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# Trust and Foundations Laws in the DIFC

March 2018

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## *In brief*

On 21 March 2018, the Ruler of Dubai, Vice President and Prime Minister of the UAE His Highness Sheikh Mohammed bin Rashid Al Maktoum enacted the Trust Law and Foundations Law, superseding the Trust Law 2005. Both of these new laws seek to provide a means for legally robust private wealth management in the Dubai International Financial Center (DIFC).

## *In detail*

The DIFC authorities have published laws on the establishment of trusts and foundations in the DIFC free zone. The DIFC free zone is the only location in Dubai where a trust or foundation can be established. Elsewhere in the region, trusts and foundations can be established in locations such as Bahrain and Abu Dhabi Global Market (ADGM).

**Trusts** - Trusts are useful vehicles for asset protection, succession planning and wealth preservation. If you wish to settle your assets into a trust, you must transfer property to another person as trustee, either during your lifetime or through your will on your demise. The trustees will hold the legal ownership of the trust property, while beneficial ownership remains with the beneficiaries.

The trust will be governed by the Trust Deed, which outlines the terms of the trust, duration, beneficiaries and the powers of the trustees, etc. Consideration should be made as to which assets are transferred into trust as you will no longer be the legal owner of those assets.

The new DIFC Trust Law No. 4 of 2018 provides an enhancement to the previous law in areas of trust administration and flexibility for the settlor, trustees and beneficiaries.

**Foundations** - Foundations share some characteristics with companies and trusts. Unlike a trust, a foundation has its own legal personality and can hold assets in its own right. A foundation does not have shareholders and cannot carry out commercial activities.

Foundations can be set up for exclusively charitable purposes, non-charitable purposes or to provide benefits to named persons. The constitution of a foundation consists of its Charter, a public document, which outlines the object(s) and duration of the foundation and its by-laws, which describe how the foundation will be governed and operated.

According to the DIFC, the Foundations Law No. 3 of 2018 promotes “better creditor protection” and “greater certainty and flexibility for private wealth management”.

## ***The takeaway***

Both the new Trust Law and the Foundations Law in the DIFC provide families with a local solution to managing their wealth, protect their assets and, where applicable, plan for succession. Alternative solutions are available in other jurisdictions.

Professional advice should be taken when determining whether or where a trust or foundation should be established, the purpose of those vehicles in your wider portfolio and the assets that should be held by those vehicles to ensure you meet your personal objectives in a legal and tax efficient manner.

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