provisions contained in the Foundations Act.
- Like a Trust or an International Business Company (IBC), a Foundation may redomicile in another jurisdiction and a Foundation established in another jurisdiction may redomicile in The Bahamas. The statutory provisions are similar to those for the IBC.
- Like a Trust, a Foundation may include restriction against alienation in any instrument of disposition to a beneficiary.
- Like a Trust, a Foundation may be used to avoid forced heirship in other jurisdictions.
- Like a Trust, a Foundation may be used for asset protection purposes, being able to qualify in the same way as a trust under the Fraudulent Dispositions Act.
- The reservation of extensive powers by the Founder of a Foundation would less likely be considered by a court to be a sham than would the reservation of extensive powers by the Settlor of a Trust.
- Like a Trust or a Company, a Foundation would be subject to the provisions of the Financial Transactions Reporting Act, requiring careful Know-Your-Customer (KYC) due diligence in an effort to ensure that only desirable clients use Foundations for satisfactory purposes.