

*Consolidated text*  
*RAK ICC Foundations Regulations 2019*  
*as amended on 31 July 2025 by*  
*RAK ICC Foundations Regulations 2019, Amendments 2025*



**RAS AL KHAIMAH INTERNATIONAL CORPORATE CENTRE**  
**GOVERNMENT OF RAS AL KHAIMAH**

**RAK ICC FOUNDATIONS REGULATIONS 2019**

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## PART 1

### PRELIMINARY PROVISIONS

#### 1. Title and Commencement

- (1) These regulations may be cited as the RAK ICC Foundations Regulations 2019 or (“these Regulations”). These Regulations came into force on the Commencement Date with effect from 15 December 2019.
- (2) These Regulations make provisions for Foundations registered with Ras Al Khaimah International Corporate Centre.
- (3) These Regulations are made by the board of directors of RAK ICC pursuant to Ras Al Khaimah Decree No. 4 of 2016.

#### 2. Scope of the Foundations Regulations

These Regulations apply to:

- (a) any Foundation established in accordance with these Regulations;
- (b) any Foreign Foundation which is established in another jurisdiction which has transferred its registration to RAK ICC in accordance with these Regulations.

#### 3. Definitions

In these Regulations, unless the context otherwise requires –

Accounting Records:	records and underlying documents comprising initial and other accounting entries and associated supporting documents, such as cheques, records of electronic funds transfers, invoices, contracts, the general and subsidiary ledgers, journal entries and other adjustments to the financial statements that are not reflected in journal entries; and work sheets and spread sheets supporting cost allocations, computations, reconciliations and disclosures.
Administration Question:	any relief or question in respect of which an action, application or other reference to the Court could be brought or made under these Regulations.
By-laws:	includes any document, by whatever name called, which complies with the requirements of these Regulations relating to the By-laws of a Foundation.
Charter:	includes any document, by whatever name called, which complies with the requirements of these Regulations relating to the charter of a Foundation.
Charter of Continuance:	the charter of continuance of a Foreign Foundation or a company required under Regulation 42 or Regulation 51.

Contributor:	a person, other than a Founder, who contributes property to the Foundation. Contribute in the context of Contributor means to pass, or covenant to pass, the title in property absolutely, with or without consideration, to a Foundation so that the property is an asset of the Foundation (and “to pass”, for the objects of this definition, includes whatever act may be necessary in relation to that property to transfer title effectively) and “contribution” is to be construed accordingly.
Council:	the council of a Foundation established to administer a Foundation’s property and to carry out its objects under Regulation 18.
Court:	DIFC Courts or ADGM Courts; whichever selected in the Charter and By-laws of the Foundation.
Foreign Law:	any law other than these Regulations or the law applicable in the jurisdiction of the Court.
Founder:	a person who contributes property to a Foundation in order to establish it in accordance with Regulation 16.
Guardian:	the person who is the guardian of a Foundation by virtue of Regulation 20
Heirship Right:	any right, claim or interest in, against or to property of a person arising, accruing or existing in consequence of, or in anticipation of, that person’s death, other than any such right, claim or interest created by will or other voluntary disposition by such person or resulting from an express limitation in the disposition of the property of such person.
Person with Sufficient Interest:	<p>in respect of a Foundation, means:</p> <ul style="list-style-type: none"><li>(a) the Foundation.</li><li>(b) a Founder</li><li>(c) a Contributor</li><li>(d) if any rights a Founder had in respect of the Foundation have been assigned to some other person, that other person.</li><li>(e) a member of the Council</li><li>(f) a Guardian</li><li>(g) the Registered Agent</li><li>(h) a person appointed under the By-laws</li><li>(i) a Qualified Recipient in respect of an application under Regulation 28(4)</li><li>(j) a person who, in the view of the Court, can reasonably claim to speak on behalf of an object or object of the Foundation.</li></ul>

Personal Relationship:	<p>includes every form of relationship by blood adoption marriage or cohabitation regardless of whether the law of any jurisdiction recognises the validity, legitimacy or existence of the relationship, including a former personal relationship which has in law or in fact terminated and a personal relationship between two persons exists if:</p> <ul style="list-style-type: none"><li>(a) one is the child of the other, natural or adopted, whether or not the adoption is recognised by law, legitimate or illegitimate.</li><li>(b) one is married to the other, whether or not the marriage is recognised by law;</li><li>(c) one cohabits with the other or so conducts himself or herself in relation to the other as to give rise in any jurisdiction to any rights.</li><li>(d) there exist between them obligations or responsibilities analogous to those of parent and child or husband and wife; or</li><li>(e) personal relationships exist between each of them and a third person,</li></ul> <p>but no change in circumstances shall cause a personal relationship once established to terminate.</p>
Property:	<p>any movable or immovable property, and includes rights and interests, whether present or future and whether vested or contingent and where it concerns the property of a Foundation, shall include:</p> <ul style="list-style-type: none"><li>(a) any property (including money, investments and other property) contributed to the Foundation.</li><li>(b) any capitalised income added to the property so contributed; and</li><li>(c) the money, investments and property from time to time representing those assets and capitalised income.</li></ul>
Property of the Foundation	<p>includes any property comprising the initial capital of the Foundation, together with any additional property endowed upon the Foundation and any income arising therefrom retained by the Foundation but does not include any property which the Foundation has agreed to hold in trust for some other person.</p>
Qualified Person:	<p>a person:</p> <ul style="list-style-type: none"><li>(a) registered and certified by RAK ICC to undertake the activity of acting as a registered agent of Foundation as part of its permitted activities; and</li><li>(b) any other person the Registrar may consider qualified.</li></ul>

Qualified Recipient:	<p>in respect of a Foundation that has the provision of a benefit to a person or to a class of persons as one of its objects, means a person (whether or not yet born or otherwise in existence) who is or who becomes a member of a class of persons that is:</p> <p>(a) specified in the Charter; or</p> <p>(b) determined in accordance with:</p> <p>(i) the By-laws; or</p> <p>(ii) a direction of the Court under Regulation 29(4)</p>
RAK:	means the Emirate of Ras Al Khaimah, UAE.
RAK ICC:	means International Corporate Centre, a Government Authority of Ras Al Khaimah
RAK ICC entity:	means a body corporate organised or formed under the relevant Regulations of RAK ICC.
RAK ICC Business Companies Regulations 2018:	means Ras Al Khaimah International Corporate Centre Business Companies Regulations 2018.
Register:	the register to be kept by the Registrar pursuant to Regulation 38.
Registered Agent:	a Qualified Person who is the registered agent of a Foundation pursuant to Regulation 25.
Registrar:	the RAK ICC Registrar of Companies appointed in accordance with Regulation 260 of the RAK ICC Business Companies Regulations 2018.



## PART 2

### NATURE OF A FOUNDATION

#### 4. Characteristics of a Foundation

- (1) A Foundation is a corporate entity with a legal personality separate from that of its Founder(s) and any other person.
- (2) A Foundation has the capacity, rights and privileges of a natural person. The validity of an act done by a Foundation shall not be called into question on the ground of lack of capacity by reason of anything in its Charter or By-laws.
- (3) The Property of a Foundation is not held by it upon trust for any other person. However, a Foundation may hold other property upon the terms of a trust.
- (4) A Founder has such rights (if any) in respect of a Foundation as provided for in its By-laws.
- (5) A person specified in the By-laws (other than a Founder, a member of the Council, the Registered Agent and any Guardian) has such rights (if any) in respect of a Foundation as provided for in its By-laws.
- (6) Any rights a person may have in respect of a Foundation may be assigned to some other person, if its By-laws so provide.
- (7) If rights are assigned under Regulation 4(5), the person assigning the rights must within a period of thirty (30) days provide a copy of the assignment to the Registered Agent and to the Registrar. A person who fails to comply with this requirement is liable to a fine, not exceeding level 1.

#### 5. Objects of a Foundation

- (1) A Foundation may have any objects, if they do not contravene this Regulation 5.
- (2) A Foundation may be established for:
  - (a) objects which are exclusively charitable; or
  - (b) one or more of the following:
    - (i) objects which are not exclusively charitable; or
    - (ii) objects to benefit persons by name, category or class.
- (3) The objects of a Foundation shall include the management of its Property and income and the distribution of such Property and income by the Council in accordance with its Charter or its By-laws.
- (4) The objects of a Foundation shall not include the carrying on of any activity which is unlawful, contrary to any public policy of RAK ICC or the United Arab Emirates or prohibited under Regulation 40 of the RAK ICC Business Companies Regulations 2018.
- (5) A Foundation may not carry out any commercial activities, except those necessary for, and ancillary or incidental to, its objects.

- (6) The objects of a Foundation may only be amended:
- (a) where there is an express power to do so in the Charter; or
  - (b) by order of the Court on an application made by or on behalf of a Founder, the Foundation or a Guardian where:
    - i. the object has been, as far as may be, fulfilled;
    - ii. the object cannot be carried out or cannot be carried out in accordance with the original intention or spirit in which the Foundation was established;
    - iii. the object provides a use for only part of the Property of the Foundation;
    - iv. the object was laid down by reference to a class of persons or to a matter which has for any reason since ceased to be suitable or practicable in administering the Foundation; or
    - v. the object has ceased in any other way to provide a suitable and effective method of using the Property of the Foundation.
- (7) An application to the Court pursuant to Regulation 5(6)(b) may be brought upon notice to the Founder(s) (if still alive), the Guardian (if any), the Council and (if the Court orders) any other Person with Sufficient Interest by any one of the below:
- (a) RAK ICC;
  - (b) the Foundation; or
  - (c) any other Person with Sufficient Interest.

## **6. Application of Regulations in respect of a Foundation**

- (1) Subject to Regulation 6(2), all matters arising in regard to a Foundation or in regard to any disposition of property to or by a Foundation, including questions as to:
- (a) the capacity of the Founder or the Contributor;
  - (b) the validity, interpretation or effect of the Charter or the By-laws of a Foundation or of an amendment of them;
  - (c) the administration of the Foundation, whether it is conducted in the UAE or elsewhere, including questions as to the functions, powers, obligations, liabilities, rights, appointment and removal of the officers of a Foundation; or
  - (d) the existence and extent of functions in respect of a foundation, including (without limiting the generality of this provision) powers of amendment of the Charter or By-laws, dissolution of the Foundation and the validity of the exercise of such a function

shall be determined in accordance with the laws of the jurisdiction of the Court without reference to the laws of any other jurisdictions with which the Foundation or disposition may be connected.

(2) Subject to Regulations 7 and 8, Regulation 6(1) shall:

- (a) not validate any disposition of property which is neither owned by a Founder or Contributor, nor is the subject of a power vested in a Founder or Contributor;
- (b) not validate any disposition of immovable property situated in a jurisdiction other than the jurisdiction of the Court in which such trust or disposition is invalid according to the laws of such jurisdiction;
- (c) not validate any testamentary disposition which is invalid according to the laws of the testator's last domicile;
- (d) not affect the recognition of Foreign Laws in determining whether a Founder or Contributor is or was the owner of any property transferred to the Foundation or is or was the holder of a power to dispose of such property;
- (e) not affect the recognition of the laws of its place of incorporation in relation to the capacity of a corporation; and
- (f) not affect the recognition of Foreign Laws prescribing generally, without reference to the existence or the establishment of the Foundation, the formalities for the disposition of property within the jurisdiction of those Foreign Laws.

## **7. Foreign Laws, proceedings and judgments**

- (1) Without limiting the generality of Regulation 7(1), no disposition of Property to a Foundation that is valid under the laws of the jurisdiction of the Court is void, voidable, liable to be set aside or defective in any manner by reference to a Foreign Law; nor is the capacity of any Founder in relation to the Foundation or disposition to be questioned nor is the Foundation or any other person to be subjected to any liability or deprived of any power or right, by reason that:
  - (a) the laws of any foreign jurisdiction prohibit or do not recognise the concept of a foundation;
  - (b) the disposition voids or defeats any rights, claims or interests conferred by Foreign Law upon any person by reason of a Personal Relationship to a founder or any other person related to the foundation or by way of Heirship Rights or contravenes any rule of Foreign Law or any foreign, judicial or administrative order, arbitration award or action intended to recognise, protect, enforce or give effect to any such rights, claims or interests; or
  - (c) the Foreign Law or foreign judicial or administrative order or arbitration award or impose any obligation or liability on a founder, foundation or any other party in relation to the foundation or the Property of the foundation.
- (2) Subject to Regulation 7(3), a transfer of Property to a Foundation shall not be void, voidable or liable to be set aside by reason of a Founder or a Contributor's bankruptcy, the liquidation of a Founder or Contributor, or any action or claims made against a Founder or Contributor by any creditor, notwithstanding any foreign statute providing otherwise.

- (3) Notwithstanding Regulation 7(2), where the Court determines that
- (a) at the time when the property was transferred to the Foundation, the Founder or Contributor, as applicable, intended to defraud a creditor; and
  - (b) at the time such transfer took place the transfer of the property rendered the Founder or Contributor, as applicable, insolvent or without property from which if that creditor's claim had been successful, it could have been satisfied,

then such transfer shall not be void or voidable and the Foundation shall be liable to satisfy the creditor's claim and the Foundation's liability shall only be to the extent of the interest the Founder or Contributor, as applicable, had in the property prior to the transfer and of any accumulation to the property transferred (if any) subsequent thereto.

- (4) Where a Foundation is liable to satisfy a creditor's claim in the manner provided for in Regulation 7(3), that creditor's rights to recovery shall be limited to the property referred to in that Regulation, or to the proceeds of that property, to the exclusion of any claim, right or action against the Foundation or any other property of the Foundation.
- (5) A foreign judgment shall not be recognised or enforced or give rise to any estoppels insofar as it is inconsistent with Regulations 7 and 8.
- (6) No proceedings for or in relation to the enforcement or recognition of a judgment obtained in a jurisdiction other than the jurisdiction of the Court against:
- (a) a Foundation;
  - (b) a Founder or Contributor of a Foundation;
  - (c) a member of the Council of a Foundation;
  - (d) a Guardian of a Foundation;
  - (e) a Qualified Recipient of a Foundation;
  - (f) a person appointed or instructed in accordance with the express or implied provisions of an instrument or disposition to exercise a function or undertake any act, matter or thing in connection with a Foundation; or
  - (g) property of a Foundation,

shall be entertained by the Court if that judgment is based upon the application of any law inconsistent with the provisions of these Regulations.

- (7) If, any action is brought against a person in their capacity as a Foundation Officer in a foreign court or tribunal having authority over the Foundation Officer, and such foreign court or tribunal either fails to dismiss such action, or orders the Foundation Officer to take any action in regards to the administration of such Foundation or in respect of such Foundation's property, the Foundation Officer shall immediately upon the action of such court or tribunal and without the further order of any court, cease in all respects to act in their capacity as a Foundation Officer or to have any authority in respect of the Foundation.
- (8) Upon a Foundation Officer ceasing to hold office or have authority in relation to the Foundation in accordance with Regulation 7(7), such person's power or authority in regards to the Foundation shall cease and such person, shall immediately, following its removal or loss of

authority hereunder, give notice in writing of such removal to the person or persons having the power to appoint a replacement Foundation Officer, as applicable.

## **8. Heirship Rights**

An Heirship Right conferred by Foreign Law in relation to the Property of a living person shall not be recognised as:

- (a) affecting the ownership of immovable Property in the jurisdiction of the Court and movable Property wherever situated for the purposes of Regulation 6(2)(a) and (e) or for any other purpose; or
- (b) constituting an obligation or liability for any purpose.

## PART 3

### FORMATION OF A RAK ICC FOUNDATION

#### 9. Formation of a Foundation

- (1) The application for the establishment of a Foundation shall be completed in the manner prescribed by the Registrar, signed by the Founder(s) and submitted to the Registrar.
- (2) The application filed with the Registrar under Regulation 9(1) signed by each Founder shall include:
  - (a) the name of the proposed Foundation;
  - (b) the full name, nationality and address of each Founder;
  - (c) the full name, nationality and address of each of the proposed members of the Council of the proposed Foundation;
  - (d) the full name, nationality and address of each of the proposed Guardian or Guardians (if any) of the proposed Foundation
  - (e) the name and business address of the proposed Registered Agent with RAK ICC;
  - (f) the address of the proposed Foundation's registered office;
  - (g) the Charter of the proposed Foundation;
  - (h) the By-laws of the proposed Foundation; and
  - (i) such other particulars as the Registrar may require.
- (3) The provisions of Regulation 19 of the RAK ICC Business Companies Regulations 2018 shall apply to a Foundation in respect of the use of misleading, deceptive or conflicting names.
- (4) A person may not be named as a Registered Agent unless that person is a Qualified Person and registered by RAK ICC.
- (5) Upon lodgment of the application and payment of the prescribed fee, the Registrar shall either:
  - (a) register the Foundation;
  - (b) seek further information in respect of the proposed Foundation; or
  - (c) refuse the application.
- (6) On the registration of a Foundation, the Registrar shall issue a Certificate of Registration which must state:
  - (a) the name and registered number of the Foundation, and
  - (b) the date of its registration;

**10. Name of a Foundation**

- (1) The name of a Foundation shall end with the word “Foundation” or “Fdn”
- (2) The name of a Foundation shall comply with the Restricted Company Names of RAK ICC Business Companies Regulations 2018, as modified from time to time.

**11. Registered Office**

- (1) A Foundation must at all times have a registered office to which all communications and notices may be addressed, and which shall be in the UAE, and which may be the registered office of its Registered Agent.
- (2) A Foundation may change the address of its registered office by giving notice to the Registrar. The change takes effect upon the notice being registered by the Registrar. Until the end of the period of 30 days beginning with the date on which it is registered a Person may validly serve any document on the Foundation at the address previously registered.

**12. Constitutional Documents of a Foundation:**

The Constitutional Documents of a Foundation shall be in the English language and comprise:

- (a) The Charter; and
- (b) subject to Regulation 14(4), the By-laws.

**13. The Charter**

- (1) The Charter shall comply with the provisions of these Regulations. For the avoidance of doubt, any provisions, duties, powers, functions and rights set forth in a Charter are for internal governance purposes only and shall in no way replace or derogate from the processes, restrictions or oversight set forth in these Regulations.
- (2) The Charter shall contain the following information:
  - (a) the name of the Foundation;
  - (b) the object(s) of the Foundation;
  - (c) if the Foundation has been established for a specific purpose, the purpose for which the Foundation has been established;
  - (d) a description of the Initial Property;
  - (e) provisions for the establishment of a Council;
  - (f) the name of a natural person or Legal Person to whom all property of a Foundation for which provision has not otherwise been made shall pass in the event of the termination thereof (the “Designee”);
  - (g) the term for which the Foundation is established, if any, or the details of any contingent

event which will trigger the dissolution of the Foundation.

- (3) The Charter may contain the following information in addition to the details set out in Regulation 13(2)
  - (a) provisions for the Foundation to be endowed with Supplementary Property;
  - (b) the name and address of each of the initial Council members;
  - (c) provisions governing the appointment and removal of a Council member;
  - (d) description of the manner in which decisions of the Council are to be made;
  - (e) provisions for the designation of Qualified Recipients
  - (f) provisions for the appointment or removal of one or more Persons to act as Guardian or Guardians respectively;
  - (g) the duties, powers, functions and rights, including the rights to remuneration, of a Guardian;
  - (h) provisions for the making of By-laws;
  - (i) provisions for the appointment of a Person, whether by power of attorney or otherwise, to carry out particular duties on behalf of the Foundation;
  - (j) provisions for the appointment, term of office and removal of an auditor, if any, of the Foundation;
  - (k) provisions for amending the Charter or the By-laws;
  - (l) provisions for the circumstances, if any, in which the Foundation may be continued in or outside RAK ICC and the conditions to be satisfied in respect of such continuation in or outside RAK ICC;
  - (m) provisions for the reservation of rights or powers to the Founder or Founders, as the case may be;
  - (n) provisions for any other lawful matter in respect of the Foundation.
- (4) RAK ICC may prescribe model provisions to be known as the “Standard Charter”, and a Foundation may, for its Charter, adopt the whole or any part thereof as are applicable to that Foundation.
- (5) Amendments to the Charter shall be executed by or on behalf of each Founder. If a Foundation proposes to amend its Charter, it must after completing its internal processes necessary to amend the Charter, lodge the amended Charter with the Registrar within a period of thirty (30) days after such amendment. A Foundation which fails to comply with this requirement is liable to a fine not exceeding level 2.
- (6) The amended Charter shall come into force upon it being registered by the Registrar, and, if the change involves a change of name, upon the issue of a certificate by the Registrar pursuant to Regulation 33.
- (7) The Charter may provide that if at any time the Property of the Foundation includes any Property which by reason of the law of the UAE or any other specified jurisdiction may be held only by a



national of that country the only persons who may be officers of the Foundation or Qualified Recipients under the Foundation are nationals of that jurisdiction at that time, and may further provide that such provision may not be amended or revoked.

- (8) If the Charter contains an irrevocable provision of the type referred to in Regulation 13(7) then notwithstanding any other provision of these Regulations, that provision may not be amended or revoked.

#### **14. The By-laws**

- (1) The By-laws shall comply with the provisions of these Regulations. For the avoidance of doubt, any provisions, duties, powers, functions and rights set forth are for internal governance purposes only and shall in no way replace or derogate from the processes, restrictions or oversight set forth in these Regulations.

- (2) If the following matters are not included in the Charter, the By-laws must:

- (a) prescribe the functions of the Council (including the nature of any powers to delegate its responsibilities);
- (b) detail the procedures for the appointment, resignation and removal of members of the Council and any Guardian;
- (c) if the members of the Council or any Guardian are to be remunerated, the details in respect thereof;
- (d) set out how the decisions of the Council are to be made and, if any decision requires the approval of any other person, specify the decisions and that person;
- (e) if the functions of the Council must or may be delegated or exercised in conjunction with any other person, the extent to which this must or may be done; and
- (f) specify what is to happen to any Property of the Foundation that remain should the Foundation be wound up and dissolved.

- (3) The By-laws may:

- (a) prescribe the manner in which the Property of the Foundation may be distributed, accumulated or applied;
- (b) detail whether, and if so how, further Property may be endowed upon the Foundation;
- (c) provide for the addition or removal of a person or class of persons as recipients or for the exclusion from the category of recipient of a person or class of persons, either revocably or irrevocably;
- (d) detail any person's powers in relation to the Foundation (including, but not limited to, the power to appoint or remove any official, to take investment decisions or to approve the use of Property);
- (e) impose obligations upon recipients as a condition of receipt of any amount from the Foundation;
- (f) make the potential right of a recipient in relation to a receipt of any amount from the Foundation:

- (i) liable to termination;
    - (ii) subject to a restriction on alienation or dealing; or
    - (iii) subject to diminution or termination in the event of the recipient becoming bankrupt; and
  - (g) contain any other matter that the Founder(s) deem fit.
- (4) To the extent to which matters required or authorised to be in the By-laws under Regulation 14 (2) are contained within the Charter, such matters need not also be in the By-laws, and if all of the matters in Regulation 14 (2) and (3) are contained in the Charter, a Foundation need not to have any By-laws.
- (5) To extent of any conflict between the Charter and the By-laws of the Foundation, the Foundation Charter shall control.
- (6) RAK ICC may prescribe model provisions to be known as the “Standard By-laws”, and a Foundation may adopt the whole or any part thereof as are applicable to that Foundation.
- (7) The Registered Agent and the Registrar shall be notified of any change to the By-laws and a copy of the amended By-laws shall be provided to the Registered Agent and filed with the Registrar within thirty (30) days of such change. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.
- (8) Subject to the provisions of the Charter or By-laws, the Council may amend or replace the By-laws by a unanimous resolution of the Council.

## PART 4

### FOUNDATION OFFICERS

#### 15. The Founder

- (1) The Founder of the Foundation has such rights (if any) in respect of the Foundation and its Property as are provided for in its Charter and By-laws.
- (2) Any rights the Founder may have in respect of the Foundation and its Property may be assigned to some other person if its Charter and By-laws so provide.
- (3) Where
  - (a) The Founder has rights in respect of the Foundation and its Property; or
  - (b) a person has been assigned any rights of the Founder in respect of the Foundation and its Property,and the Founder or person, as the case may be
  - (c) dies; or
  - (d) in the case of the Founder or a person that is not an individual, ceases to exist,those rights vest in the Guardian of the Foundation unless its Charter and By-laws provide otherwise.

#### 16. Powers of the Founder

- (1) Subject to Regulation 16(2), the Founder may not reserve to himself any powers to amend, revoke or vary the Charter or By-laws or to terminate the Foundation.
- (2) A Founder may reserve the following powers:
  - (a) the power to amend, revoke or vary the terms of the Charter or By-laws, or both of them, in whole or in part;
  - (b) the power to change the objects of the Foundation;
  - (c) the power to direct or approve the investment activities of the Foundation;
  - (d) the power to appoint and remove the Council or Guardian; and
  - (e) the power to terminate the Foundation,provided that the power to amend, revoke, vary or terminate, as the case may be, is detailed in full in the Charter, and provided that these powers are only reserved:
  - (f) for a period not exceeding the duration of a Founder's life, if he is a natural person; or
  - (g) for a period not exceeding fifty (50) years from the date of establishment of the Foundation, if the Founder is a legal person,and thereafter any such powers so reserved shall lapse, notwithstanding the terms of the Charter.

- (3) If, at any time in respect of a Foundation:
- (a) any power has been reserved or granted under Regulation 16(2) to more than one Founder; and
  - (b) more than one Founder is capable of exercising it at that time,
- then such power must be exercised by those Founders unanimously unless the Charter provides otherwise.

## **17. The Council**

- (1) The Council shall comprise at least two (2) members. A Founder or a body corporate may be appointed as a member of the Council.
- (2) The Council shall carry out the objects of the Foundation and administer its Property.
- (3) A member of the Council:
  - (a) must be so named in the Register;
  - (b) must ensure that the Council keeps accurate Accounting Records for the Foundation;
  - (c) must comply with the provisions of these Regulations, the Charter and By-laws.
  - (d) act honestly and in good faith with a view to the best interests of the Foundation;
  - (e) exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances; and
  - (f) declare any interest in a transaction of the Foundation at any Council meeting at which such transaction is considered.
- (4) A person must not be appointed as a member of a Council, or be so referred to in the Register, unless he has consented in writing to being a member of the Council.
- (5) The appointment of a person as a member of a Council is void and will have no effect if that person is also a Guardian of the Foundation.
- (6) The duty under Regulation 17(4) is fiduciary in nature.
- (7) An act of a member of the Council is valid despite any defect that may afterwards be found in:
  - (a) the appointment of the member; or
  - (b) the member's qualifications.
- (8) The Registrar must be notified of the details of any change in the membership of a Foundation's Council within thirty (30) days of the occurrence of the change. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.
- (9) A Council member must declare to the other members of the Council the nature and extent of any direct or indirect interest in a proposed transaction or arrangement with the Foundation:

- (a) The declaration must be in writing;
- (b) If a declaration of interest under this Regulation 17(10) proves to be, or becomes, inaccurate or incomplete, a further declaration must be made;
- (c) Any declaration required by this Regulation 17(10) must be made before the Foundation enters into the transaction or arrangement;
- (d) This Regulation 17(10) does not require a declaration of an interest of which the Council is not aware or where the Council is not aware of the transaction or arrangement in question. For this purpose, a Council member is treated as being aware of matters of which he ought reasonably to be aware.
- (e) A Council member need not declare an interest if it cannot reasonably be regarded as likely to give rise to a conflict of interest; if, or to the extent that, the other Council member are already aware of it (and for this purpose the other Council members are treated as aware of anything of which they ought reasonably to be aware); or if, or to the extent that, it concerns terms of his service contract that have been or are to be considered by a meeting of the Council, or by a committee of the Council appointed for the purpose under the Foundation's Charter.

## **18. Appointment of the Council**

- (1) Prior to registration of a Foundation, the Council shall be appointed by the Founder or Founders. Following registration, the Council shall be appointed in accordance with the relevant provisions of the Charter or By-laws.
- (2) In circumstances where the number of Council members fall below the number required in Regulation 17(1) or required in the Charter or By-laws, the necessary additional Council member shall be appointed as soon as practicable as provided for in the Charter or By-laws, or, in the absence of any express provisions in the Charter or By-laws, in accordance with Regulation 18(3) below.
- (3) Where the Charter or By-laws of a Foundation contain no provision for the appointment of a new or additional Council member, or such provision has lapsed or failed, or the Person or Persons required to exercise such power fail to do so for whatever reason, the Founder or a in the absence of the Founder a Guardian may appoint of one or more Council members in order that the Foundation complies with the requirements of the Charter or By-laws or these Regulations.
- (4) The appointment of a Person as a Council member is personal to that Person and may not be assigned or delegated, except that a Council that is a Legal Person may act through its authorized officers or agents.
- (5) No Person shall be appointed or be permitted to remain as a Council member
  - (a) in the case of a natural person, if the Person is a Minor or mentally incapacitated or has an undischarged bankruptcy;
  - (b) in the case of a Legal Person, if the Person is insolvent, has had a receiver or liquidator appointed or is dissolved.
- (6) A Foundation must give written notice of the appointment of the Council, including the full name and address of the Council members, to its Registered Agent and the Registrar within thirty (30) days of such appointment.

**19. Liability of the Council members**

- (1) This Regulation applies to a person appointed under the Charter or By-laws of a Foundation when acting or purporting to be acting in the course of that appointment.
- (2) Nothing:
  - (a) in the Charter or By-laws; or
  - (b) in a contract between the Foundation and a person to whom this Regulation applies, relieves, releases or excuses that person from any liability for fraud, wilful misconduct or gross negligence.
- (3) Any insurance purchased and maintained by the Foundation in respect of a person to whom this Regulation applies must not include insurance in respect of any liability the person may incur:
  - (a) to the Foundation;
  - (b) to pay a fine in respect of a contravention of these Regulations; or
  - (c) any costs the person may incur:
    - i. in defending criminal proceedings in which the person is convicted; or
    - ii. in defending civil proceedings brought by the Foundation in which judgment is given against the person.

**20. The Guardian**

- (1) If a Foundation has a charitable object, or a specified non-charitable object, the Foundation must have a Guardian in relation to that object.
- (2) A Foundation may, but need not, have a Guardian in respect of an object to provide some or all of its property to a person or class of persons:
  - (a) whether or not immediately ascertainable; or
  - (b) ascertained by reference to a Personal Relationship
- (3) Where the appointment of a Guardian is required, such appointment shall be made by any Person empowered to do so in the Charter or By-laws or otherwise in writing, and if there is no such Person, the Council shall make application to the Court for the appointment of a Person to be the Guardian and the Court shall duly appoint a consenting Person to act as a Guardian.
- (4) A Guardian may be a Qualified Recipient and may be a Legal Person, but may not be a Council Member.
- (5) The appointment of a Person to act as a Guardian is personal to that Person and may not be assigned or delegated except that a Guardian that is a Legal Person may act through its authorised officers or agents.
- (6) The Guardian must take reasonable steps to ensure that the Council of the Foundation carries out its functions. Accordingly, the Guardian may require the Council to account to the Guardian for

the way in which it has:

- (a) administered the Foundation's Property; and
  - (b) acted to further the Foundation's objects.
- (7) The By-laws may give a Guardian the power to approve or disapprove any specified actions of the Council.
- (8) Except to the extent that the By-laws provide otherwise, a Guardian may sanction or authorise any action taken or to be taken by the Council that would not otherwise be permitted by the By-laws if the Guardian considers that it is appropriate to do so. However, the Guardian must not sanction or authorise any action taken or to be taken by the Council unless he is satisfied:
  - (a) that it is in the best interests of the Foundation; and
  - (b) that the Council has acted, or will be acting, in good faith; and
  - (c) not in contravention of these Regulations.
- (9) No Person shall be appointed or be permitted to remain as a Guardian
  - (a) in the case of a natural person, if the Person is a Minor or mentally incapacitated or has an undischarged bankruptcy;
  - (b) in the case of a Legal Person, if the Person is insolvent, has had a receiver or liquidator appointed or is dissolved.

## **21. Liability of the Guardian**

- (1) Subject to the provisions of these Regulations and the provision of the Charter and By-laws, a Guardian who commits a breach of duty is liable for any loss in value of the Foundation Property resulting from the breach.
- (2) The provisions of the Charter or By-laws of a Foundation may not
  - (a) relieve a Guardian of liability for a breach of duty arising from his own fraud, willful misconduct or gross negligence; or
  - (b) grant him any indemnity against the Foundation Property in respect of any such liability.

## **22. Powers of the Guardian**

- (1) The powers of a Guardian may be set out in the Charter or By-laws of a Foundation and may be greater or more limited than those set out in these Regulations.
- (2) Subject to the terms of the Charter or By-laws a Guardian shall
  - (a) be responsible for ensuring compliance by the Foundation and its Council with the Charter, By-laws and the provisions of these Regulations; and
  - (b) supervise the activities of the Council in managing the Foundation.

- (3) The Guardian shall have access to all information necessary for the exercise of his powers, in particular to the Accounting Records, accounts and returns of the Foundation.
- (4) The Guardian should be given due notice of meetings of the Council in order that he may table business, attend and participate in such meetings (although he will not have any entitlement to vote) and receive all papers circulated to Council members including any copies of written resolutions of the Council.

## **23. Cessation of the Guardian**

- (1) A Guardian shall cease to act as the Guardian in the event of
  - (a) the Guardian's resignation;
  - (b) the proper removal of the Guardian in accordance with the Charter, By-laws or the provisions of these Regulations;
  - (c) the dissolution of the Foundation; orthe death, incapacity or bankruptcy of the Guardian where the Guardian is a natural person and, in the case of a Legal Person, the insolvency, appointment of a receiver or liquidator or dissolution of such Person.
- (2) Removal or replacement of a Guardian must be notified to the Registrar in accordance with Regulation 13(5).
- (3) Subject to the Charter or By-laws, a Founder or the Council may apply to the Court to seek the removal of a Guardian for failure to properly carry out the duties required of a Guardian in the Charter, By-laws or the provisions of these Regulations and the Court may, if it deems fit, order the removal of the Guardian and the appointment of a fit and proper Person to act as Guardian.
- (4) In the absence of bad faith, a Guardian shall not be liable in damages for anything done or omitted to be done in the discharge of the duties of a Guardian under the Charter, By-laws or the provisions of these Regulations.

## **24. The Designee**

- (1) The Charter or By-laws may identify a default recipient to whom all property of a Foundation for which provision has not otherwise been made shall pass in the event of the termination thereof.
- (2) Unless otherwise provided in the Charter or By-laws, a default recipient is not entitled to information about the Foundation, and has no rights in respect of it.
- (3) If:
  - (a) no default recipient is named in the Charter or By-laws; or
  - (b) any such default recipient no longer exists,

any property of a Foundation existing at its termination shall, unless the Charter or By-laws provide otherwise, become property of the Government of Ras Al Khaimah.



**25. The Registered Agent**

- (1) A Foundation must have a Registered Agent.
- (2) The Registered Agent of a Foundation:
  - (a) must be appointed in accordance with these Regulations; and
  - (b) has, in respect of the Foundation, the functions specified in these Regulations and the By-laws.
- (3) On the establishment of a Foundation, the proposed Registered Agent named in the Charter becomes the Registered Agent of the Foundation.
- (4) Details of any change of the Registered Agent must be provided to the Registrar within thirty (30) days of the occurrence of the change. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.
- (5) A Foundation may not have more than one Registered Agent at any time.

**25A. Duress**

To the extent any person is granted the power under these Regulations, the Charter or the By-laws of a Foundation to demand or request any act on the part of a Founder, Contributor, Qualified Recipient or Foundation Officer, each such person is directed, to the extent such person would not be subject to personal liability or personal exposure:

- (a) to accept or recognise only demands or requests, or the effects of any approval, veto, or compelled action or the exercise of any power, which are given by or are the result of persons acting of their own free will and not under compulsion or pursuant to any legal process, directive, order, or like decree of any court (other than the Court), administrative body, or other tribunal or like authority (other than the Registrar); and
- (b) to ignore any demands or requests, or the effects of any approval, veto, or compelled action or the exercise of any power, where the person attempting to demand, request, approve, veto, compel the act, or exercise the power is not a person either appointed or so authorised pursuant to these Regulations, the Charter or the By-laws of the Foundation.

## PART 5

### PROPERTY OF A FOUNDATION

#### 26. Minimum initial capital

- (1) For the purpose of the registration of a Foundation, the Charter must require the Foundation to have initial capital with a value of 100 US dollars or its equivalent in any other currency.
- (2) The initial capital may comprise of the Property of the Foundation and may be provided by way of gift or for valuable consideration.
- (3) Following the endowment of the initial capital, further Property may be endowed upon the Foundation by any person if the Charter so permits.

#### 27. Property of a Foundation

- (1) The Property of a Foundation may comprise any property.
- (2) The Property of a Foundation must be managed in accordance with the Charter, By-laws and the provisions of these Regulations and solely for the attainment of the objects specified in the Charter and authorized by these Regulations.
- (3) The Property of a Foundation shall consist of:
  - (a) the initial capital of the Foundation;
  - (b) any further amount endowed upon the Foundation and accepted by its Council;
  - (c) the proceeds of investment of the capital of the Foundation; and
  - (d) any other Asset acquired in accordance with these Regulations;

but does not include any property held in trust in accordance with Regulation 4(3) which shall be held upon the terms of the trust.

#### 28. Qualified Recipients

- (1) A Foundation's By-laws may provide for the distribution of Property of the Foundation to Qualified Recipients.
- (2) A Qualified Recipient shall be one or more of the following:
  - (a) a person holding an entitlement specified in, or pursuant to, the By-laws to a fixed share of the Property and income of the Foundation when the Foundation distributes it;
  - (b) a person holding a depository receipt;
  - (c) a person who is a prospective recipient of a fixed, or discretionary, share of the Property of the Foundation upon the happening of a future event specified in the By-laws;

- (d) a person who is nominated pursuant to the By-laws to be a recipient of a fixed, or discretionary, share of the Property and income of the Foundation at a time following the establishment of the Foundation; and
  - (e) the Designee.
- (3) A Qualified Recipient has no right to or interest in the property of the Foundation other than a right to payment of amounts which arises pursuant to the By-laws, or a contract with the Foundation, including a contract in relation to a depository receipt.
- (4) If:
  - (a) a Qualified Recipient becomes entitled to receive an amount from a Foundation in accordance with the Charter or the By-laws; and
  - (b) the amount is not provided,the Qualified Recipient, or a person acting on behalf of the Qualified Recipient, may seek an order of the Court ordering the Foundation to pay the amount.
- (5) Except as provided by Regulation 28(6), a Qualified Recipient must seek an order pursuant to Regulation 28(4) within the period of three (3) years from the time when the Qualified Recipient became aware of the entitlement to receive the amount.
- (6) If the Qualified Recipient has not attained the age of 18 years when he or she became aware of his or her entitlement to receive the amount, the period referred to in Regulation 28(5) begins to run on the day on which the Qualified Recipient attains that age.

## **29. Depository receipts**

- (1) A Foundation may issue securities, including depository receipts, representing specific rights to payment quantified by reference to specific parts of the Property owned by the Foundation or relating to other rights or interests, whether present or future, to which the Foundation is or might be entitled.
- (2) Any such securities issued by a Foundation may be subscribed for or issued in favour of any individual or legal entity.
- (3) The Foundation retains full ownership of the Property and full entitlement to the rights or interest in any Asset in respect of which it issued securities under Regulation 30(1).
- (4) Any payments to holders of securities issued pursuant to Regulation 30(1) shall be made in accordance with the terms and conditions set forth in the By-laws or agreed to by the Foundation in accordance with procedures contained in the By-laws.
- (5) In case of securities issued in connection with shares or other securities held by the Foundation, the Foundation shall retain any voting rights that may be attached to the securities it owns, unless the terms and conditions of the securities concerned expressly provide otherwise.

## **30. Limitation to the transferability of rights in respect of a Foundation**

- (1) Unless otherwise provided in the Charter or By-laws, the right to receive payments from a

Foundation are transferable.

- (2) The Charter or By-laws may limit the right to transfer a right to payment in one (1) or more of the following cases:
  - (a) the transferee is already a holder of certificates or depository receipts of the same kind, and issued by the same Foundation;
  - (b) the transferee is a Founder;
  - (c) the transferee is a Qualified Recipient of the Foundation; or
  - (d) the transferee is a legal entity or a natural person acting in the name or on behalf of one (1) of the persons indicated under Regulation 30(2)(a), (b) or (c).

## PART 6

### ADMINISTRATION OF A FOUNDATION

#### **31. Registered office and conduct of business**

- (1) A Foundation shall at all times have a registered office in the UAE to which all communications and notices may be delivered.
- (2) Subject to the provisions of Regulation 5(4), a Foundation shall carry on its activities in the UAE and elsewhere as permitted by law.
- (3) A document may be served on a Foundation by leaving it at, or sending it by post to, the registered office of the Foundation or by other means agreed in writing by the Foundation.

#### **32. Particulars in correspondence and other communications**

Subject to these Regulations, the name of a Foundation and its number shall appear in legible characters on the common seal of the Foundation (if applicable), and on every business letter, statement of account, invoice, official notice, publication or any other instrument issued by the Foundation, including communications through electronic means.

#### **33. Change of name**

- (1) Where a Foundation changes its name under Regulation 13(6), the Registrar shall enter the new name on the Register in place of the former name, and shall issue a Certificate of Name Change showing the previous name and the new name of the Foundation, provided that any such name change shall also be subject to Regulation 9(3).
- (2) The name change will take effect from the date on which the Registrar issues the Certificate of Name Change.
- (3) A change of name by a Foundation under these Regulations does not affect any rights or obligations of the Foundation or render defective any legal proceedings by or against it and any legal proceedings that might have been continued or commenced by or against it under its former name may be continued or commenced under its new name.

**34. Accounts and Accounting Records**

- (1) Every Foundation must keep at its registered office adequate Accounting Records. A Foundation which fails to keep and maintain accounts or make them available as required under these Regulations is liable to a fine, not exceeding level 3.
- (2) A Foundation's accounts shall be approved by the Council. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 3.
- (3) A person who makes a statement that is false, misleading or deceptive in a material way to the Registrar or the Registered Agent in respect of accounts, is liable to a fine not exceeding level 5.
- (4) Accounting Records that a Foundation is required to keep must be preserved by it for five years from the date on which they are made.
- (5) Upon the request of the Registrar, the Foundation must deliver within (14) days a copy of all requested Accounting Records and/or accounts and returns. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 3.
- (6) The Accounting Records and accounts and returns of a Foundation will not be subject to public disclosure by the Registrar.

## PART 7

### REGISTRAR

#### **35. The Function of the Registrar**

- (1) The Registrar shall administer these Regulations and perform the functions and exercise the powers conferred by or under these Regulations and the RAK ICC Business Companies Regulations 2018.
- (2) The Registrar has the authority to approve such forms as it considers necessary for the purpose of these Regulations and may issue such guideline or directions as are required for the proper administration of these Regulations including issuing standard documents such as Charters and By-laws as he deems fit.
- (3) The Registrar shall utilise the official seal in authenticating or issuing official documents in connection with the registration of Foundations under these Regulations.
- (4) The Registrar may give directions to the Foundation requiring it
  - (a) to produce such documents (or documents of such description) as may be specified in the directions; and
  - (b) to provide such information (or information of such description) as may be so specified, at such time and place as may be specified in the directions.
- (5) The production of a document in pursuance of Regulation 35 (4) does not affect any lien which a person has on the document.
- (6) The power under this Regulation 35 to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document
  - (a) in hard copy form, or
  - (b) in a form from which a hard copy can be readily obtained.
- (7) Any person who fails without reasonable excuse to comply with any requirement imposed in accordance with this Regulation commits a contravention of these Regulations and shall be liable to a fine not exceeding level 5.
- (8) In this Regulation “document” includes information recorded in any form.

#### **36. The Registrar may disclose information**

- (1) The Registrar may disclose any material held where such disclosure is
  - (a) permitted or required to be made under the laws, regulations or rules of the UAE;
  - (b) made to:
    - i. a governmental or regulatory authority exercising powers and performing functions relating to anti-money laundering;
    - ii. a civil or criminal law enforcement agency; or

- iii. a governmental or other regulatory authority including a self-regulatory body or organisation exercising powers and performing functions in relation to the regulation of auditors, accountants or lawyers, for the purpose of assisting the performance by any such person of its regulatory functions.
- (c) made in good faith for the purposes of performance and exercise of the functions and powers of the Registrar.

### **37. Keeping of records by Registrar**

- (1) The Registrar shall maintain a Foundations Register established under these Regulations which will contain the following information in respect of each Foundation
  - (a) Name, registration number and the date of registration under these Regulations;
  - (b) name and address of its Registered Agent;
  - (c) name and address of each Council member; and
- (2) The Foundations Register shall be in such form as the Registrar may determine but shall be separate and apart from the register established and maintained pursuant to the RAK ICC Business Companies Regulations 2018.

### **38. Foundation to make annual return**

- (1) Foundation must file an annual return with the Registrar.
- (2) The annual return must be filed in the form and manner prescribed by the Registrar and must contain the information required by the Registrar.
- (3) The annual return must be made up to the Foundation's return date, which shall be each anniversary of the date it received its Certificate of Registration, or such other date the Registrar considers appropriate.
- (4) A Foundation which fails to file an annual return by the date specified in Regulation 30(3) is liable to a fine, not exceeding level 3.
- (5) A Foundation must pay the prescribed annual return fees to the Registrar in accordance with the Fees as prescribed by the Registrar.

### **39. Power of the Registrar to refuse documents**

- (1) The Registrar may refuse to accept an application for the incorporation of a Foundation if
  - (a) the Registrar is not satisfied that its proposed objects are lawful; or
  - (b) the Registrar considers that its proposed name is misleading or otherwise undesirable or that it does not end with the word "Foundation" or a word or words that mean that word in a foreign language.
- (2) If the Registrar does so refuse, the Registrar must inform the applicant of the refusal and the reason for the refusal.

- (3) The Registrar may refuse to accept any application to register a change in the Charter of a Foundation that involves a change in its objects or a change of its name that could not in either case be lawfully included in the original objects or adopted as a name.

**40. Power of the Registrar to dismiss or appoint a Registered Agent**

- (1) If the Registrar is satisfied that it is in the interest of a Foundation to do so, the Registrar may order:
  - (a) the removal of its Registered Agent; and/or
  - (b) the appointment of a Qualified Person to be its Registered Agent.
- (2) The Foundation must give notice of the change of Registered Agent to the Registrar within thirty (30) days of the order of the Court under Regulation 63(1). A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.



## PART 8

### MIGRATION, CONTINUATION AND DISSOLUTION OF A FOUNDATION

#### **41. Continuation of a Foreign Foundation in RAK ICC**

- (1) A Foreign Foundation may, if not prohibited in terms of its founding documents or under the laws of the jurisdiction under which it is organised, apply to the Registrar for a Certificate of Continuance under these Regulations.
- (2) An application made under Regulation 41(1) shall be in such form as may be prescribed by the Registrar and be accompanied by a Charter of Continuance, and the By-laws (if any) that will apply to the Foreign Foundation upon its continuance as a Foundation under these Regulations.
- (3) Upon registration with RAK ICC, the Foreign Foundation must cease to be registered in the jurisdiction in which it is currently registered, if different.
- (4) A Charter of Continuance may, without so stating in the document, effect any amendment to the organisational instruments of the Foreign Foundation that applies for continuance under this Regulation, if the amendment:
  - (a) is authorised in accordance with the law applicable to the Foreign Foundation before continuance under these Regulations; and
  - (b) is an amendment that a Foundation is entitled to make under these Regulations.

#### **42. Charter of Continuance for Foreign Foundations**

- (1) The Charter of Continuance of a Foreign Foundation shall be written in the English language.
- (2) The Charter of Continuance of a Foreign Foundation shall:
  - (a) be signed by all of the members of the Council or substantially equivalent officers of the Foreign Foundation;
  - (b) be signed by the Guardian, if any, if so required by the Charter or By-laws or foreign equivalent.
  - (c) state the name of the Foreign Foundation and the name under which it will be continued in RAK ICC;
  - (d) state the jurisdiction under which it is established;
  - (e) state the date on which it was established; and
  - (f) comply with such other requirements under these Regulations as apply to the Charter.

#### **43. Certificate of continuance for Foreign Foundations**

- (1) Upon receipt of the Charter of Continuance and, if applicable, the proposed By-laws, the Registrar shall if he is satisfied that Regulations 41 and 42 have been complied with, issue a Certificate of

Continuance in respect of the Foreign Foundation which shall also serve as the Certificate of Establishment of the Foreign Foundation as a Foundation in RAK ICC.

- (2) On the date shown in the Certificate of Continuance:
  - (a) the Foreign Foundation shall become a Foundation in RAK ICC to which these Regulations shall apply as if it had been established under these Regulations; and
  - (b) the Charter of Continuance shall become the Charter thereof.

#### **44. Preservation of a Foundation**

When a Foreign Foundation is continued as a Foundation in RAK ICC under these Regulations:

- (a) the property of the Foreign Foundation becomes the Property of the Foundation;
- (b) the Foundation continues to be liable for the obligations of the Foreign Foundation;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the Foreign Foundation may be continued by or against the Foundation; and
- (e) a conviction against, or ruling, order or judgment against or in favour of, the Foreign Foundation may be enforced against the Foundation.

#### **45. Cancellation of registration**

- (1) Where a Foreign Foundation is registered as a Foundation under this Part, the Foundation shall, as soon as possible (but not exceeding a period of three (3) months), file with the Registrar any certificate or other document issued under the law of the place in which the Foundation has ceased to be registered evidencing the fact that the Foundation has ceased to be registered under that law. A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.
- (2) If the Court is satisfied that:
  - (a) a Foreign Foundation has been registered as a Foundation pursuant to the provisions of this Part; and
  - (b) the Foundation continues to be established or registered under the law of any place outside RAK ICC,the Court may, in its absolute discretion on the application of:
  - (c) the Foundation, any Person with Sufficient Interest or a creditor; or
  - (d) the Registrar, make an order for the removal of the Foundation's name from the Register.
- (3) An order under Regulation 45(2) may be made subject to such terms and conditions and such penalty as the Court thinks fit.

**46. Foundation leaving RAK ICC**

Subject to Regulation 47, a Foundation may:

- (a) if it is authorised by unanimous resolution of the members of its Council, or approved by the Court if the resolution of the Council is not unanimous; and
- (b) if it is established to the satisfaction of the Registrar that the Foundation's proposed continuance in another jurisdiction will not adversely affect the Foundation's creditors,

apply to the appropriate official or public body of the other jurisdiction to be continued in the other jurisdiction as if it had been established under the laws of the other jurisdiction.

**47. Conditions applicable to a Foundation leaving RAK ICC**

A Foundation may not apply for continuance in another jurisdiction, nor may it be continued under the laws of another jurisdiction, as an entity in that other jurisdiction pursuant to Regulation 48 unless the laws of that other jurisdiction provide that:

- (a) the Property of the Foundation continue to be the property of the entity;
- (b) the entity continues to be liable for the obligations of the Foundation;
- (c) any existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the Foundation may be continued by or against the entity; and
- (e) a conviction against, or ruling, order or judgment against or in favour of, the Foundation may be enforced against the entity.

**48. Discontinuance and effect**

- (1) Upon receipt of a notice satisfactory to him that a Foundation that has made an application under Regulation 46 has been continued as an entity under the laws of another jurisdiction, the Registrar must file the notice and issue a Certificate of Discontinuance in accordance with these Regulations.
- (2) After a Certificate of Discontinuance is issued under Regulation 48(1) in respect of a Foundation that is continued as an entity under the laws of another jurisdiction, the Foundation's name shall be removed from the Register.

**49. Continuation of company as a RAK ICC Foundation**

- (1) A company incorporated under the RAK ICC Business Companies Regulation 2018 may, if authorised by a unanimous resolution of all of its shareholders, apply to the Registrar for a Certificate of Continuance under these Regulations.
- (2) An application made under Regulation 49(1) shall be in such form as may be prescribed by the Registrar and be accompanied by a Charter of Continuance, and the By-laws (if any) that will

apply to the company upon its continuance as a Foundation under these Regulations.

- (3) A Charter of Continuance may, without so stating in the document, effect any amendment to the memorandum and articles of association of the company that applies for continuance under this Regulation if the amendment is an amendment that a Foundation is entitled to make under these Regulations.

## **50. Charter of Continuance of a company**

- (1) The Charter of Continuance of a company shall be written in the English language.
- (2) The Charter of Continuance of a company shall:
  - (a) be signed by all of the directors of the company;
  - (b) state the name of the company and the name under which it will be continued with RAK ICC as a RAK ICC Foundation;
  - (c) state the date on which it was established; and
  - (d) comply with all other requirements under these Regulations that apply to a Charter.

## **51. Certificate of Continuance of a company**

- (1) Upon receipt of the Charter of Continuance and, if applicable, the proposed By-laws, the Registrar shall if he is satisfied that Regulations 49 and 50 have been complied with, issue a Certificate of Continuance in respect of the company which shall also serve as the certificate of establishment of the company as a Foundation in RAK ICC.
- (2) On the date shown in the Certificate of Continuance:
  - (a) the company shall become a Foundation in RAK ICC to which these Regulations shall apply as if it had been established under these Regulations;
  - (b) the Charter of Continuance shall become the Charter thereof in the place of its memorandum and articles of association; and
  - (c) the company shall cease to be registered as a company in RAK ICC.

## **52. Preservation of a company as a Foundation**

When a company is continued as a Foundation in RAK ICC under these Regulations:

- (a) the property of the company becomes the Property of the Foundation;
- (b) the Foundation continues to be liable for the obligations of the company;
- (c) an existing cause of action, claim or liability to prosecution is unaffected;
- (d) a civil, criminal or administrative action or proceeding pending by or against the company may be continued by or against the Foundation; and
- (e) a conviction against, or ruling, order or judgment against or in favour of, the company may be enforced against the Foundation.

**53. Dissolution**

- (1) A Foundation shall be dissolved where:
  - (a) the Foundation is established for a definite period and that period expires;
  - (b) the object(s) of the Foundation are fulfilled or become incapable of fulfilment, and the members of the Council, by unanimous decision, so resolve;
  - (c) any provision of the Charter or By-laws of the Foundation so requires
  - (d) the Court orders that the Foundation be dissolved under Regulation 54; or
  - (e) the Registrar strikes the Foundation off the Register in accordance with Regulation 56.
- (2) Where a Foundation is dissolved pursuant to the provisions of Regulation 54(1), the members of the Council, or such other person as may be authorized by the Charter or By-laws of the Foundation to supervise the dissolution of the Foundation, shall do all things that are necessary for orderly supervision of dissolution of the Foundation, and shall collect the Property of the Foundation, and after discharging or making adequate provision for the discharge of the obligations of the Foundation shall distribute the remaining Property in the manner provided in Regulation 55.

**54. Court dissolution**

- (1) A Foundation may, upon application, by an order of the Court be dissolved if the Court is of the opinion that:
  - (a) the Foundation is insolvent;
  - (b) it is just and equitable that the Foundation be dissolved; or
  - (c) it is prejudicial to the interest of RAK ICC for a Foundation to remain on the Register
- (2) An application for the dissolution of a Foundation under Regulation 54(1)(a) or (b) may be made by the Foundation, a member of the Council of the Foundation, a Guardian of the Foundation or by a creditor of the Foundation.
- (3) An application for the dissolution of a Foundation under Regulation 54(1)(c) may be made by the RAK ICC Authority.
- (4) Where the Court orders that a Foundation be dissolved under this Regulation 54, the Court may appoint a person to supervise the dissolution of the Foundation and may, from time to time, direct the manner in which the dissolution is to be conducted.

**55. Distribution of Property**

- (1) Subject to Regulation 55(2), where a Foundation is dissolved and there remains some Property after its dissolution such Property shall be the property of the person who, according to the Charter or By-laws, is entitled to receive any Property remaining after the dissolution of the Foundation.
- (2) In the event that:

- (a) there is no person entitled to receive the remaining Property of the Foundation as provided in Regulation 55(1); or
- (b) the person entitled to receive the remaining Property refuses to accept the transfer of the Property, and there is no relevant provision in the Charter or By-laws of the Foundation,
- (c) the remaining Property shall vest in the Government of Ras Al Khaimah.

## **56. Dissolution by the Registrar**

- (1) If the Registrar has reason to believe that:

- (a) a Foundation is acting in contravention of these Regulations; or
- (b) it is prejudicial to the interest of RAK ICC for a Foundation to remain on the Register,

he may give notice to the Foundation that at the conclusion of three (3) months from the date of the notice, the Foundation shall be struck off the Register unless reason is shown to the contrary.

- (2) If by the end of the three (3) month period, the Registrar has not received from the Foundation an objection to the striking off of the Foundation from the Register or from any other party sufficient reason as to why the Foundation should not be struck off the Register, the Registrar may strike the name of the Foundation off the Register and the Foundation shall be dissolved upon completion of three (3) years from the date of strike off.
- (3) When a Foundation has been struck off the Register under Regulation 56(2), the Foundation or its liquidator may apply to have the name of the Foundation reinstated on the Register, provided such application is made prior to the third anniversary of its removal from the Register.
- (4) Where an application is made under Regulation 56(3) and upon payment of all outstanding fees and penalties to the Registrar, the Registrar may reinstate the Foundation on the Register.
- (5) Where the Foundation is reinstated on the Register under Regulation 56(4), the Foundation is deemed to have continued in existence as if it had not been dissolved or struck off the Register.
- (6) Upon dissolution of a Foundation under this Regulation, its outstanding Property shall become the property of the Government of Ras Al Khaimah, provided that if it is reinstated to the Register such property shall once again become the Property of the Foundation.

## **57. Publication of dissolution**

The Registrar shall publish the dissolution of a Foundation on the website of RAK ICC.

## **PART 9**

### **COURTS**

#### **58. Role of the Court in administration of Foundations**

- (1) The Court may intervene in the administration of a Foundation to the extent its jurisdiction is invoked by a Person with Sufficient Interest or as provided by Law.
- (2) A Foundation is not subject to continuing judicial supervision unless so ordered by the Court.
- (3) Unless specifically stated otherwise, any Person with Sufficient Interest in respect of a Foundation may apply to the Court to make any order or take any action specified in this Part.
- (4) If the Court has to determine whether a person is a Person with Sufficient Interest in respect of a Foundation, the reference in Regulation 58(1) to a Person with Sufficient Interest, for the purpose of determining that question, shall include such a person.

#### **59. Power of the Court to order compliance**

- (1) If the Court is satisfied that a person has failed to comply with:
  - (a) a requirement of these Regulations, the Charter or By-laws of a Foundation; or
  - (b) an obligation imposed on the person by these Regulations, the Charter or By-laws of a Foundation, the Court may order the person to comply with the requirement or obligation.
- (2) If the Court is satisfied that a Foundation, acting through its Council, has failed to carry out its objects or any of them, the Court may order the Foundation to do so.
- (3) An order under this Regulation may specify the action the person or Foundation is required to take.

#### **60. Power of the Court to order amendment of Charter or By-laws**

- (1) The Court may on an application made by or on behalf of a Founder, the Foundation or a Guardian order the amendment of the Charter or the By-laws of a Foundation, if the Court is satisfied:
  - (a) that the change will assist the Foundation to administer its Property or to attain its objects; or
  - (b) that those objects are no longer attainable and that the change will assist the Foundation to attain objects as near as reasonably possible to those objects.
- (2) If the order is to amend a Foundation's Charter, the thirty (30) day period referred to Regulation 13(5) to file an amended Charter with the Registrar shall be calculated from the date of the Court order.
- (3) Without limiting Regulation 60 (1), the Court may make an order under Regulation 60(1) in the event that a Foundation does not have By-laws, or that the relevant provisions of the By-laws

cannot be readily ascertained or are otherwise incomplete.

- (4) The Court may, on an application made by or on behalf of a Founder, in its absolute discretion and on such terms and conditions as it thinks fit, by order authorise the rectification of any error, defect or omission in the Charter or the By-laws of a Foundation.

## **61. Power of the Court to give directions**

- (1) This Regulation applies if the Court is satisfied:
  - (a) that if it gives a direction it will assist a Foundation to administer its Property or to carry out its objects; or
  - (b) that it is otherwise desirable for the Court to give a direction.
- (2) The Court may on an application made by or on behalf of a Founder, the Foundation or a Guardian give a direction as to:
  - (a) the meaning and effect of a provision or term in the Charter or By-laws of a Foundation;
  - (b) the manner in which the Council is required to carry out the administration of the Foundation's Property or to carry out its objects;
  - (c) the functions of the Council or of any of its members;
  - (d) the functions of any other person appointed under the By-laws of a Foundation;
  - (e) whether a person is a Qualified Recipient of a Foundation;
  - (f) the rights of Qualified Recipients under a Foundation as between themselves or as between themselves and the Foundation; or
  - (g) such other matters as the Court considers relevant to the Foundation, its Charter, its By-laws, the administration of its Property or the carrying out of its objects.
- (3) The Court may, in addition to giving a direction under Regulation 61(2), make such an order as it thinks fit to give effect to the direction.

## **62. Power of the Court to protect interests under a Foundation**

- (1) The Court may in any proceeding under this Part by order appoint a person to protect the interests of a person who the Court is satisfied is a Qualified Recipient under a Foundation, where the Court is satisfied that the person is unable to act on his, her or its own behalf and may by order determine the terms of such appointment, remove such person and give directions as to service of such person.
- (2) A person so appointed may represent the person whose interests he has been appointed to protect in any dealing with the Foundation or in any proceeding under this Part.
- (3) Where a representative has been appointed under Regulation 62(1), no settlement affecting a person to whom Regulation 63(1) applies shall be valid without the approval of the Court.



**63. Power of the Court to dismiss or appoint a Registered Agent**

- (1) If the Court is satisfied that it is in the interest of a Foundation to do so, it may order:
  - (a) the removal of its Registered Agent; and/or
  - (b) the appointment of a Qualified Person to be its Registered Agent.
- (2) The Foundation must give notice of the change of Registered Agent to the Registrar within thirty (30) days of the order of the Court under Regulation 63(1). A Foundation which fails to comply with this requirement is liable to a fine, not exceeding level 2.

**64. Power of the Court to take action on behalf of others**

- (1) This Regulation applies where the Court is satisfied that a person has failed to comply with:
  - (a) a requirement of these Regulations, the Charter or By-laws of a Foundation; or
  - (b) an obligation imposed on the person by these Regulations, the Charter or By-laws of a Foundation.
- (2) The Court may, by order, require the Registrar comply with the requirement or obligation on behalf of the person who has failed to do so.
- (3) The Court must not do so unless it is satisfied:
  - (a) that to do so will assist the Foundation in the administration of its Property or the attainment of its objects; or
  - (b) that it is otherwise desirable that it should do so.
- (4) Where the Court does so, its order has the same effect as if it were an action taken by the person required to comply with the requirement or obligation.

**65. General power of the Court in respect of orders**

- (1) An order made by the Court under this Part in respect of a Foundation may, in particular, provide for the appointment or removal of a person appointed under its By-laws.
- (2) Any order made by the Court under this Part may be made on such terms, and may impose such conditions, as the Court thinks fit.

**66. Provisions for facilitating Foundation division or amalgamation**

- (1) This Regulation applies where the members of the Council of one or more Foundations unanimously resolve that the Property of a Foundation should be divided amongst two (2) or more Foundations, or that two (2) or more Foundations should be combined into a single Foundation.
- (2) An application may be made to the Registrar under Regulation 66(1) for the division of the Foundation, or the amalgamation of the Foundations, on notice to all persons with sufficient interest in any Foundation affected by the making of such an order.

- (3) On any application under Regulation 66(1), the Registrar may make such orders as it considers appropriate to facilitate the division or amalgamation.
- (4) Each of the Foundations affected by any order of the Registrar shall give details of the change of status of the Foundations to the Registrar in such manner as he may require.
- (5) The Registrar shall make such entries in the Register as are required to give effect to the order of RAK ICC and ensure any new or amalgamated Foundation is correctly registered.

## **67. Arbitration of Foundation Disputes**

- (1) The Charter or By-laws of a Foundation may provide that disputes arising under, out of or relating to the Charter or By-laws shall be referred to and finally settled by arbitration under such seat and rules as may be so specified, failing which the Court shall have jurisdiction.
- (2) Where the Charter or By-laws of a Foundation provide that any dispute or Administration Question arising between any of the parties in relation to the Foundation shall be submitted to arbitration, that provision shall, for all purposes under the applicable arbitration law have effect as between those parties as if were an arbitration agreement and as if those parties were parties to that agreement.
- (3) Where the Charter or By-laws of a Foundation do not provide that any dispute or Administration Question arising in relation to the Foundation shall be submitted to arbitration but the parties to that dispute agree in writing to have it resolved by arbitration, that agreement shall, for all purposes under the applicable arbitration law, have effect as between those parties as if it were an arbitration agreement.
- (4) The applicable arbitration law shall apply to an arbitration under these Regulations in accordance with the provisions of that Part of Schedule 2 which applies to that arbitration law.
- (5) The Court may make such orders in relation to an arbitration or possible arbitration which supplement or vary the application of that Part of Schedule 2 which corresponds with the applicable arbitration law as the Court deems appropriate in the circumstances.
- (6) In this Regulation, “applicable arbitration law” means, in the case of a Foundation within the jurisdiction of the ADGM Courts, the ADGM Arbitration Regulations and, in the case of a Foundation within the jurisdiction of the DIFC Courts, the DIFC Arbitration Law.

## **67A. Powers of the arbitral tribunal**

- (1) This Article shall apply except to the extent otherwise provided in the Charter or By-laws of a Foundation.
- (2) The arbitral tribunal may, in addition to all other powers of the tribunal, at any stage in an arbitration under this Law, exercise all the powers of the Court (whether arising by law, including this Law, under the inherent jurisdiction of the Court or otherwise) in relation to the administration of a Foundation or the rights of any party in relation to the Foundation.
- (3) The arbitral tribunal has the same powers to appoint a person to represent the interests of any person (including a minor, a person unborn or unascertained) or class of person in an arbitration concerning a Foundation as the Court has in relation to proceedings before the Court.

**68. Provision of information by a Foundation**

- (1) A Person with Sufficient Interest in a Foundation may make written requests to the Foundation for full and accurate information in respect of any of the following:
- (a) the financial statements of the Foundation;
  - (b) the Property of the Foundation;
  - (c) the manner in which the Foundation's Property are being administered;
  - (d) the way in which the Foundation is carrying out its objects; and
  - (e) the administration of the Foundation,
- and the Foundation shall comply as soon as practicable after receipt of such requests provided that any such requests shall be subject to Regulation 68(2).
- (2) Subject to Regulation 68(4), a Foundation is not required to provide any person with information about the Foundation where the provision of that information is prohibited under the Foundation's Charter or By-laws, unless the obligation to make such disclosure is imposed by an order of the Court.
- (3) If Regulation 68(2) applies, the person making the request may apply to the Court under Regulation 58 for an order authorising or requiring the provision of the requested information, in which case it must be shown to the Court that the provision of the information is necessary or expedient to enable the determination as to whether or not:
- (a) the Foundation is carrying out its objects;
  - (b) the Council of the Foundation is carrying out its functions;
  - (c) the Property of the Foundation is being properly administered; and
  - (d) the Foundation is being properly administered.
- (4) Regulation 68(2) does not affect any other obligation of a Foundation to supply information about the Foundation under these Regulations or the power of RAK ICC or the Registrar to obtain information under any other applicable law.

**68A. Limitation of actions**

- (1) No action or proceeding whether pursuant to these Regulations or at common law or in equity:
- (a) to set aside the establishment of a Foundation;
  - (b) to set aside any disposition to any Foundation; or
  - (c) for any order under this Part,

shall be commenced, unless such action or proceeding is commenced in the Court before the expiration of three (3) years from:

- (d) the date of the establishment of the Foundation that is sought to be set aside;
  - (e) the disposition to the Foundation that is sought to be set aside; or
  - (f) the right to commence the action or proceeding arising as the case may be.
- (2) No action or proceeding whether pursuant to these Regulations or at common law or in equity shall be commenced by any person:
- (a) claiming to have had an interest in property before that property was settled upon or disposed to a Foundation; and
  - (b) seeking to derive a legal or equitable interest in that property,
- unless such action or proceeding is commenced in the Court before the expiration of three (3) years from the date that the property referred to in paragraphs (a) and (b) was disposed to a Foundation.

## **PART 10**

### **FINES AND FEES**

#### **69. Fines**

- (1) A Foundation which contravenes a requirement of these Regulations to provide information to the Registrar, or its Registered Agent, is liable to a fine, not exceeding level 3.
- (2) A Foundation which in any document or other communication provided to the Registrar, or its Registered Agent, makes a statement which is false or intentionally misleading in any particular, is liable to a fine, not exceeding level 5.
- (3) Standard Fines Scale applicable to any contravention of these Regulations, is set out in Schedule 1 of these Regulations.

#### **70. Fees**

- (1) The fees and fines specified in these Regulations or any rules imposed pursuant to these Regulations shall be payable to the Registrar who shall pay them into an account of RAK ICC.
- (2) Unless these Regulations provide otherwise, the registered agent is the only person authorised to pay a fee to the Registrar on behalf of a Foundation under this Regulation, and the Registrar shall not accept a fee paid by any other person.

**SCHEDULE 1**

The standard fines scale is shown below:

<b>Level on the scale</b>	<b>Amount of fine</b>
1	AED 1,000
2	AED 2,000
3	AED 5,000
4	AED 10,000
5	AED 20,000

## SCHEDULE 2

### APPLICATION OF THE DIFC ARBITRATION LAW AND ADGM ARBITRATION REGULATIONS

#### Part 1: DIFC Arbitration Law (“the Law”)

- (1) The Law shall apply and be construed with respect to a Foundation arbitration conducted under that Law, as stated hereunder.
- (2) In the Law, "dispute" includes an Administration Question.
- (3) Article 12(1) of the Law shall apply as if it read:  
  
*“A Founder or Contributor of a Foundation shall be free to determine (by provision in the Charter or By-laws of the Foundation) how, in relation to a Foundation, disputes are resolved, subject only to such safeguards as are necessary in the public interest;”*
- (4) Where in the Law reference is made to a matter agreed between the parties to an arbitration agreement (including a matter which may be authorised, chosen, conferred, designated, nominated or vested by the parties) that matter shall (except where no effective provision is made) be determined as provided in the Foundation’s Charter or By-laws.
- (5) Neither Article 12 of the Law nor any rule of law or construction treating an arbitration agreement separate to any agreement of which it is a part shall apply in relation to a Foundation arbitration.
- (6) The term "action" in Article 13 of the Law includes an application or other reference to the Court concerning an Administration Question which the Charter or By-laws of the Foundation requires to be submitted to arbitration and a stay of that application or other reference may be sought by any of the parties in relation to the Foundation, whether or not a party to that application or other reference.
- (7) In any application or other reference to the Court referred to in paragraph 6, the Court may stay the proceedings on its own volition unless all parties in relation to the Foundation affected by the application are before it or are represented by persons before it.
- (8) For the objects of enforcing an arbitral award under Article 41(2)(a)(iii) of the Law, the term "dispute" includes an Administration Question.

#### Part 2: ADGM Arbitration Regulations (“the Regulations”)

- (1) The Regulations shall apply and be construed with respect to a Foundation arbitration conducted under those Regulations, as stated hereunder.
- (2) In the Regulations, "dispute" and “difference” include an Administration Question.
- (3) Regulation 14(1) of the Regulations shall apply as if it read:

*“A Founder or Contributor of a Foundation shall be free to determine (by provision in the Charter or By-laws of the Foundation) how, in relation to a Foundation, disputes or differences are resolved, subject only to such safeguards as are necessary in the public interest;”*

- (4) Where in the Regulations reference is made to a matter agreed between the parties to an arbitration agreement (including a matter which may be authorised, chosen, conferred, designated, nominated or vested by the parties) that matter shall (except where no effective provision is made) be determined as provided in the Foundation’s Charter or By-laws.
- (5) Neither Regulation 15 of the Regulations nor any rule of law or construction treating an arbitration agreement separate to any agreement of which it is a part shall apply in relation to a Foundation arbitration.
- (6) The term "legal proceedings" in Regulation 16 of the Regulations includes an application or other reference to the Court concerning an Administration Question which the Charter or By-laws of the Foundation requires to be submitted to arbitration and a stay of that application or other reference may be sought by any of the parties in relation to the Foundation, whether or not a party to that application or other reference.
- (7) In any application or other reference to the Court referred to in paragraph 6, the Court may stay the proceedings on its own volition unless all parties in relation to the Foundation affected by the application are before it or are represented by persons before it.
- (8) For the objects of enforcing an arbitral award under Regulation 62(1)(a)(iv) of the Regulations, the term "difference" includes an Administration Question.