The company limited by guarantee as "foundation"

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What it is and what it is not

Singapore has no foundation law. What the digital-asset market calls a Singapore foundation is a public company limited by guarantee, a company without share capital whose members undertake to contribute a nominal sum, typically S$ 1 to S$ 100, towards its debts on winding up.[1] It is a company. It has members who vote, directors who manage and ACRA filings like any other company. It has no external supervisor of its purpose, no state authority that reviews its governance and no statutory bar on amending its constitution, apart from the ordinary company-law rule that a special resolution is required.

The CLG became the Singapore vehicle of choice for protocol treasuries in the 2017 to 2021 cycle because it was quick to form, cheap to run and gave the project a non-profit label. Many of the "foundations" that collapsed with their protocols in 2022 were Singapore CLGs or private companies, including vehicles associated with Terraform Labs and with the lending platforms Vauld and Hodlnaut. The experience has made the Singapore courts and MAS attentive to what the label conceals.[2] A

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CLG whose directors are the founders, whose members are the founders and whose constitution can be amended by those members at will offers the community no assurance that the Swiss foundation offers by force of law.

Making the CLG work as a treasury vehicle

A CLG can be made to behave like a foundation by contract and constitution. The constitution should state a specific object and prohibit distributions to members. It should entrench the object and the non-distribution clause by requiring a super-majority or the consent of an independent party for amendment. It should fix a board majority of persons independent of the founders and provide for the assets on winding up to pass to a body with similar objects. None of these provisions is required by law and all are revocable by a sufficient majority of members, but they create a documented governance structure that exchanges, auditors and MAS will examine. Charity registration under the Charities Act 1994 would add the Commissioner of Charities as a supervisor, but a protocol treasury rarely satisfies the charitable-purpose test and the sector has not pursued that route.[3]

Tax follows the same logic. A CLG is taxed as a company at 17 per cent on its chargeable income, with the partial exemption for the first S$ 200,000. It obtains no exemption merely by being non-profit.[4] Gains on the disposal of tokens held as investments are capital and untaxed, while token sales in the course of a trade are taxable. The s. 13(1)(zm) exemption for registered charities and the exemption for approved institutions of a public character are out of reach for most protocol vehicles.

Feature	Zug foundation (Chapter II)	Singapore CLG
Legal basis	Art. 80 ff. CC	Companies Act 1967, s. 17(3)
Owners or members	None	Members (guarantors) with votes
External supervisor of purpose	Yes (ESA or cantonal authority)	No (ACRA filing regime only)

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Feature	Zug foundation (Chapter II)	Singapore CLG
Amendment of purpose	Only by supervisory authority, or founder after 10 years	Special resolution of members
Minimum endowment	CHF 50,000 in practice	None (guarantee of S$ 1 upwards)
Tax exemption available	Yes, Art. 56 lit. g DFTA, on application	Only as registered charity or IPC
Annual compliance	Report, audited accounts, supervisory fee	ACRA annual return, audited accounts unless small-company exemption
Time to form	Four to eight weeks	One to five days
Market perception	Strong assurance, less flexibility	Flexible, weaker assurance since 2022

The table explains the allocation of functions that most cross-border groups adopt. The treasury that must be seen to be independent sits in Switzerland. The entity that must act quickly, hire in Asia and hold Asian partnerships sits in Singapore as a Pte. Ltd. or, where a non-profit label helps with grants and ecosystem programmes, as a CLG that holds no material treasury.

Notes

1. Companies Act 1967, s. 17(3) (company limited by guarantee), s. 18 (liability of members limited to the amount undertaken) and s. 29 (power to dispense with "Limited" in the name of a company formed to promote art, science, religion, charity or any other useful object). ↩
2. Re Babel Holding Ltd [2023] SGHC 98 (moratorium for a group with Singapore entities); Re Zipmex Pte Ltd [2022] SGHC 196; Re Hodlnaut Pte Ltd (judicial management, 2022–2023). Part N, Chapter IV, discusses the insolvencies; Part K, Chapter IX, the regulatory treatment of "foundations". ↩

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3. Charities Act 1994 (2020 Rev. Ed.), ss. 5 and 6 (registration of charities; charitable purposes); Commissioner of Charities, guidance on registration. ↩
4. Income Tax Act 1947, s. 43(1) (corporate rate of 17 per cent) and s. 43(6) (partial tax exemption: 75 per cent of the first S$ 10,000 and 50 per cent of the next S$ 190,000). ↩

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