

NEVIS

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1. Introduction: The jurisdiction

The island of Nevis is part of the Federation of St Kitts-Nevis ('the Federation'), a two-island nation and former British colony which received its independence in 1983. Under the Federation's Constitution, certain sovereign rights are granted to Nevis, including the right to enact its own legislation, known as 'ordinances'. Laws of the Federation or federal laws are known as 'Acts'. Since 1984, thousands of corporations, limited liability companies, trusts, and foundations have been incorporated, formed, settled, and established on-island under Nevis' ordinances. Under the terms of the Constitution, Nevis has the right to secede from the Federation. In a referendum held in Nevis in 1998, voters failed to approve the secession of Nevis from the Federation. Another referendum was called for in 2003, but was never held. The Federation has its own international corporate and trust legislation, but its sector is much smaller than Nevis. **21.01**

The island is located 1,270 miles south-east of Puerto Rico, 30 miles west of Antigua, and two miles south of its sister island of St Kitts. The Federation is located in the Atlantic Time Zone, four hours behind London time and one hour ahead of New York time. St Kitts-Nevis does not observe daylight savings time. **21.02**

The vast majority of the approximately 12,000 persons living on the 36 square mile island of Nevis are of Caribbean-African heritage, with a portion of the populace made up of retired persons from around the globe, students attending a medical school, and expatriates working in the offshore financial services industry. **21.03**

2. Brief overview of all the various types of foundations in your jurisdiction and their main purposes

a. What are the types of foundations (private and charitable foundations, family and mixed foundations, etc) in your jurisdiction, and what are their main uses?

The Multifunctional Foundations Ordinance 2004, as amended ('the MFO') provides that a subscriber or a registered agent may, upon delivering to the registrar the documents **21.04**

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prescribed by the Ordinance, and payment of the prescribed fee, apply for the establishment and registration of a ‘multiform foundation’. A multiform foundation is a protean entity that operates as a foundation but may take the underlying form for administrative and legal purposes of a Nevis trust, a Nevis business corporation (NBC), a Nevis limited liability company (NLLC), or as a partnership under the laws of the Federation. Depending on its form, the trustee, directors, managers, or partners act as the management board. A multiform foundation may also take the form of a standard foundation and will be managed by a management board.

21.05 Following establishment, a stated multiform may be changed by amendment to the constitution.

b. Is the function of a private foundation performed by another entity in your jurisdiction, eg a company limited by guarantee?

21.06 A multiform foundation may take the underlying form for administrative and legal purposes of an NBC or an NLLC. In its establishment documents it may choose to be treated as a body corporate.

c. Does your jurisdiction offer alternatives to private foundations, such as trusts or partnerships, etc?

21.07 Nevis trusts may be settled or declared under the Nevis International Exempt Trust Ordinance 1994, as amended (‘the NIETO’) and offers an alternative to the use of a multiform foundation. Partnerships may be established under the Federation’s Partnership Act 1988, as amended. Partnerships and Nevis trusts may assume the form of multiform foundations for administrative purposes (see also section 2.a).

3. Foundation law

a. What is the legal basis that provides for private foundations?

21.08 The legal basis upon which multiform foundations are established and recognized in Nevis is the MFO.

b. What new legislation/regulations concerning private foundations, or of interest to private foundations, have appeared recently, eg in the last 12 months?

21.09 The MFO was amended in 2011, the first amendment since its enactment in 2004. These amendments require the management board of multiform foundations to keep and maintain proper books and records of account. These records should correctly explain all transactions, and enable the financial position to be determined and all financial statements to be prepared.

c. What new legislation/regulations (if any) are expected or are under discussion for the future?

21.10 All of Nevis’ offshore financial services ordinances, including the MFO, are currently being reviewed and it is likely that amendments will be enacted at some point in 2013.