

Key Facts

INTRODUCTION

The Seychelles Foundation encompasses many of the best components found in other foundation jurisdictions such as Panama but provides more clarity on important legal issues, more flexibility and stronger asset protection. Its flexibility makes it an ideal entity for either private purposes such as family succession/estate planning and asset protection (a “Private Foundation”), charitable purposes (a “Charitable Foundation”), a specific purpose (a “Purpose Foundation”) or any combination of the three.

A Seychelles Foundation is a separate legal entity (like a company) but with beneficiaries rather than shareholders (like a trust). Assets transferred to a Seychelles Foundation become the property of the Foundation with full legal and beneficial title and are no longer considered to be the assets of the Founder. Similarly, beneficiaries of a Seychelles Foundation are not the “owners” of the Foundation and have no legal rights to its assets nor control over its decisions. Both of these features can be particularly useful in tax planning as well as providing significant asset protection advantages.

The Seychelles Foundation is managed by a Foundation Council which may be exercised from a low or nil tax jurisdiction (such as Seychelles) to mitigate potential tax risk. A Seychelles Foundation may additionally have a “Protector” similar to a trust.

The Seychelles Foundations Act expressly provides for the Founder to reserve certain functions and rights to himself or another person such as directing investments, appointment and removal of protectors, councillors or beneficiaries and more. As a separate legal entity, this would not expose the Foundation to a “sham” argument or debate over “certainty” as it would with similar reserved powers to the settlor of a trust.

It can be noted that unlike a Foundation, a trust is not a separate legal entity but rather a contractual arrangement between the settlor and trustee. The trust only “lives” through the trustee who holds legal title to the assets on behalf of the beneficiaries in accordance with the trust deed.

Key Facts

GENERAL

- Location – Seychelles is located in the Indian Ocean 1500 km east of Africa
- Legal System - Common Law/Civil Law Hybrid
- Official Languages - English (Business), Creole, French
- Political Stability - excellent

LEGISLATION

Foundations Act 2009

TYPE OF ENTITY

Foundation

NAMES

- May be any language, but if other than English or French must be accompanied by a translation to one of these two
- Names must end with “Foundation”

TAXATION

Income and distributions to beneficiaries are completely exempt from taxation in Seychelles even if “managed and controlled” by a Foundation Council from Seychelles

FOUNDATION ASSETS

- A Seychelles Foundation shall have a minimum of \$1 initial assets
- Assets may originate from any lawful source (from the Founder or any third party) and consist of present or future assets of any nature
- In addition to non-Seychelles assets, the Foundation assets may include the following Seychelles assets:
 - a any entitlement or interest as a beneficiary in another Foundation under the Seychelles Foundations Act or a trust under the Seychelles International Trusts Act; or
 - b any shares, debentures or other interest in a company incorporated under the Seychelles International Business Companies Act, Companies (Special Licenses) Act, Protected Cell Companies Act and/or an interest in a partnership registered under the International Limited Partnership Act; or
 - c any company, trust or other entity licensed as a mutual fund under the Seychelles Mutual Fund and Hedge Fund Act; or a
 - d any funds in an account with a bank licensed under the Seychelles Financial Institutions Act; and
- The assets shall not include immovable properties or other properties in Seychelles, including shares, debentures or other interests in a legal person incorporated or registered, in Seychelles other than provided above.

FOUNDER

- May be any individual or legal entity (another company or foundation) and may be a “nominee”
- May have two or more Co-Founders
- May reserve certain rights to himself or another person in the Charter or Regulations such as the right to direct investments, appoint/remove beneficiaries, dissolve the Foundation, etc.
- May assign his rights to another party which shall have all rights construed to the Founder (“Assignee Founder”)
- May be a beneficiary but not the sole beneficiary (may be the sole beneficiary during a life-time provided that there are other beneficiaries such as family members upon death or incapacity)

FOUNDATION COUNCIL

- The councillors manage the business and affairs of the Foundation
- A minimum of one councillor is required
- May be natural persons or legal entities
- Founder may be a councillor but not the sole councillor
- Councillors may be of any nationality and reside anywhere in the world
- May be identified or provided for in the Charter or Regulations (**not publicly filed**)

PROTECTOR

- If so provided in the Charter or Regulations the Foundation may appoint a Protector
- A Founder, councillor or beneficiary may be appointed as the Protector except that a sole councillor or sole beneficiary shall not act as a Protector

PURPOSE AND OBJECTS

A Foundation's main purposes or objects shall include the management of its assets and the distribution of its assets and income to the Foundation's beneficiaries in accord with its Charter or Regulations. A purpose or object of a Foundation may be, but need not be, charitable. A foundation may also be registered to carry out a specific purpose (“Purpose Foundation”) with no beneficiaries provided that a Protector is appointed.

FOUNDATION CHARTER

- May be (a) in the English or French language; or (b) in a language other than in English or French, in which case it shall be accompanied by a translation in English or French
- Publicly filed constitutional document which contains details such as the name of the Founder, objects and purpose.

FOUNDATION REGULATIONS

A Foundation may adopt a document called its “Regulations” providing, for example, for the identification and designation of councillors and beneficiaries, distribution of Foundation assets, beneficiary entitlement proportions, etc. Unlike the Charter, the Regulations are a private document (not filed at the Registry).

REGISTERED AGENT/OFFICE

A Seychelles Foundation must at all times have a registered agent and office in Seychelles provided by a licensed International Foundation Services Provider.

GOVERNMENT FEES

US\$200 per year plus tax (\$30 in year one and \$15 from year two) and due on a yearly basis from the registration date

REQUIREMENTS & MAINTENANCE OF LEGAL DOCUMENTS

- A Foundation shall keep proper books of account and records as its Foundation Council considers necessary in order to reflect its financial position, about –
 - a. all sums of money received, expended and distributed by the Foundation, and the matters about which the receipt, expenditure and distribution took place;
 - b. all sales and purchases by the Foundation; and
 - c. the assets and liabilities of the Foundation.
- The books of account and records required to be kept shall be kept at the registered office or such other place as the councillors consider fit
- Where the books of account and records of a Foundation are kept at such other place, the Foundation shall inform its registered agent of the address of the other place
- There are no requirements to file annual returns or financial statements
- The Foundation must maintain a “Register” at the registered office or such other place is determined by the Council including details of the Founder, Council, Protector or any supervisory person (if any) and any other agents (Power of Attorney, etc.) of the Foundation

TIME TO INCORPORATE

- 1-3 days depending on the complexity and amount of drafting required
- “Shelf Foundations” available for immediate use

STANDARD SERVICES

- Checking name availability
- Up to 1 hour consultation
- Due Diligence on up to two connected parties
- Payment of annual Government Licensing Fees
- Drafting of standard template documents (otherwise hourly fees apply)
- Provision of Registered Agent and Registered Office for 1 year
- Safekeeping of registers and records

STANDARD DOCUMENTS

- Certificate of Registration
- Registry Stamped Foundation Charter
- Foundation Regulations
- Appointment of 1st Councillors by the Founder
- First Resolutions of the Councillors
- Certified Copy of Register of Councillors
- Certified Copy of Register of Protectors and Supervisory Persons
- Certified Copy of Register of Agents and Attorneys
- Private Protectorate Agreement (if applicable)
- Banking Resolution (if applicable)

Fees and Services

FORMATION FEES	US\$
Formation	400
Checking availability of the Foundation name, preparation and filing of Charter (standard format), preparation of Regulations (standard format), preparation of organizational minutes, protector appointment (if applicable)	(standard format; otherwise, billed at \$200/hour)
	100
Disbursements	
Telephone calls, fax, photo copying, etc.	
ANNUAL FEES	625
Registered Agent & Registered Office	
Providing the statutorily required registered agent & registered office of the Foundation	230 (1st Year)
	215 (From 2nd Year)
Government Fees	
	1355
TOTAL (1st year)	840
BASIC ANNUAL FEES (From 2nd Year)	

Note:

Formation - hourly fees for protracted due diligence, consultation and/or custom drafting of documents will be billable at 200/hour and will be notified in advance.

Administration - all Seychelles Foundations are required to maintain basic accounts and records of the foundation. Administration services for this as well as where we are providing fiduciaries is billable at standard hourly rates quarterly in arrears. After consultation with the client, we will provide an estimate of the time and fees to be expected in this regard.

Fees and Services

OTHER SERVICES	US\$
Nominee Founder (Corporate)	200
Councillor (Corporate)	400
Councillor (Individual)	650
Nominee Protector (Corporate) - w/ Notarised Power of Attorney	400
Notarisation of documents (1 or 1 set with a single cover page)	75
Apostile of documents (1 or 1 set with a single cover page)	75
Issuance of a Notarized Limited Power of Attorney	150
Issuance of a Certificate of Good Standing (from Registrar)	150
Bank Account Introduction	From 400
Voluntary Liquidation - subject to assets involved and complexity	From 1200
Resolutions/Minutes - standard, template driven; otherwise hourly rates	75
Certificate of Incumbency	150
Bank Administration - charged on an hourly basis	
Foundation Administration - charged on an hourly basis	

GENERAL FEE INFORMATION

- Fees billable in advance upon formation and annually thereafter
- Fees are generally not refundable due to the nature of the services
- Work performed in addition to the items listed is generally billed at our hourly rates in 6 minute increments. Time spent is billed in arrears either monthly, quarterly, semi-annually or annually depending on the scope and volume of work
- Hourly Rates
 - Senior Associates - US\$200/hour
 - Junior Associates - US\$100/hour
- Disbursements billed in addition
- Special transaction fees may be applicable for work of a particularly onerous, time critical, high value or otherwise exceptional nature
- All fees are subject to annual review and may be changed with 30 days notice

Note: *as a general rule, any special fees outside of the normal agreed scope of work will be discussed with each client prior to work performed*