

# Use of Bahamas Foundations and Private Trust Companies in International Planning

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## Wealth Management Planning Seminar

Sponsored by the Bahamas  
Financial Services Board (BFSB)  
and the Society of Trust and  
Estate Practitioners (STEP)  
Bahamas Branch



# Foundation – Case Study

**Client Situation:** Nonresident alien family from a jurisdiction whose domestic laws either

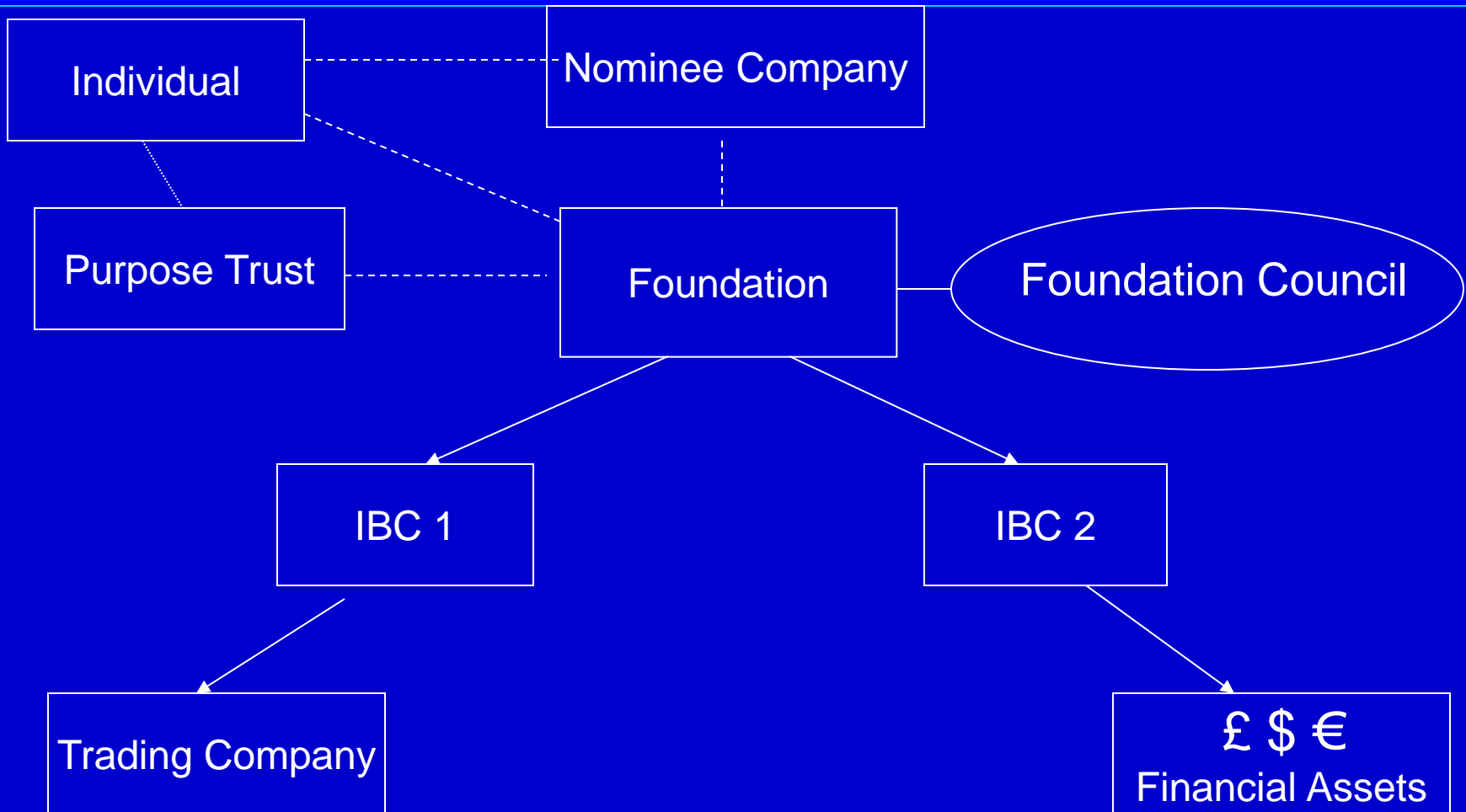
1. do not recognize a trust as a separate juridical entity  
or
2. do not consider transfers to a trust as being a valid relinquishment of legal ownership

**Objectives:**

1. Estate Planning with certainty and flexibility.
2. Control of assets during lifetime of founder(s) and beyond.



# Use of a Foundation in International Planning



## Advantages of a Foundation

- A foundation is a distinct legal entity, and assets placed within the foundation are owned only by the foundation
- Established to carry out specific goals set forth in the foundation charter and regulations or by-laws
- Bahamian foundations may be used for private, commercial or charitable purposes
- May be used to avoid forced heirship
- Beneficiaries are not restricted to family members
- May have unlimited duration

## Advantages of a Foundation (Continued)

- Bahamian law allows an individual, corporation or nominee to serve as founder
- Bahamian law provides that officers, foundation council members, and other supervisory personnel are indemnified from all liabilities, losses and expenses if acting honestly and in good faith
- Foundation council members do not need to be located in The Bahamas
- Founder may assign his reserved powers to another person
- A foundation established elsewhere may redomicile in The Bahamas

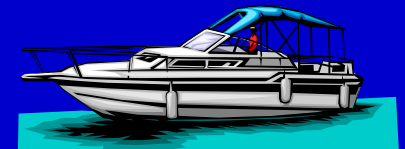
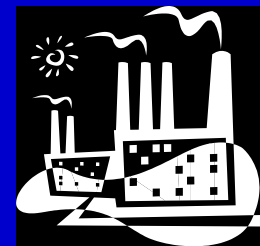
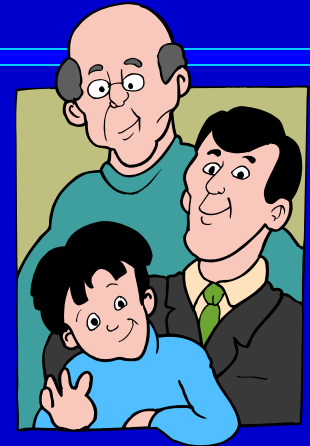
## Disadvantages of a Foundation

- Vested beneficiaries must be notified of their interest and will be entitled to request information from the officers of the Foundation Council
- Limited portability – need for expanded powers regarding subsequent formation of other entities

# Private Trust Company

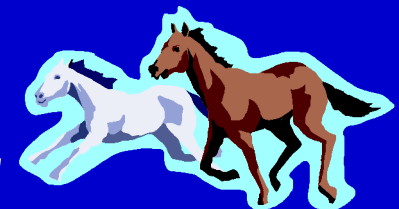
## Client:

Large international family with diverse fiscal status members. The family's principal asset is a conglomerate of trading companies currently controlled by the elder generation, and the family also has significant financial assets and unusual or high risk assets (e.g. yachts, planes, artwork, horses etc.)

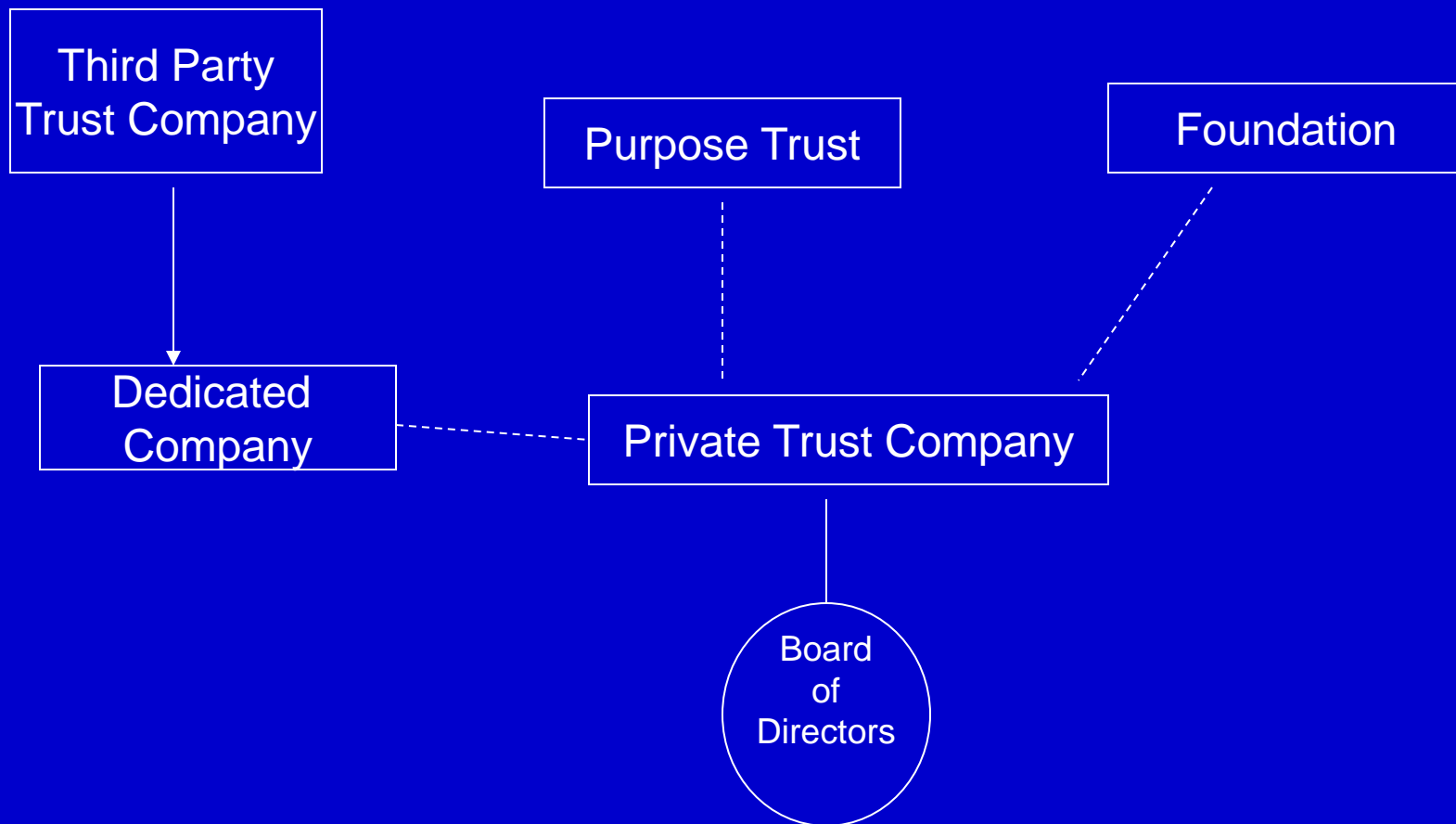


## Objective:

Maintain control over family companies while providing estate planning and coordinated business succession

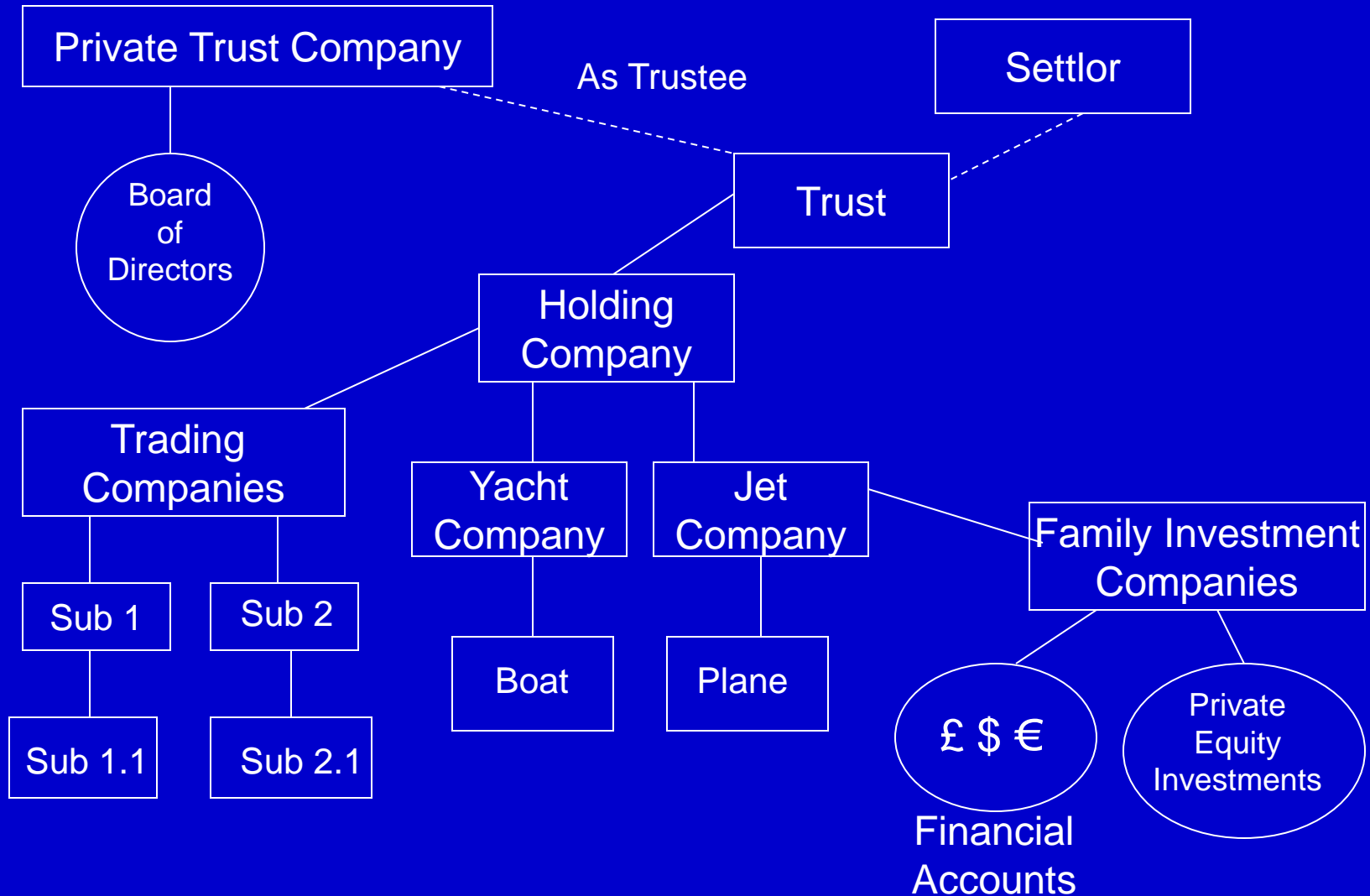


# Formation of The Private Trust Company





# Use of Private Trust Company in International Planning



## Advantages of Private Trust Companies

- Family retains more control and freedom to direct underlying business activities (e.g. the head of the family can be the managing director)
- May be established during or after the life of designated persons
- Easier to deal with trusts holding unusual or high risk assets (e.g. yachts, planes, artwork, horses, etc.)
- Can act as a trustee of a number of related trusts
- Speed of administration to make fast business decisions
- Ease in change of personnel
- Third parties (e.g. bank, trust company) can provide for back office functions
- Ease in change of service provider of administrative functions (e.g. bank, trust company)

## Advantages of Private Trust Companies (Continued)

- Directors of the private trust company are not required to be resident in The Bahamas
- No requirement for a Special Director where the Registered Representative is a Bahamian bank or trust company
- Composition of the Board of Directors can be changed from time to time to bring in other family members to manage the business affairs
- Trust deed is typically more specific and comprehensive than a Foundation charter and regulations or by-laws
- Often owned by a purpose trust, but could be owned by a foundation or a nominee company
- Allows the family to be much more closely involved in the operation of the trust
- Board can be comprised of family members, family advisers, individuals with special expertise in management of underlying operating companies, and one or more trust/bank professionals

# Disadvantages of Private Trust Companies

- Fees may be higher than the Foundation fees, but are typically lower than third-party trustee fees
- Family may be deemed to control trusts for tax purposes

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