

Types of Legal Structures

Society

Definition

Societies are usually non-profit groups that do not exist for the purpose of acquiring profit. In general, a 'society' refers to any club, company, partnership or association of 10 or more persons, whatever its nature or object, but excludes:

- any company registered in Singapore or any company or associated constituted under any written law;
- any trade union or mutual benefit group registered in Singapore or any co-operative society registered under any written law;
- any company, association or partnership, consisting of not more than 20 persons, formed for the sole purpose of carrying on any lawful profit-making business;
- any class, society or association of foreign insurers; or
- any school or management committee of a school constituted in Singapore.

Elements of a Society

No separate legal entity

Societies do not constitute separate legal entities from their members. This means that if the society is sued, all members of the society will be personally liable.

Registration

Under the Societies Act, registration of a society with the Registrar of Societies is mandatory. Therefore, any non-profit group, society or club has to be registered. The Registrar of Societies takes about 2 months to process an application.

Place of business

This refers to the place where the records and books of accounts of a society are kept.

Constitution

Societies need a Constitution. The Constitution (sometimes also known as "Rules") constitutes a contract between the members of the society. In general, the Constitution sets out

- the aims and objects for which the society is formed, or which it may pursue, or for which its funds may be applied;
- the qualifications for membership and for the holding of any office;
- the method of appointment or election to any office;
- the rules by which the society is to be governed;
- the formation of committees to carry out approved projects and programmes of the society;
- the formulation of by-laws which do not conflict with the Constitution for carrying out the day-to-day administration of the society; and
- the method and manner by and in which any of the above matters may be amended.

For a sample Constitution and further instruction, refer to the [note 5 on the Registry of Societies website](#).

The Societies Act has specific provisions requiring prior approval of the Registrar of Societies before a registered society can change its name, place of business or amend its rules.

Officers

A society can have a president, a secretary and members of the committee of a society. These officers do not require particular qualifications. However, no person shall act as an officer of a registered

society if he has been convicted for an offence involving the unlawful expenditure of the funds of the society or of other criminal offence(s).

Annual General Meeting (AGM)

A society should hold its AGM in accordance with the provisions in the society's Constitution. The society is required to submit the annual return and audited account within one month of the holding of its AGM to the Registrar of Societies, or if no AGM is held, once in every calendar year within one month after the close of its financial year.

Company Limited by Guarantee

Elements of a public company limited by guarantee (CLG)

Separate legal entity

Any company is treated as an entity separate from the members that make up the company. As a legal entity the company has rights and obligations like a natural person. A company may sue and be sued in its own name, enter into contracts in its own right and own property in its own name.

Limited liability

A "company limited by guarantee" is formed on the principle of having the liability of its members limited by the Memorandum of Association to the amount that the members undertake to contribute to the assets of the company in the event of its winding up. Therefore, upon liquidation of a CLG, a member's maximum liability to creditors of the CLG is that amount which he has agreed to guarantee. This amount will be stated in the CLG's Memorandum of Association. This guaranteed amount is usually nominal.

No share capital

A CLG cannot have shares or share capital. A member of a CLG is not required to pay any capital while the company is a going concern.

Public company

A CLG is a public company. This is because only a company having share capital can be formed as a private company.

Memorandum & Articles (M&A)

The Memorandum & Articles constitutes a contract between the company and each member and between the members themselves as well. Although the form of the M&A of a CLG is not prescribed in the Companies Act, unlike for a private limited company, it usually does not aim to make a profit. The objects of a CLG as set out in the Memorandum are usually charitable in nature or for the fulfilment of some social need. The Companies Act requires the Memorandum to state that:

- the liability of the members is limited; and
- that each member undertakes to contribute a maximum specified amount to the assets of the company, in the event of its being wound up while he is a member or within one year after he ceased to be a member, for payment of the debts and liabilities of the company.

It also requires the Articles to state the number of members to be registered with the CLG proposed.

No profit-making

A CLG is primarily used for non-profit groups that require corporate status. Therefore, a CLG is typically used for trade associations, charitable bodies, professional and learned societies, religious bodies, incorporated clubs or other charitable, educational or other non-profit making ventures which want the advantages of limited liability. CLGs are rarely used for commercial undertakings or trading companies.

No participation in profits

In practice, the Memorandum usually provides that all the income of the CLG shall be applied solely towards the promotion of the objects of the CLG, and that no portion shall be paid or transferred directly or indirectly by way of dividends or bonus or by way of profit to its members. In addition, the memorandum may also provide that on the winding up or dissolution of the CLG, any property left after satisfaction of all debts will not be distributed to the members of the CLG, but to some institutions having similar objects as the CLG or to a registered charity. However, the Companies Act provides that any provision in the M&A or any resolution purporting to give any person a right to participate in the divisible profits of the company, otherwise than as a member, shall be void. If you require more information about other general elements of a company, please refer to this factsheet on the [Elements of a Company](#).

Foreign Charitable Trust

To be deemed a foreign charitable trust, all of the settlors of a charitable trust must be persons neither resident in Singapore nor constituted or registered under any written laws in Singapore, such as residents of foreign countries or companies organised in foreign jurisdictions. A charitable trust may still be deemed foreign if certain of its trustees are residents of Singapore or if its purpose is to benefit charities within Singapore.

Charitable trusts, like other non-profit organisations with charitable purposes, must register as charities to receive income and property tax exemptions in Singapore. A notable exception to this rule, however, is that a foreign charitable trust need not register itself as a charity to be eligible for exemption from income tax in Singapore so long as the source of its funding is foreign. This applies even where the beneficiaries of the foreign charitable trust are local charities.

That notwithstanding, should a foreign charitable trust nevertheless wish to register itself as a charity, it may do so in the same manner as a domestic charitable trust would.

Please see [Guidance on Regulation of Foreign Charitable Purpose Trusts](#) for more information.

Company Limited by Shares

A company limited by shares (a/k/a a limited liability company) is the most common structure for for-profit businesses, but it may also be used by non-profit organisations. The liabilities of the members or shareholders of a company limited by shares are limited to the amount of its share capital, as it is a separate legal entity from its members. This structure is similar to that of a company limited by guarantee, except that the liabilities of the members in that case are limited to the amount of the guarantee.

Companies limited by shares have to register with ACRA and are governed by the Companies Act.

The structure of a company limited by shares is generally more useful to for-profit entities than non-profit ones because it is primarily designed to facilitate the raising of capital. However, it is common for social enterprises to adopt this structure and many non-profits may incorporate or avail themselves of the services of “business subsidiaries” that are organised as companies limited by shares.

For more information on setting up a company limited by shares, please see the [ACRA website](#).

For more information on the legal natures of companies in general, please see the [ACRA website](#).

For more general information on Singapore company law, please see the [Singapore Law](#) website by the Singapore Academy of Law.

Branch

A foreign company that has not set up a Singaporean subsidiary must register a branch in Singapore in order to conduct business activities within Singapore. While a subsidiary is a separate legal entity, a branch is an extension of the foreign company and not a separate legal entity. The name of the branch must match its parent company's, and its constitutive documents and activities are similarly directed by its parent company's constitutive documents. Furthermore, a parent company is implicitly liable for all the debts and liabilities of its branch offices and legal proceedings can be initiated in a Singapore court against a foreign company if it has a branch office located within Singapore.

Because a branch office is not a separate legal entity from its parent company, it cannot be registered as a charity in Singapore separately from its parent company.

Branches must be registered with ACRA and are regulated by the Companies Act. The parent company of the branch is required to file its annual report and audited accounts with ACRA within, generally, two months of its annual general meeting.

For more information on the registration requirements and other considerations related to establishing a branch, kindly refer to [Guide Me Singapore](#). If you want to set up a branch office, please refer to [the ACRA website](#).

Representative Office

A representative office may be set up by a foreign company in Singapore to study the business climate and ascertain whether to establish permanent operations in Singapore by way of market research and feasibility studies. Unlike a subsidiary or branch, a representative office does not have a legal status and may not engage in any business activities (e.g. entering into contracts, providing consulting services, providing shipping services, etc.). Because of this restriction, it is also limited in the amount of liability it can incur.

Because a representative office is not a separate legal entity from its parent company, it cannot be registered as a charity in Singapore separately from its parent company.

Approval for the establishment of a representative office can be obtained from International Enterprise (IE) Singapore.

For more precise information on the registration requirements and the limitations of what a representative office can do, kindly refer to [International Enterprise \(IE\) Singapore](#).

Other countries around the world provide similar benefits to non-profit organisations pursuant to relevant laws in their jurisdictions. For a broad overview of the legal structures used by non-profits in other jurisdictions other than Singapore, please see http://en.wikipedia.org/wiki/Non-profit_organisation.