Simcocks

Comparison of Foundations

	Isle of Man	Jersey	Guernsey	Panama	Liechtenstein	Bahamas
Law	Foundations Act 2011.	Foundations (Jersey) Law 2009.	The Foundations (Guernsey) Law 2012.	Private Interest Foundation Law 1995.	Persons and Companies Act 1926 (as amended).	Foundations Act 2004 (as amended).
Regulatory Board/Public Registry	Isle of Man Department of Economic Development.	Jersey Financial Services Commission.	Guernsey Financial Services Commission.	Panamanian Government Public Registry.	Liechtenstein Office of Land and Public Registration.	Bahamas Financial Services Board.
Minimum/ Initial Dedication of Assets	Does not require an initial dedication of assets.	Does not require an initial endowment of assets.	Must have an initial endowment, provided by the Founder. The legislation doesn't stipulate a minimum capital sum however a description of the initial endowment must be included in the foundation's charter.	Assets or cash with the value of US$10,000. A foundation may be set up without assets provided that there is an undertaking that assets will be transferred after the foundation is set up.	Assets or cash with the value of CHF30,000 (1.44 CHF to £1 8/04/2015)	Assets or cash with the value of US$10,000.

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Registration Fee/ Timescale	£100 (standard establishment – 2 business days) £250 (2 hour establishment) £500 (while you wait establishment).	£200 (or £400 for a "same day" incorporation).	£100 or £350 (2 hour registration).	US$350	Up to CHF700 depending on the type of foundation. Private interest foundations merely deposit the foundation charter with the Public Registrar (for declaration purposes). Charitable foundations (as well as foundations with a combination of charitable and private purposes) only come into effect when they are entered on the public register.	US$500 Legislation allows for this fee to be prorated by each calendar quarter. The necessary documents are required to be submitted within 90 days
Annual Fees	£380	£150	£500 (except for Guernsey Registered Charities – where no fee applies). Penalty of £100 per month applies for failure to complete annual return.	US$400 Annual Corporate Franchise Tax paid to the government.	Annual charge of 0.1% of the nominal capital and net asset value, or a minimum of CHF1000. Annual charge of 0.075% on net asset value in excess of CHF 2 million, annual charge of 0.05% on net asset value of CHF 10 million and above.	US$500 administration fee paid to the government.

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Regulated Person	Registered agent required who must be the holder of a class 4 licence issued under the Financial Services Act 2008.	Jersey Law requires that there is a qualified member on the foundation's council. A qualified member is a person licensed under the Financial Services (Jersey) Law 1998 to conduct trust company business and regulated by the Jersey Financial Services Commission.	Unless a Guernsey – based licensed fiduciary is appointed to act as councillor or the guardian. A Registered agent is required who must be a Guernsey-based licensed fiduciary or authorised person.	Must have a Resident Agent of the foundation in the Republic of Panama, who shall be an attorney or law firm and who must countersign the foundation charter prior to its registration in the public registry.	At least one member of the foundation's council (the representative) that is authorised to manage and represent the foundation must be a qualified professional with a place of residence in Liechtenstein.	Each foundation must have a secretary or a foundation agent. The secretary / foundation agent must be resident in the Bahamas. If a foundation agent is not appointed to act, the secretary performs the agent's duties. A Bahamas based service provider must act in the capacity as secretary or agent
Council Member	Any person, (individual or corporate body) domiciled or resident anywhere in the world can be a council member and a minimum of one council member is required.	See above.	Any person, (individual or corporate body) domiciled or resident anywhere in the world can be a council member and a minimum of one council member is required.	Any person, (individual or corporate body) domiciled or resident anywhere in the world can be a council member. In the case of natural persons the minimum number is 3, in the case of a corporate body the minimum number is 1.	See above.	Any person, (individual or corporate body) domiciled or resident anywhere in the world can be a council member. In the case of natural persons the minimum number is 2, in the case of a corporate body the minimum number is 1.

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Protector/ Guardian	Enforcer required for an object which is a non-charitable purpose. Enforcer otherwise optional.	A Guardian is required for all Foundations. The Guardian has a monitoring role to ensure the foundation's council carries out its functions. The qualified member (but no other council member) or the Founder may act as the Guardian of the foundation. A protector is optional. The Guardian can sanction any action of the council which would not otherwise be permitted by the charter or regulations	Only requires a Guardian where there is a purpose in respect of which there are no beneficiaries <u>or</u> there are "disenfranchised beneficiaries", Guardian otherwise optional.	The foundation charter may stipulate the appointment of optional "protectors" to control or advise over the foundation. Panamanian law sets down the possible roles of such protectors, and the founder or foundation's council finalise the specific powers in each individual case.	An optional role that is defined in the statutes. The protector is the representative of the beneficiaries and ensures that the board are acting to implement the purpose of the foundation.	The Protector, who oversees the foundation's council, is envisaged in respect of a private foundation but is optional.

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Continuation	A foundation established in another country may continue in the Isle of Man (if permitted under the law of the other country), and vice versa. The administration fee to continue in the Isle of Man is £100; to discontinue in the Isle of Man the fee is £550.	Bahamas Foundations, Liechtenstein Anstalts & Stiftungs, Panama Private Interest Foundations, St Kitts Foundations, Nevis Multiform Foundations, Maltese Private Foundations and Jersey companies (each a “Recognised Entity”) may continue as Jersey foundations (and vice versa) for an administrative charge of £500.	“Recognised entities” including Bahamas Foundations, Liechtenstein Anstalts & Stiftungs, Panama Private Interest Foundations St Kitts Foundations and Nevis Multiform Foundations, may continue as Guernsey foundations. The fee to continue in Guernsey is £100. The fee to discontinue in Guernsey is £1,500.	A Panamanian foundation may migrate to another jurisdiction.	A Liechtenstein Anstalt or Stiftung may continue into a foreign jurisdiction. There is a charge of CHF 600.00.	A foundation established in another country may redomicile in the Bahamas for an administration fee of US$500. A Bahamian foundation may redomicile into another country, provided such a move is permitted in that country.

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Mergers	Treasury may make regulations in respect of the mergers of foundations.	It is possible for: - Two or more Jersey foundations to merge and continue as one of the merging foundations or as a new Jersey foundation; one or more Jersey foundations to merge with one or more Recognised Entities to continue as one of the merging Jersey foundations or a new Jersey foundation; and One or more Jersey foundations to merge with one or more Recognised Entitles to continue as one of the Recognised Entities or a new Recognised Entity. Again there is an administrative charge of £500.	There is no ability for a Guernsey foundation to merge with any other entity.	There is no ability for a Panamanian foundation to merge with any other entity.	There is no ability for an Anstalt or Stiftung to merge with any other entity.	There is no ability for a Bahamian foundation to merge with any other entity.

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Beneficiaries' Right to Information	Beneficiaries have a right to certain information, which right can be disapplied by the foundation rules, in which case the beneficiary may apply to court for the information.	Beneficiaries have no interest in the assets of the foundation, nor are they owed any fiduciary or similar duty by the foundation or by the members of the council, the Guardian or anyone else appointed under the Regulations. However, if a beneficiary becomes entitled to a benefit under the Charter or Regulations and does not receive it, he may apply to the Royal Court of Jersey for an order for the foundation to provide the benefit.	Guernsey law draws a distinction between "enfranchised beneficiaries" (those with a right to receive certain information about the foundation), and "disenfranchised beneficiaries" (those that have no such right to information), provided for by the foundation's constitution. The provisions allow movement between the two categories of beneficiaries, ensuring some flexibility. Councillors of a foundation owe their duties to act in good faith in the exercise of their function to the foundation itself rather than the beneficiaries. The guardian of a Guernsey foundation also owes a duty the founder and beneficiaries to act in good faith and *en bon père de famille* to enforce the Constitution and the purpose and exercise his functions.	The rights of the beneficiaries are set down in the foundation by-laws, or by resolutions passed by the foundation's council. In addition any beneficiary who suffers violation of his rights by the protector, the foundation council or other supervisory body, may directly bring a judicial action before the appropriate court in the foundation's domicile.	Liechtenstein law contains possibilities to restrict the information rights of beneficiaries by transferring those rights to other bodies such as an internal controlling body (similar to a protector) to carry out supervisory duties. In such cases, the rights of the beneficiaries can be limited to an indefeasible minimum (their own rights, the foundation's purpose, the organisation of the foundation). In the case of charitable foundations, which are generally subject to the supervision of the authorities, the beneficiaries have no information rights.	A beneficiary is entitled: - To receive on request information from the foundation in respect of the fulfilment of the objects of the foundation; - To inspect and copy the charter and any amendments, any articles of the foundation and any amendments, any audit report, books of account, any report on the financial position of the foundation and the annual accounts, any minutes of any officers meeting or meetings of foundation council or other supervisory body.

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Publicly Available Information	The instrument is the only document that is publicly available which details: - The name and registered number of the foundation. Foundation objects, however this can refer back to the rules. Name and address of council members. Details of the registered agent.	The charter is the only document that is publicly available which details: - The name of the foundation. Foundation objects, however this can refer back to the regulations. Initial endowment details and whether further endowments can be made. What is to happen to surplus assets after the winding up of the foundation, however this can refer back to the regulations. Particulars of any termination date or event.	The only information publicly available is that in "Part A" of the register which includes the name and registered number of the foundation, name and address of councillors and guardian (if any) and details of the registered office. In addition the Registrar will maintain a non-public part of the register (Part B), which will include all declarations and other documents filed with the Registrar. The charter must be filed with the Registrar but it may only be disclosed in certain circumstances, e.g. criminal investigations.	The charter is the only document that is publicly available which details: - Name of the foundation. Initial patrimony. Purpose, duration and domicile of foundation. How assets are to be distributed on liquidation or dissolution of the foundation. Name and address of council members and details of the Resident Agent.	The charter (known as the statute) is the only document that is publicly available which details: - The name of the foundation. Initial dedication. Foundation purpose. Date of establishment and duration. Appointment and functioning of foundation council. Identity of founder or his agent	Extract from charter must be filed with the Registrar. The charter itself may, but need not be filed with the Registrar. Information publicly available includes: - The name of the foundation. Date of charter. Foundation purposes and objects. Date of foundation articles. Duration of foundation. Appointment and functioning of foundation council. Identity of founder or his agent. Details of secretary/agent, founder and registered office.

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Charitable/ Philanthropic Purposes Permitted	Yes	Yes	Yes	Yes	Yes	Yes
Corporate Body as Founder/ Protector/ Council Member	A corporate body can be the founder, council member, enforcer or beneficiary.	A corporate body can be the founder, council member, the guardian, or, if licensed, the qualified member.	A corporate body can be the founder, council member or the guardian of the foundation.	A corporate body can be the founder or a council member.	A corporate body can be the founder, council member or the protector.	A corporate body can be the founder, council member or the protector.

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