

KEY FACTS COMPANIES AND PARTNERSHIPS

THE CAYMAN ISLANDS IS A MATURE, SOPHISTICATED AND STRONGLY REGULATED JURISDICTION, WITH AN ESTABLISHED “GOLD STANDARD” REPUTATION AMONG INTERNATIONAL INVESTORS, A HIGHLY EXPERIENCED PROFESSIONAL COMMUNITY AND A SOPHISTICATED AND WELL-RESPECTED ENGLISH LAW COURT SYSTEM. THE MOST POPULAR TYPE OF CAYMAN ISLANDS COMPANY IS THE EXEMPTED COMPANY.

OFFSHORE COMPANIES

Exempted Companies

The most common form of company in the Cayman Islands is the exempted company. An exempted company may not trade in the Cayman Islands. However, in connection with its business activities carried on outside the Islands, the company may conclude contracts and exercise in the Cayman Islands all of the powers necessary for such business.

Features of an Exempted Company

- > Shares can be issued without a nominal or par value
- > Minimum requirement of one shareholder and one director
- > Shareholder registers are not available for public inspection
- > Shareholder meetings are not required
- > No minimum share capital is required and can be expressed in any currency, including Euros
- > Bearer shares can be issued (subject to their deposit with an approved custodian)
- > Annual government declaration requires confirmation that memorandum and articles have not changed, that the operations of the company are mainly outside the Cayman Islands, that the provisions of the Companies Law have been complied with, that all bearer shares are retained by an approved custodian, and that the declaration includes details of the business activities of the company
- > Memorandum and articles of association may be altered by the shareholders without restriction
- > Tax exemption can be obtained for an initial period of 20 years
- > The registrar must give one month's notice before taking any action to strike off an exempted company
- > Minimum government fee is US\$732 upon incorporation and US\$855 annually thereafter (payable in January of each year)
- > Maximum authorised capital allowed for the minimum government fee is US\$51,219
- > Company can be formed and registered within one to two working days providing due diligence is in order
- > Foreign companies from approved jurisdictions may apply to be registered by way of continuation as a Cayman exempted company
- > An exempted company must maintain the following registers (that are not public record):
 - > register of members (that may be maintained anywhere)
 - > register of mortgages and charges (that must be maintained at the registered office)
 - > register of directors and officers (that must be maintained at the registered office)
 - > register of beneficial ownership (unless the exempted company falls within an exemption category)

- > The registrar is required to make a list of names of current directors (and alternate directors) of a company available for inspection by any person, on payment of a prescribed fee. The information available is limited to the names of the current directors and alternates and does not include any other personal details such as address, date of birth, or nationality. A search may be conducted in relation to a specific company only and may only be made in person at the offices of the Registrar of Companies in the Cayman Islands.

Limited Duration Companies & Companies Limited by Guarantee

Onshore fiscal authorities (for example, United States, Japan) will treat as partnerships companies that include in their corporate structure features customarily found in partnerships. To assist users of these corporate “pass-through” entities, the Companies Law permits exempted companies to terminate their corporate existence on the occurrence of one or more events, such as:

- > The registrar issues a certificate on de-registration
- > The registrar issues a certificate of incorporation that reflects the change of name of the company that does not include “Limited Duration Company” or “LDC” at the end of its name
- > The company passes a special resolution to alter its memorandum of association to provide for a period of duration that exceeds thirty years

In addition, such companies (also known as limited liability companies) may issue two classes of shares, one with the benefit of limited liability and one with unlimited liability.

The Companies Law also permits shareholders of an exempted company to guarantee the debts of the company to their full extent or to a limited extent.

Exempted companies with these features are incorporated using special memoranda and articles of association.

LIMITED LIABILITY COMPANIES (LLCS)

LLCs became available in the Cayman Islands in 2016 following the enactment of the Limited Liability Companies Law (2016). An LLC is a hybrid vehicle incorporating characteristics of both an exempted company and an exempted limited partnership, and is similar to its Delaware (USA) counterpart. The flexible nature of the LLC makes it well-suited for a broad range of corporate and commercial applications. The LLC is governed by an LLC Agreement among its members. The LLC Agreement sets out the rights and duties of the members, provisions and procedures for being admitted or retiring from the LLC, transferring of interests, contributions of the members, allocation of profits and losses, appointment of managers and their duties and liabilities, execution of documents, meeting requirements, and winding-up provisions, etc. Unlike a company, an LLC does not have a board of directors. The management of the LLC, subject to the LLC Agreement, is vested in its member(s), or if provided by the LLC Agreement, by one or more managers.

The formation of an LLC requires the initial member(s) to file a registration statement with the registrar of LLCs. The registration statement sets out the name, the general nature of the business, the address of the registered office, and the term of the LLC (if applicable), and contains a declaration that the LLC will not undertake business with the public in the Cayman Islands, other than in furtherance of its business outside the Islands. An LLC can be formed and registered within one to two working days providing due diligence is in order.

Key Features of an LLC

- > An LLC is a body corporate with separate legal personality and limited liability.
- > The LLC may be formed to carry on any lawful business, purpose or activity not prohibited under the LLC Agreement or any laws of the Cayman Islands.
- > The LLC may (but is not required to) use one of the following suffixes in its name, “Limited Liability Company,” “LLC,” or “L.L.C.”

- > Unlike an exempted company, an LLC does not have share capital; the members are issued interests or classes of interests, allowing for flexible internal accounting and record keeping.
- > The LLC's hybrid nature allows for greater flexibility than that of a company, particularly in respect to its management and organization and how it can allocate profits and losses.
- > The LLC must have at least one member and may be managed by a "managing member" or by a non-member manager(s).
- > The registration of an LLC is simple, requiring the filing of a registration statement and payment of the registration fee (US\$976).
- > The LLC is required to file an annual return (that the registered office handles), and pay an annual government fee to the registrar of US\$976 each January following incorporation.
- > The LLC must maintain the following registers (that are not public record):
 - > register of members (required to be updated within 21 days of any change)
 - > register of security interests (required to be updated within 21 days of any change)
 - > register of managers (must be filed with the Cayman Islands registrar, and any updates communicated to the registrar within 30 days of any change)
 - > register of mortgages and charges
 - > register of beneficial ownership (unless the LLC falls within an exemption category)
- > A tax exemption certificate can be obtained from the Cayman Islands government for an initial period of 50 years on payment of the prescribed fee.
- > A Cayman exempted company (but not a Cayman exempted segregated portfolio company) may convert to (and re-register as) an LLC, and foreign entities can migrate to the Cayman Islands and re-register as an LLC.
- > The registrar is required to make a list of names of current managers available for inspection by any person, on payment of a prescribed fee. The information available is limited to the names of the current managers and does not include any other personal details such as address, date of birth or nationality. A search may be conducted in relation to a specific LLC only and may only be made in person at the offices of the registrar of companies in the Cayman Islands.

FOREIGN COMPANIES

Any company incorporated outside of the Cayman Islands that establishes a presence in the Cayman Islands for the conduct of non-Cayman business must submit the following information to the registrar of companies:

- > A copy (in English), certified and authenticated under public seal, of its memorandum and articles of association (or equivalent)
- > A list of the company's directors and officers, including the address and nationality of each
- > The address of the company's registered office in the Cayman Islands, or the name and address of a person resident in the Cayman Islands who is authorised to accept service of process for the company
- > Every foreign company must exhibit at its place of business in the Cayman Islands, and must state on all letterheads, notices, bills, advertisements and other publications, its name, country of incorporation and the fact that the liability of its members is limited

FOUNDATION COMPANIES

Foundation companies were introduced in 2017 and are a body corporate, with limited liability, and separate legal personality from its members, directors and officers. Key features of a foundation company include that the company does not have to have members following incorporation, that amendments to its memorandum and articles of association can only be made if expressly stated, and that it is not allowed to pay dividends to its members. Foundation companies have a wide range of uses, such as, but not limited to, special purpose vehicles; charities; within private trust company structures for succession planning, etc.

A foundation company is managed by a board of directors. The directors can be located anywhere and there are no restrictions on who can act as a director. A qualified person (who is licensed or permitted by the Cayman Islands Companies Management Law [as amended]) is required to be appointed as the secretary of the foundation and must maintain a full and proper record of its activities and enquiries. The registered office of the foundation company must be at its secretary's registered office.

The foundation company's register of directors and offices, register of mortgages and charges, register of beneficial ownership (if no exemption applies), and register of supervisors is required to be kept at the registered office. A register of members must also be maintained, but it need not be kept at the registered office. The foundation company should maintain a book of minutes and is required to keep proper books of account. There is no requirement to file audited accounts, unless the foundation company is regulated in the Cayman Islands under other regulatory laws.

An annual government fee of US\$854 is payable to the registrar each January following incorporation.

LOCAL COMPANIES

All entities that wish to carry on a business within the Cayman Islands are required by law to obtain a Trade and Business Licence and may also require a local Companies (Control) Licence. Banks, trust companies, insurance companies, company management companies and mutual fund administrators are also subject to specific local regulations.

Company Regulation

The registration and control of local companies is governed by the Companies Law. The administration of the Companies Law is under the supervision of the registrar of companies.

A local company may be formed by one or more persons (the subscribers) affixing their signature to the company's memorandum and articles of association and submitting those documents for registration with the registrar of companies. The subscribers represent the initial owners of the company. Such ownership can be transferred at any time or can be held in a nominee capacity for others.

PUBLIC REGISTER OF CAYMAN COMPANIES

In addition to the registers kept by a company itself, 2020 amendments to the Companies Law introduce a new register of companies, which will be kept by the registrar and open to inspection by any person on payment of a prescribed fee. The register will include the following information:

- > The name of the company, and, if an exempted company, the dual foreign name and translated name
- > The registered office of the company
- > The amount of the company's capital and, in the case of a company having its share capital divided into shares of a nominal or par value, the number of shares into which it is divided and the fixed amounts thereof
- > The names and addresses of the subscribers to the memorandum and articles of association and the number of shares taken by each subscriber
- > The dates of execution and filing of the memorandum of association
- > The company's incorporation number
- > In the case of a company limited by guarantee or a company that has no limit placed on the liability of its members
 - > a statement that the company is limited by guarantee or is unlimited
 - > the omission of any of the particulars specified in Schedule 1A, pursuant to Section 26(3) of the Companies Law (as amended), which are irrelevant or inappropriate
- > The nature of the business
- > The end date of the company's financial year

Mutual Funds

The Cayman Islands is the leading Caribbean centre for the location and operation of offshore mutual funds. All of the professional and technical support services required for the efficient and cost-effective management of offshore funds are available in the jurisdiction.

Trident's fund administration service covers a broad range of activities including a comprehensive accounting service, shareholder communications, accepting subscriptions, payment of dividends, providing net asset valuations, offering and redemption price calculations and the actual redemption of shares.

Trident's professional and administrative staff have had extensive experience in the establishment and administration of funds catering to the institutional and high net-worth investor markets.

Information on Trident's fund services can be found in the Trident Trust Fund Services brochure on Trident's website.

Banks

To avoid the cost of establishing their own physical presence, most Cayman licenced banks contract with local institutions to provide a range of local services. Trident provides a bank administration service that includes dedicated fax and phone lines, office space, acceptance, investment and transfer of funds, record-keeping, financial statement preparation and liaison with local auditors. Trident also undertakes bank licence applications on behalf of clients and generally assists in the liaison on an ongoing basis with the Inspector of Banks. Licensing is limited to affiliates of internationally recognised institutions.

PARTNERSHIPS

Partnerships may be established subject to the Partnership Law, the Exempted Limited Partnership Law or the Limited Liability Partnership Law. The Exempted Limited Partnership Law was enacted in response to a need by advisors for an offshore counterpart to the limited partnership laws available in a number of onshore jurisdictions such as the United States, Japan and the UK. The legislation has been widely used in the mutual funds industry.

Formation of an exempted limited partnership requires the registration of a statement about the partnership, which includes the name, identity of the general partner, the location of the Cayman Islands registered office, the general nature of the business, its date of commencement and duration, and a declaration that the partnership shall not undertake business with the public in the Cayman Islands. The general partner must be either an individual resident in the Cayman Islands, or another Cayman Islands limited partnership, or, as is most frequently the case, a company incorporated in the Cayman Islands. Redemption of partnership interests does not require dissolution of the partnership provided the redemption does not render the partnership insolvent.

Limited Liability Partnership (LLP) vehicles are now available. An LLP combines the flexible features of a general partnership, but has the benefit of a separate legal personality and limited liability for its partners. An LLP's features provide an additional structuring option, such as a general partner or management vehicle, or as a holding or fund of funds partnership. The LLP must use one of the following suffixes in its name, "Limited Liability Partnership," "LLP," or "L.L.P."

An LLP must be established by at least two persons who are either natural persons, body corporates, or other partnerships. Registration is straightforward and requires the filing of a registration statement with the registrar of LLPs in the Cayman Islands and payment of a registration fee. The partners, among themselves, agree to the internal management arrangements of the LLP, as set forth in the LLP Agreement (that is not required to be filed with the registrar). Each partner's interests and rights are set out in the LLP Agreement. The statement for registration includes a declaration that the LLP will not undertake any business with the public in the Cayman Islands. Non-Cayman Islands LLPs may be re-registered and continued as an LLP in the Cayman Islands. A Cayman LLP may also migrate out and continue as a foreign entity in another jurisdiction.

The LLP is required to maintain a register of partners and a register of mortgages and charges at its registered office. The names and addresses of each partner must be filed with the registrar of LLPs. Both the register of partners and register of mortgages and charges are required to be open to inspection by any person at the registered office of the LLP during normal business hours.

A Tax Undertaking Certificate is available from the Cayman Islands government for an LLP on payment of the prescribed fee, which will provide a 50-year exemption from payment of any direct Cayman Islands corporate taxes should such taxes ever be introduced.

An LLP is required to file an annual declaration and pay an annual fee to the registrar of LLPs in January of each year following registration of the LLP.

SHIPPING REGISTRATION SERVICES

The Cayman Islands is home to a growing shipping registry, administered by the Cayman Islands Shipping Registry. Trident is able to assist with the formation of companies to own vessels, as well as with the vessel registration process, and service of the appointment of the authorized representative of the vessel.

ACCOUNTING SERVICES

Trident Trust is able to offer in-house accounting services for locally registered overseas businesses. Trident's accounting staff are experienced in a wide range of accounting applications. Fees are charged at an hourly rate for these services.

LIQUIDATION SERVICES

Trident is able to assist with the voluntary liquidation of Cayman Islands companies. These services include: providing the liquidator in certain circumstances, registering the liquidation, accounting services, contacting shareholders, maintaining bank records and distributing funds. Fees are charged at an hourly rate for these services.

LEGALISATION SERVICES

Trident is able to arrange for the legalisation of most types of original documents under the terms of the Hague Convention, and to certify that a document is a true copy and have it legalised.

- ▶ PEOPLE LED
- ▶ TECH ENABLED
- ▶ GLOBAL COVERAGE
- ▶ TAILORED SERVICE

- ▶ 1,000 STAFF
- ▶ 25 JURISDICTIONS
- ▶ 38,000 ENTITIES
- ▶ \$140BN AUA

- ▶ FUNDS
- ▶ PRIVATE CLIENTS
- ▶ CORPORATE CLIENTS
- ▶ MARITIME

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