Purpose clause for a Zug protocol foundation

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The Swiss foundation is a dedicated body of assets with legal personality, created by a founder for a purpose that the foundation board must pursue and that the supervisory authority polices.[1] The purpose clause is the foundation's constitution. It cannot be changed except under Art. 85 and 86 CC with the supervisory authority's approval. A purpose that is too narrow strangles the foundation. A purpose that is too wide invites the authority to ask whether the foundation is in truth a vehicle for the founders' commercial interests. The clause below has survived supervisory review in several variations. Its elements are the public-benefit colouring (support of an open protocol), the non-distribution rule and the limits on commercial activity.

> **Purpose.** The purpose of the Foundation is to promote and support the development, security, decentralisation and adoption of the [Name] protocol, an open-source, permissionless software protocol for [function], for the benefit of its users and of the public. In pursuit of this purpose the Foundation may in particular: (a) fund, commission and publish research and software development; (b) award grants to developers, researchers and organisations; (c) organise and fund

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education, events and community programmes; (d) hold, manage and deploy [Name] tokens and other assets, including by participating in the governance and validation of the protocol; (e) protect intellectual property associated with the protocol and license it on open terms; and (f) engage with public authorities, standards bodies and other stakeholders.

Limits. The Foundation pursues no commercial purpose and does not seek to make a profit. It may carry on economic activities only in so far as they serve the Purpose and are subordinate to it. The Foundation does not grant loans, guarantees or benefits to the founder, to members of the Foundation Board or to persons closely connected with them. The Foundation does not distribute its assets or income to any person except in furtherance of the Purpose.

Assets. The founder endows the Foundation with [amount in Swiss francs] and [number] [Name] tokens. The Foundation may accept further contributions that are compatible with the Purpose. Tokens held by the Foundation shall be managed in accordance with the Foundation's investment and treasury regulations, which the Foundation Board adopts and may amend with notice to the supervisory authority.

Dissolution. On dissolution the remaining assets shall be transferred to a tax-exempt entity with its seat in Switzerland pursuing the same or a similar purpose, and may not revert to the founder or to any member of the Foundation Board.

The tax status of the foundation depends on the purpose clause and on conduct. Tax exemption under Art. 56 lit. g DFTA requires exclusive and irrevocable pursuit of a public or charitable purpose and the absence of self-interest, which many protocol foundations fail because the founders retain economic interests in the token.[2] The clause is drafted so that exemption can be sought but does not depend on it. The dissolution clause follows the tax administration's standard requirement.

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Notes

1. Civil Code Art. 80 ff.; Art. 84 (supervision); the Federal Supervisory Authority for Foundations (ESA) supervises foundations with national or international scope, which includes almost all protocol foundations in Zug; see Part P, Chapter II. ↩
2. DFTA Art. 56 lit. g; the Zug tax office's practice on protocol foundations is discussed in Part G, Chapter IV. ↩

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