



**THE ISLAMIC LEGACY PLANNING (R)EVOLUTION:
DISTANT DREAM OR TODAY'S REALITY?**

*Yann Mrazek
7 May 2018
Lausanne*



- Local Needs
- International Ambitions

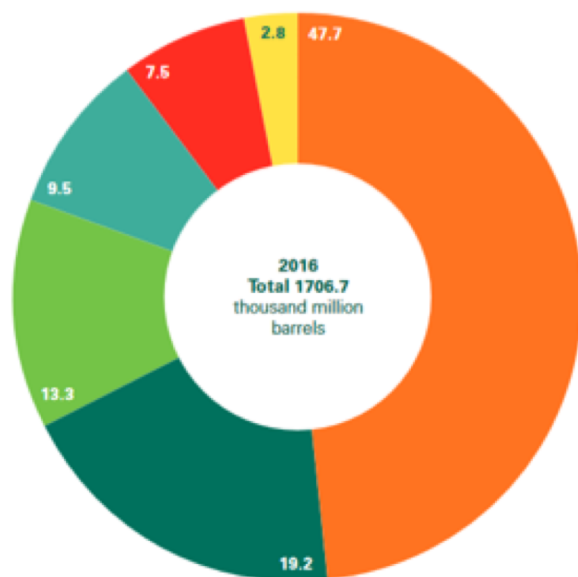


Oil

Distribution of proved reserves in 2016

- Middle East
- S. & Cent. America
- North America
- Europe & Eurasia
- Africa
- Asia Pacific

Middle East holds 48% of the oil reserves

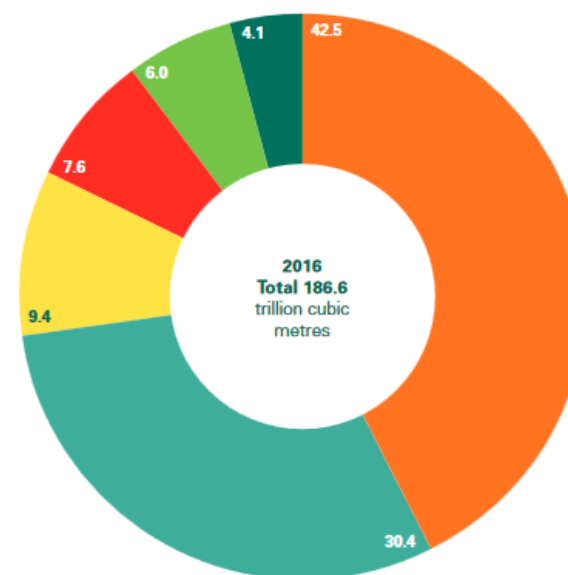


Natural gas

Distribution of proved reserves in 2016

- Middle East
- Europe & Eurasia
- Asia Pacific
- Africa
- North America
- S. & Cent. America

Middle East holds 43% of the natural gas reserves



Oil & gas make up about 1/3 of GDP of GCC economies.
GCC economies must diversify further if they want to be able to create more jobs for their nationals.

(Source: BP Statistical review 2017)



“USD 1 trillion to pass from second generation business families to millennials within 10 years”

(Source: The Gulf Family Business Council)



“USD 1 trillion to pass from second generation business families to millennials within 10 years”



not accounting offshore assets!

(Source: The Gulf Family Business Council)



GCC merchant families under attack!

- Demographic
- Economic
- Financial
- Educational



“Only 15-20 percent of family businesses are planning their succession”

(Source: The Gulf Family Business Council)



➤ Western tool

vs

➤ Regional assets



	Broad & Deep	Relatively Broad	Relatively Deep	Emerging
	Global Leaders	Global Diversified	Global Specialists	Global Contenders
Global	Beijing	Amsterdam	Abu Dhabi	Moscow
	Dubai		Jersey	
	Dublin		Luxembourg	
	Frankfurt		Shanghai	
	Geneva			
	Hong Kong			
	London			
	New York			
	Paris			
	Singapore			
	Tokyo			
	Toronto			
	Washington DC			
	Zurich			

(Source: The Global Financial Centres Index 21)



Most Competitive IFCs

UK

Hong Kong

BVI

US

Singapore

Switzerland

Cayman Islands

Luxemburg

Jersey

Guernsey

Netherlands

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On the rise

UK

Hong Kong

US

UAE

DIFC



VS

ADGM



- To become regional hub for wealth management and succession planning

DIFC

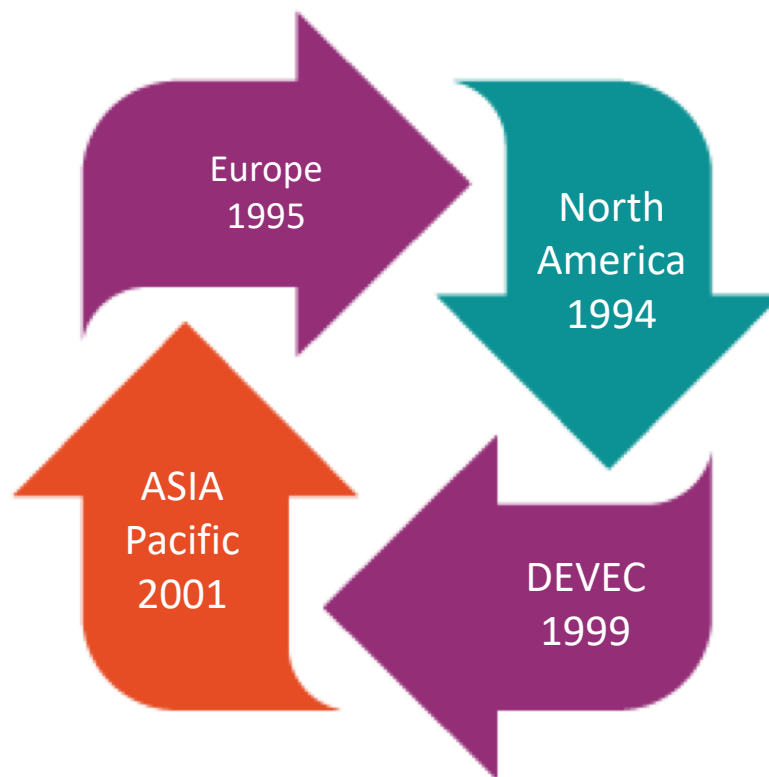
VS

ADGM



- Independent regulatory framework
- Independent Courts
- “Sharia compliance”
 - Horizontal
 - Vertical

} → Common Law



(Source: UBS/Campden Wealth Family Office Report)





NEW COLLECTION

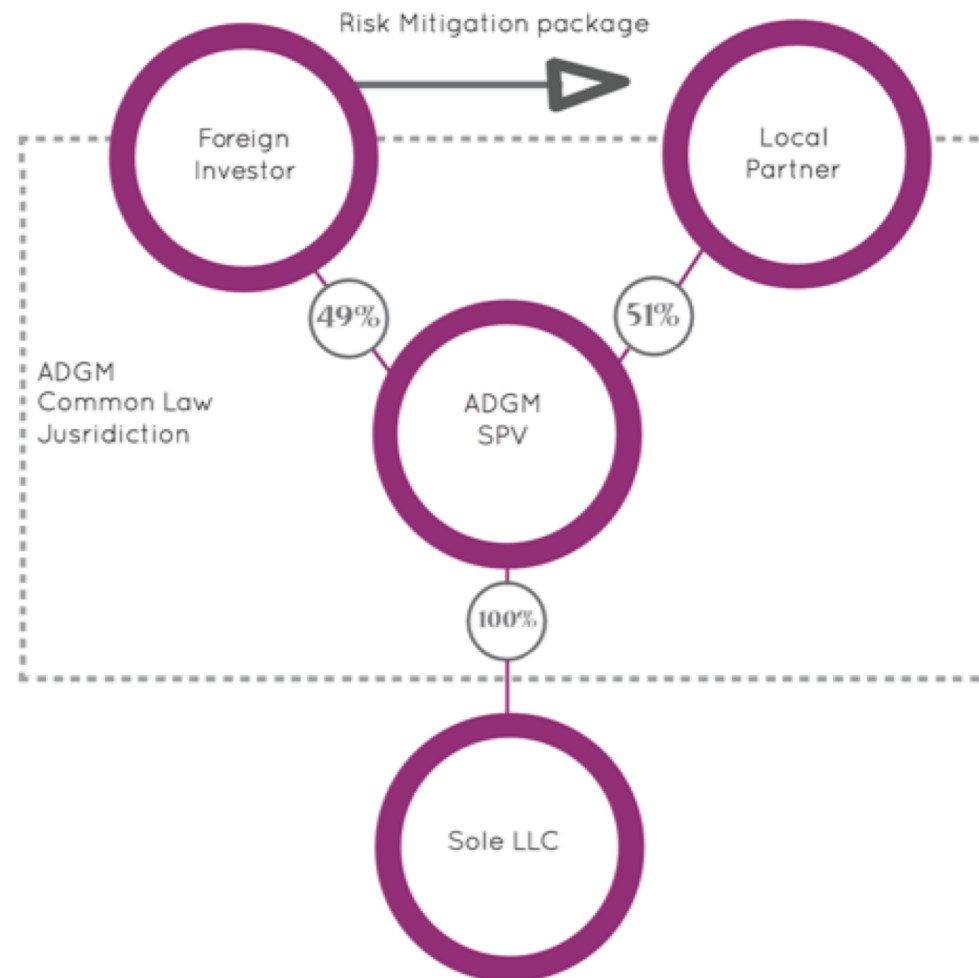


- ADGM SPV
- Corporate migration
- Domestic foundation regimes
- DIFC WPR



- IBC within tier 1 financial center
- **sophisticated** framework / **light** requirement
- **flexible** – shelf cos permitted, ability to “morph”
- **portable** – migration regime available

ADGM SPV: typical use



ADGM SPV: Bringing SPVs closer to home

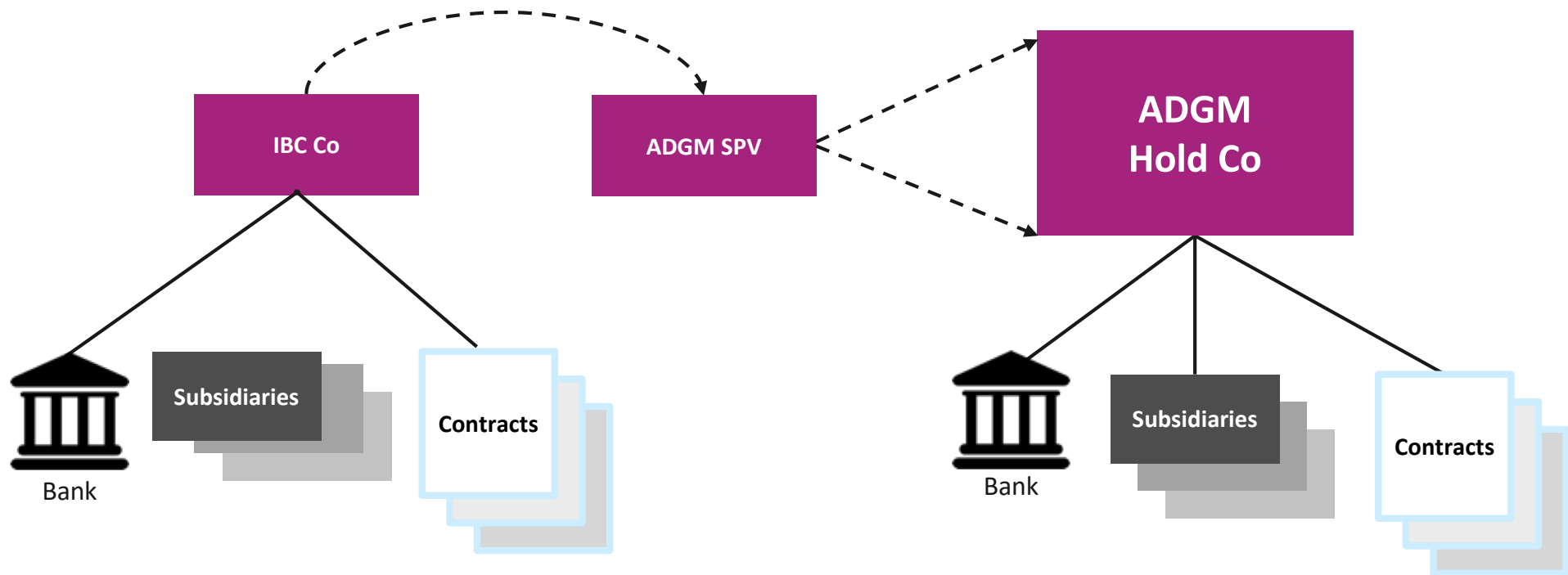






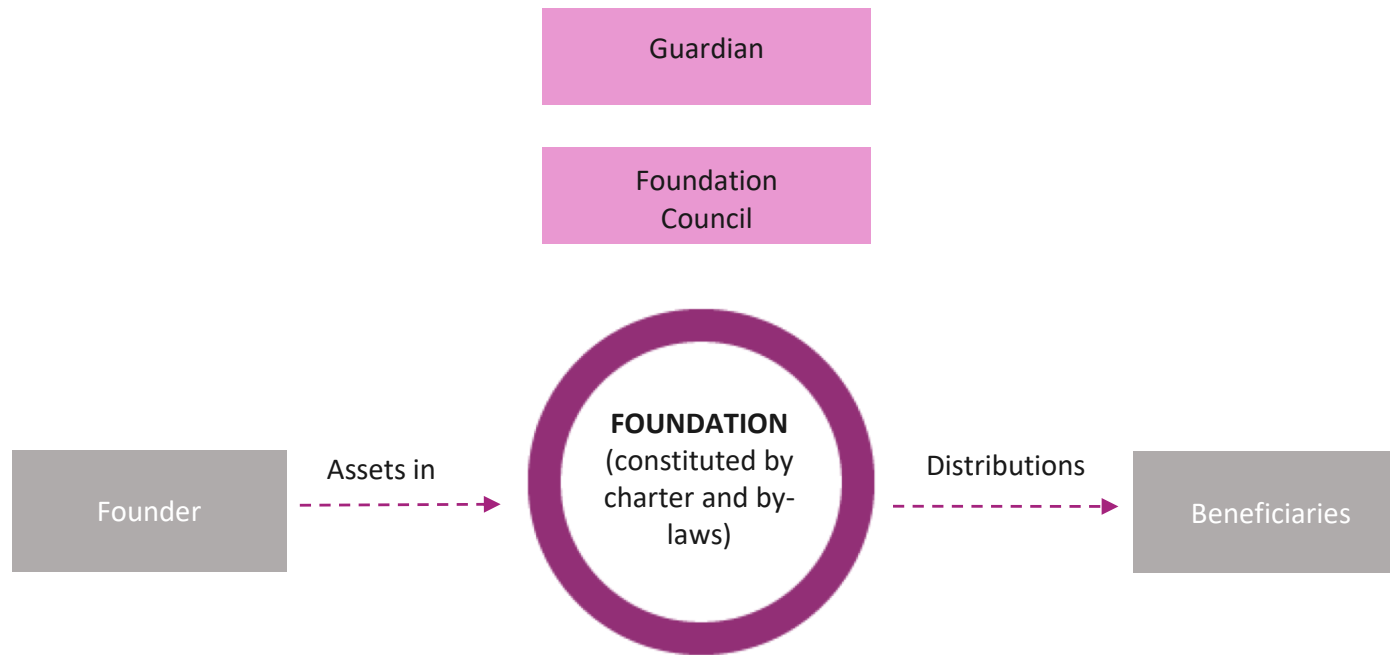


ADGM SPV: Bringing SPVs closer to home



- No substance (offshore jurisdiction)
- No physical premises
- No DTT benefits

- Substance (onshore jurisdiction)
- Physical premises
- DTT Benefits





- Legal personality
- Self owning – “Orphan” but with “economic” beneficiaries
- Perpetuity
- **Degree of control of the Founder**
- Asset and ownership protection (GCC assets, including real estate)
- Preventing dilution and family disputes
- **Perception matters:** cosmetically more acceptable?



- **GCC families:**
 - Strengthen control over assets that are key to the GCC economy
 - Facilitate succession – no involvement of foreign entities
 - Income protection

- **International families:**
 - Alternative to current foundation and trust arrangements
 - Foundation acting as PTC in local and international trust structures



- Documents: Charter & By-laws
- Minimum Assets: Any asset of min USD 100
- Parties:
 - Founder, Council
 - Beneficiary, Guardian
- Registration Fee : USD 200/500
- Reservation of power
- **Portable**
- Compatible with philanthropic objectives



- Restricted vs available
- No, unless Charter or By-laws provide otherwise



Part A

- **Charter**
- Name/Address/Registered Number
- **Date** of Establishment
- Name/Address of **Founder**
- **Registered Agent**
- **Initial Assets**



Part A

- **Charter**
- Name/Address/Registered Number
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Part B

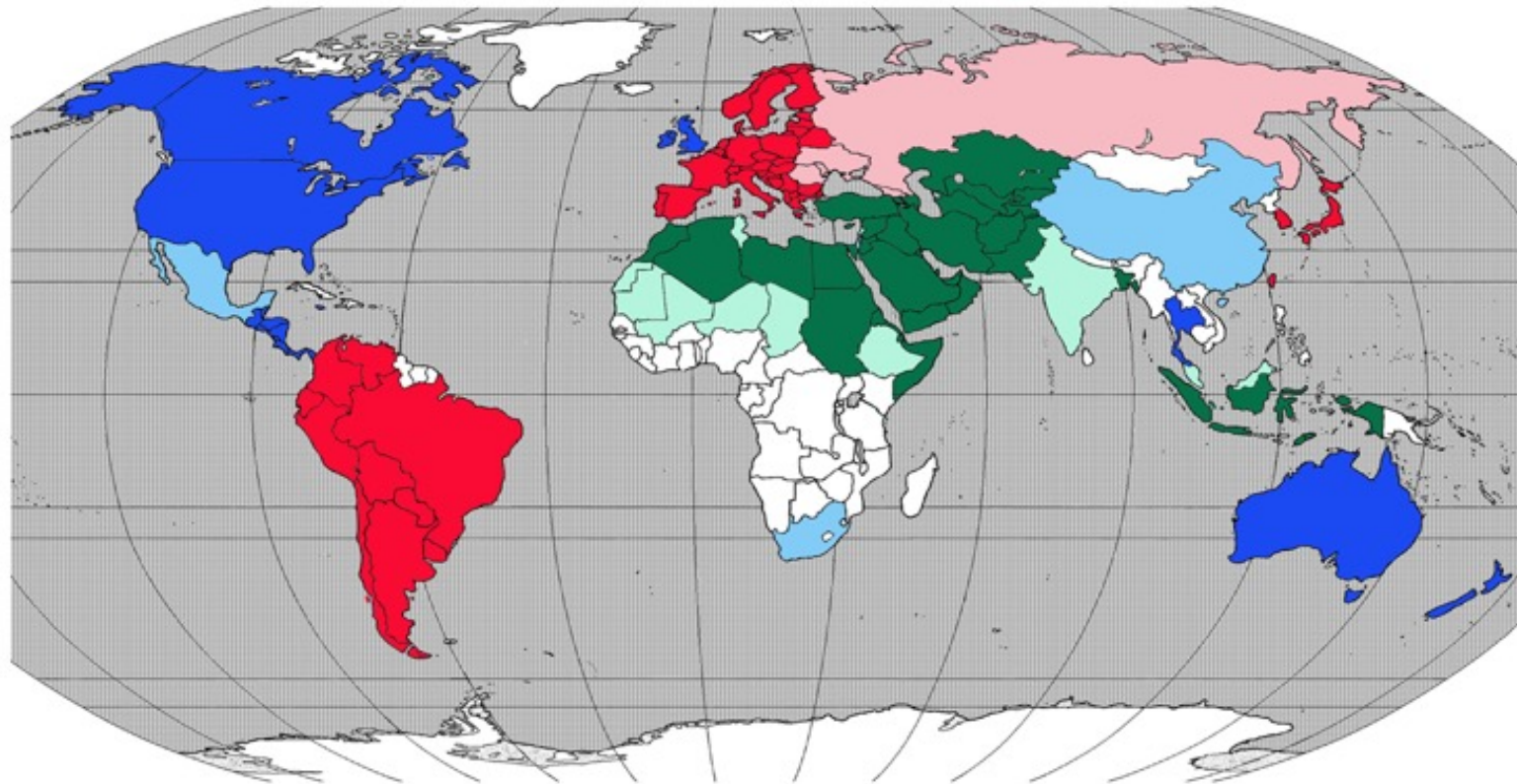
- By-laws
- Name/Address of
 - **Councilors**
 - **Beneficiaries**
 - **Guardian**
 - **UBO of founder if legal entity**
- **KYC**



Key considerations:

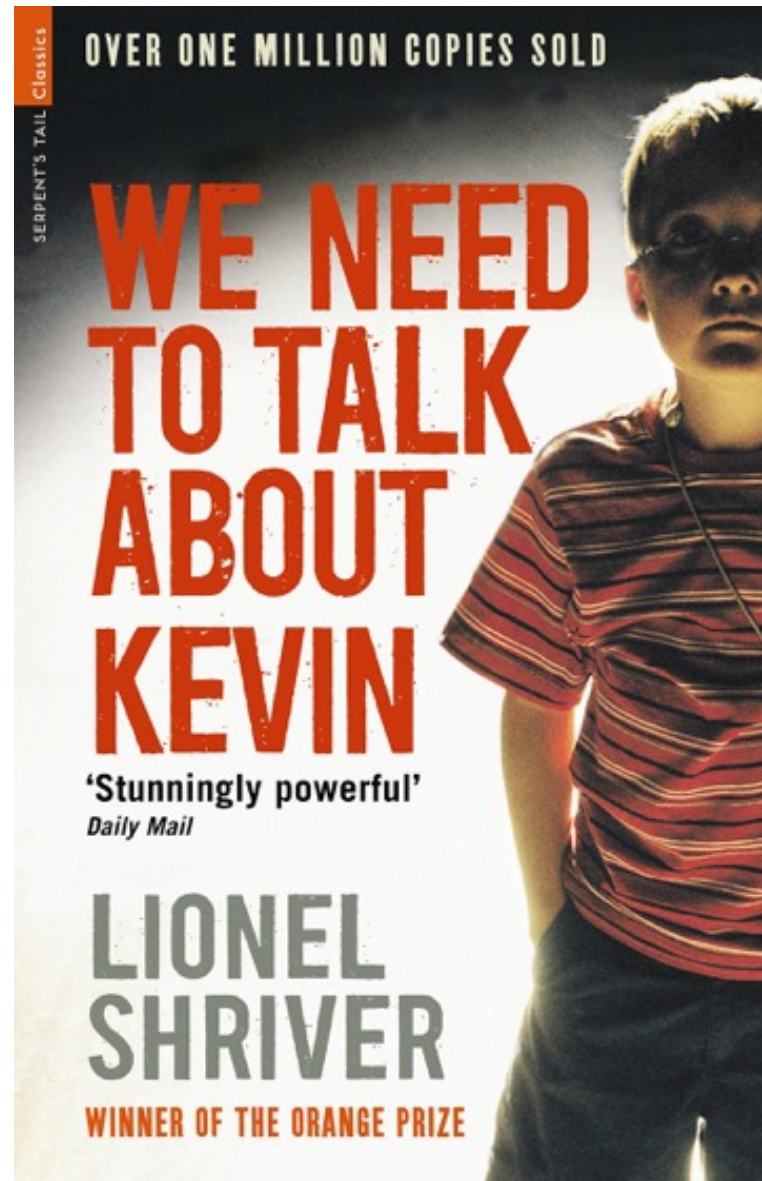
- Arbitration available
- Depository Certificates
- Conversion of company to foundation
- **Compatible with DLD (MOU in place)**

Principal Inheritance Systems - Forced Heirship and others



- Wide testamentary freedom - no forced heirship in the strict sense
- No forced heirship but statutory/customary recognition of close relatives' claims
- Forced heirship broadly on the Civil Law model
- Post-Soviet era systems - limited forced heirship
- Shari'a Law forced heirship the dominant system
- Mixed systems where Shari'a an important element

We need to talk about Kevin





- Married, two minor children (a boy & a girl)
- Christian religion
- Assets in Abu Dhabi, Dubai and abroad
- Parents alive, one brother



ماذا يحدث لو توفي مازن في دولة الإمارات؟

* إجراءات الوصية في دولة الإمارات

* المحاكم المحلية المعنية (المدنية – قسم قانون الأسرة)

* ماهو القانون الذي يحكم التركة؟

* اجتهادات المحاكم العليا

* ممارسة المحاكم الدنيا (الدرجة الأولى)

* يتم تجميد الأصول في دولة الإمارات

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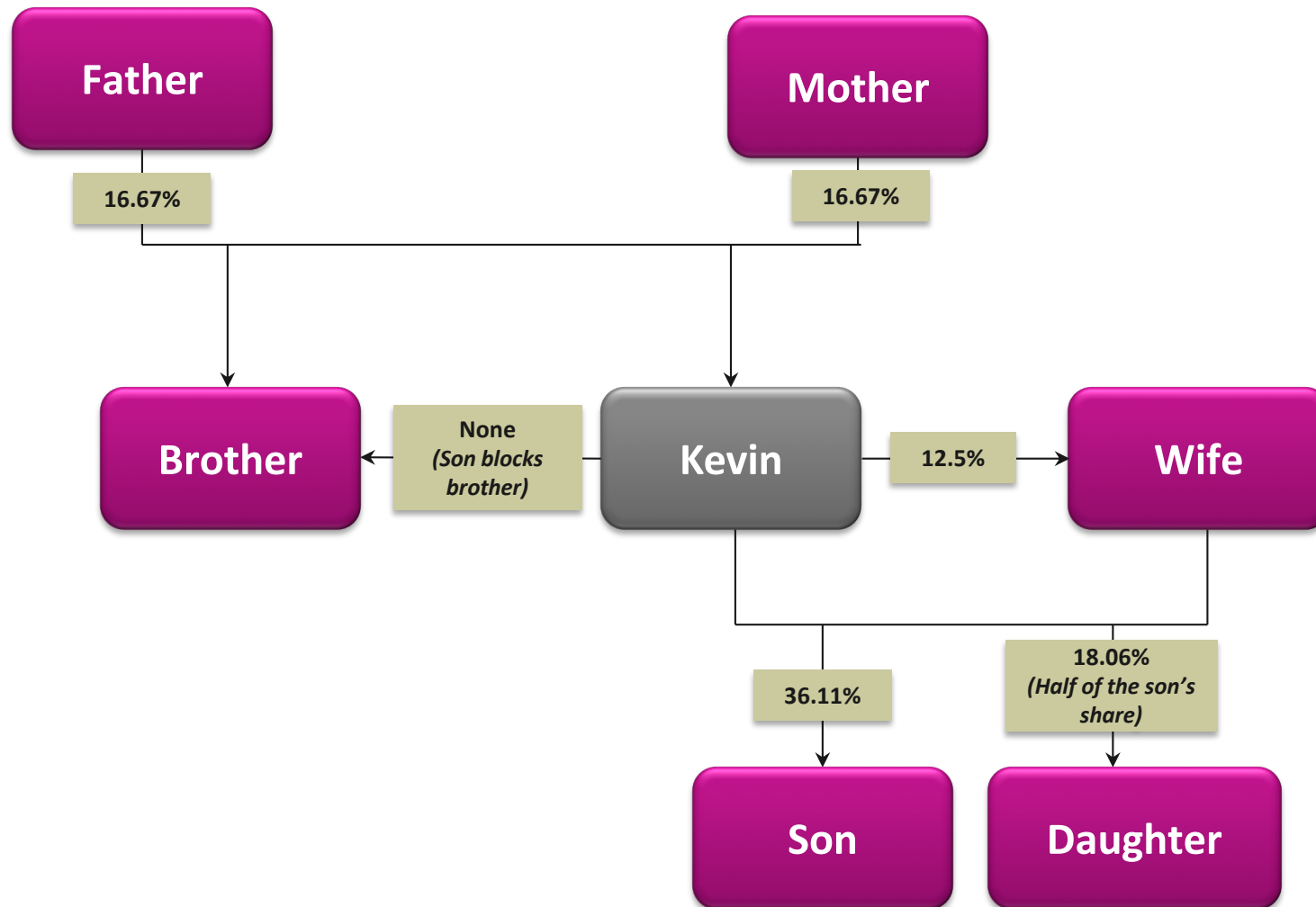
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- Probate Procedure in the UAE
- Local Courts in Charge (Civil – Family Law Section)
- Which Law governs the Estate?
 - High Courts Jurisprudence vs
 - Lower Courts practice
- UAE assets temporarily frozen





- Set of rules relating to inheritance issues of non-Muslims
- Clear mechanism to pass on “Dubai” and “Ras Al Khaimah (RAK)” estate
- DIFC rules to complement existing UAE laws



- Over 2,600 wills have been registered
- Approximately 30 wills registered each week
- 70% of registered wills are mirror wills
- 39.10% of registrants are women & 60.90% are male
- 31.67% of all wills registered are for Indian passport holders
- 60% are Europeans
- Youngest registrant was 23 years old, oldest was 94
- 11 probate cases – 6 granted

(Source: DIFC Wills and Probate Registry - www.difcprobate.ae)

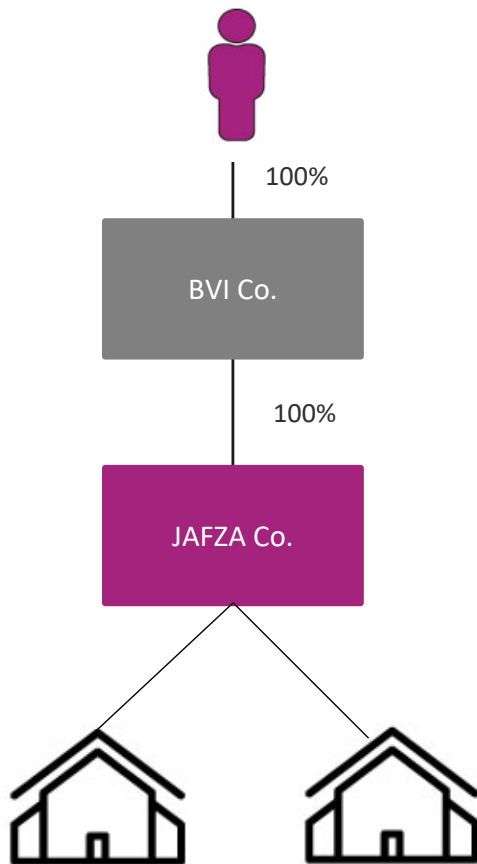


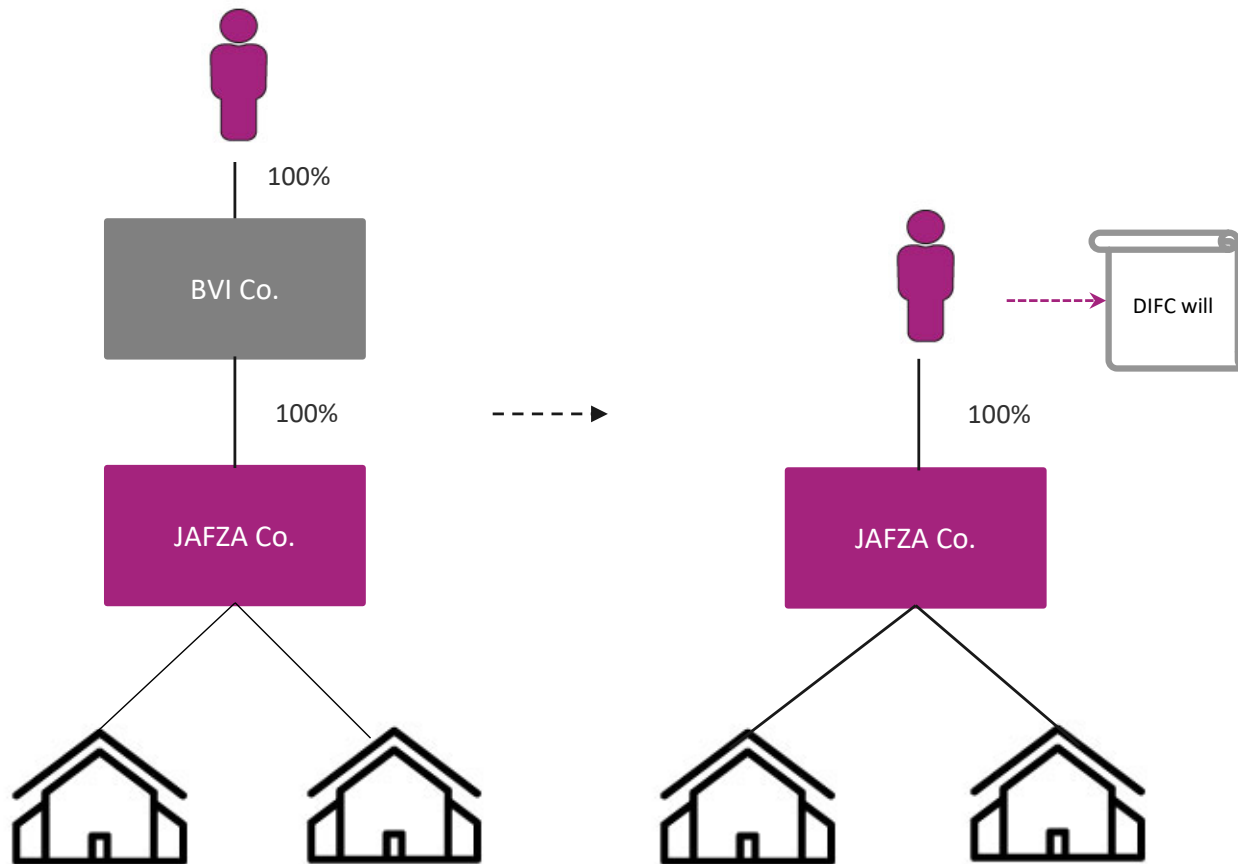
➤ **Abroad**

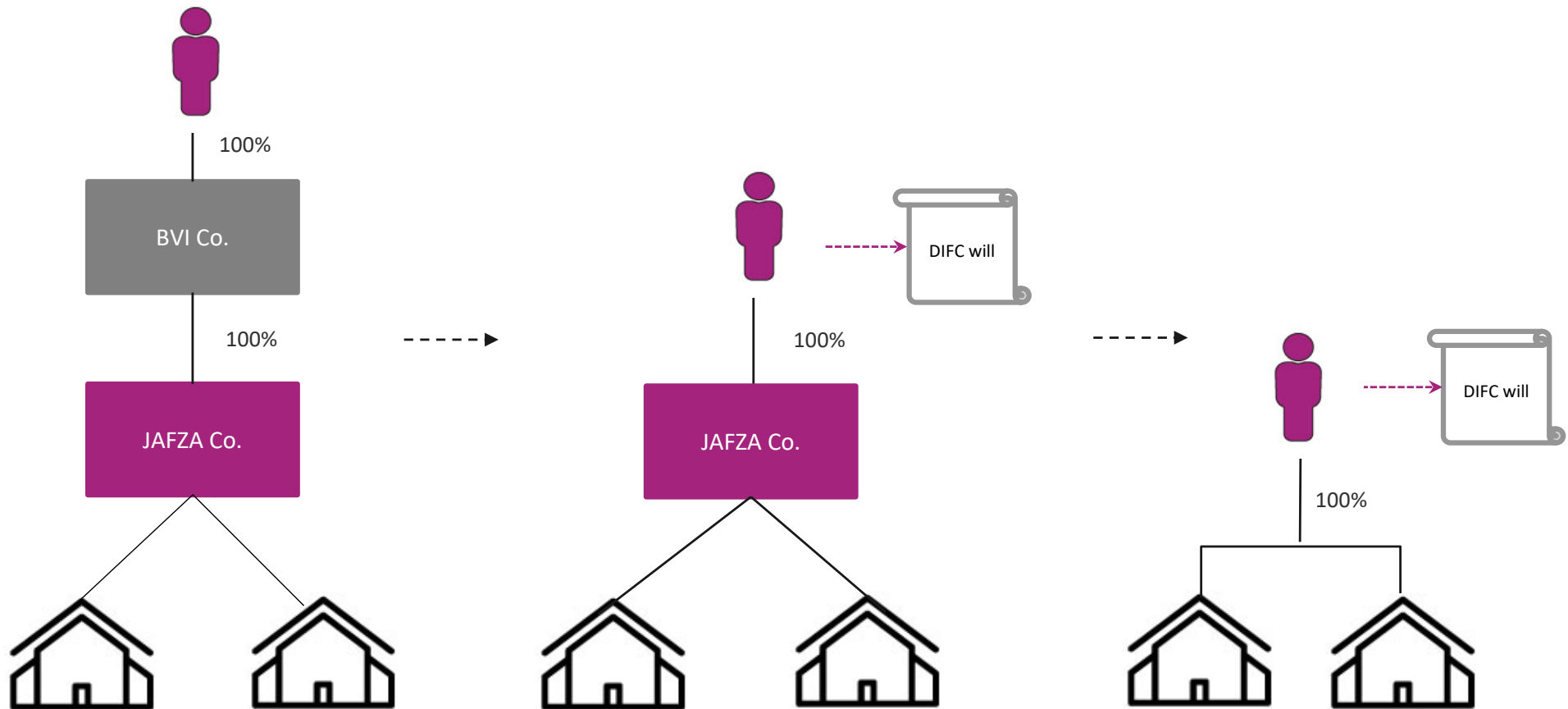
- Shortcut to devolution of “Dubai” and “RAK” assets
- No involvement of local (civil) courts

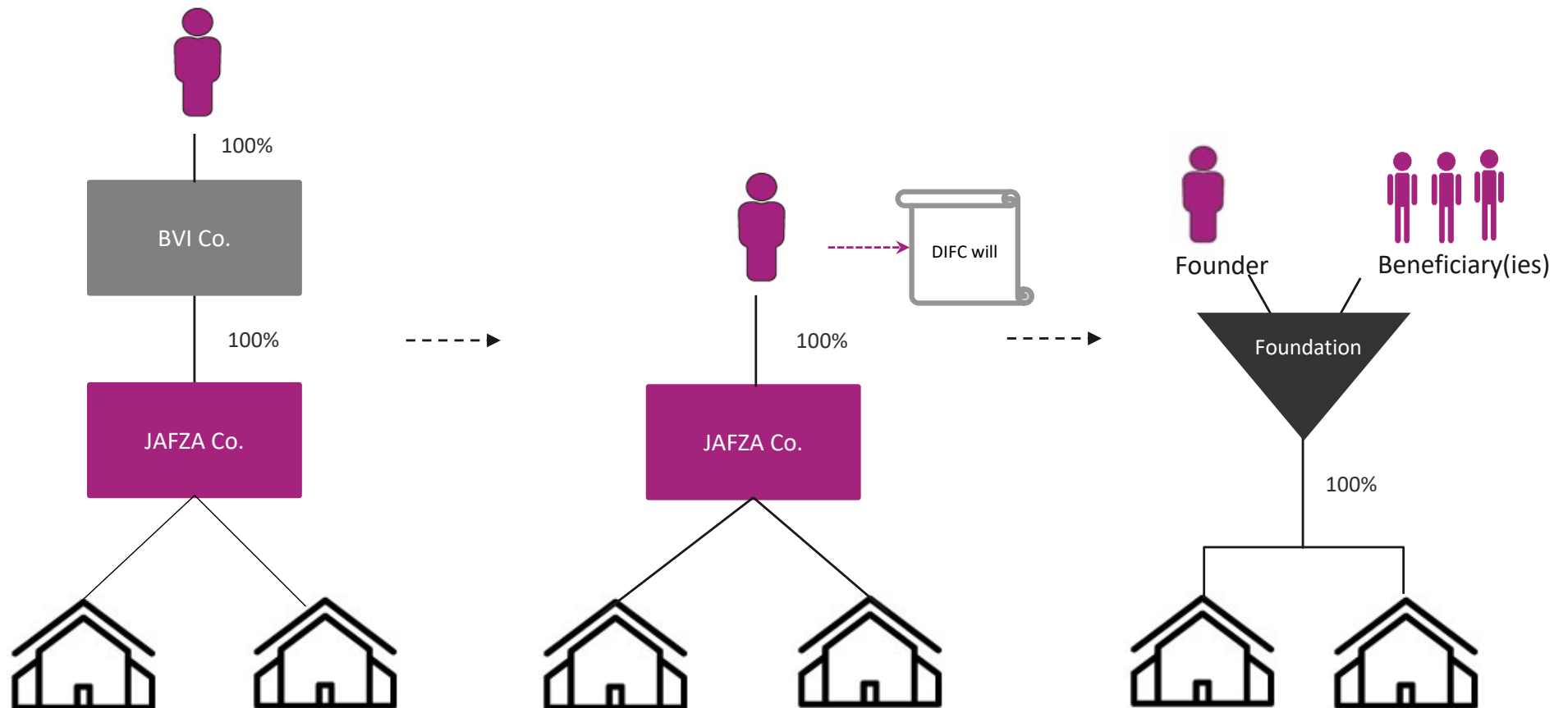
➤ **In the UAE**

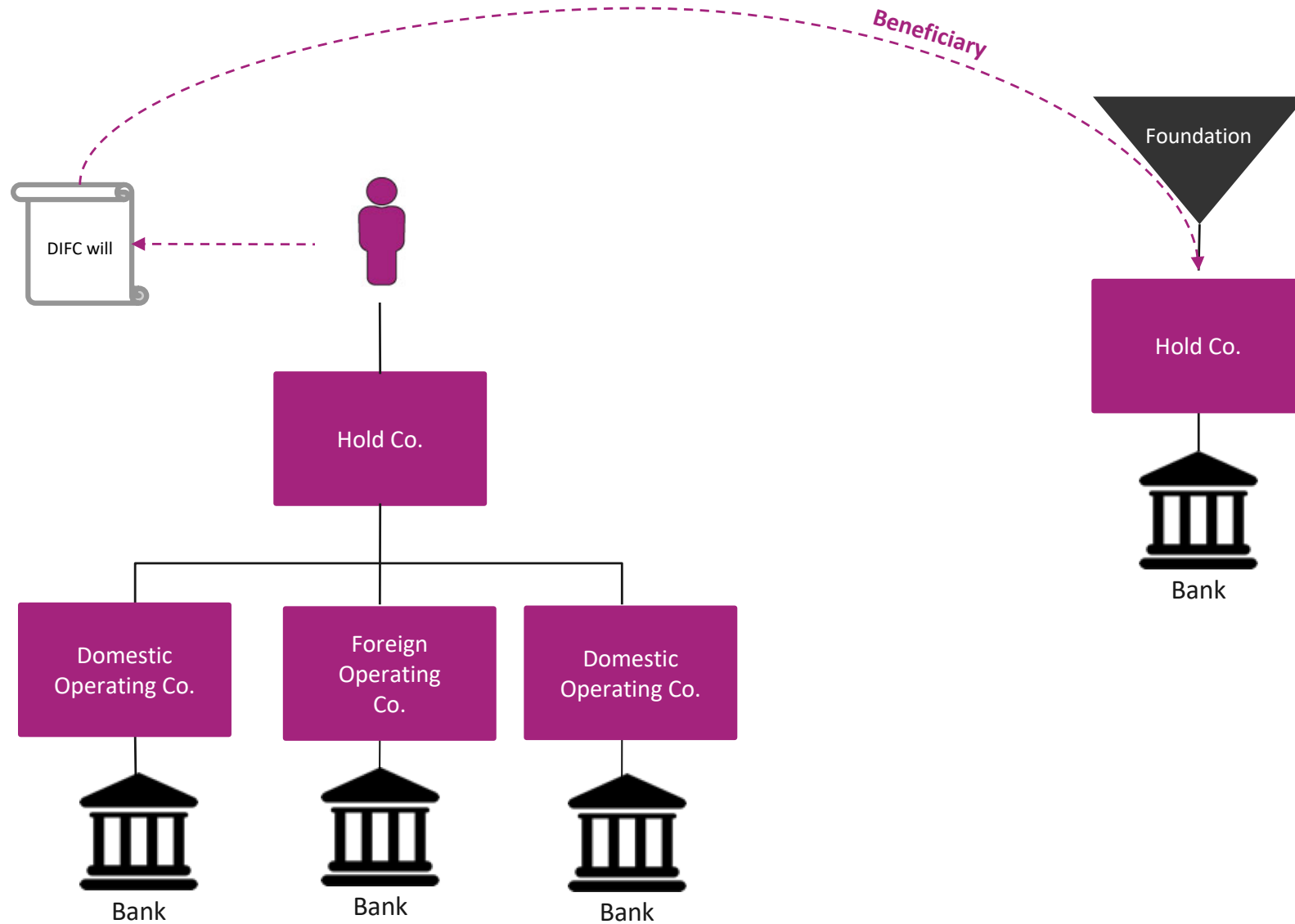
- No involvement of local courts
- No risk of application of Sharia Law
- Faster & cheaper

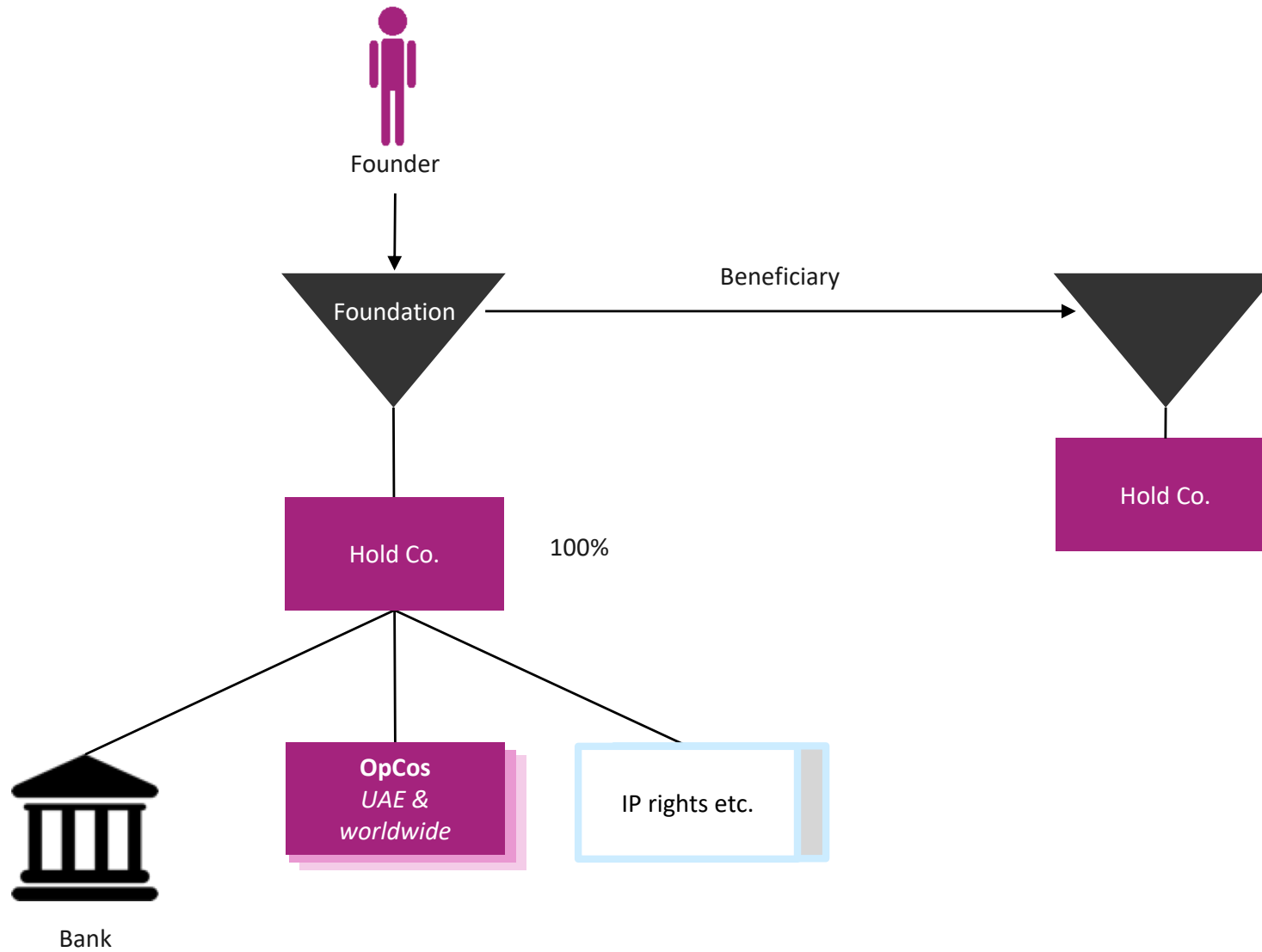


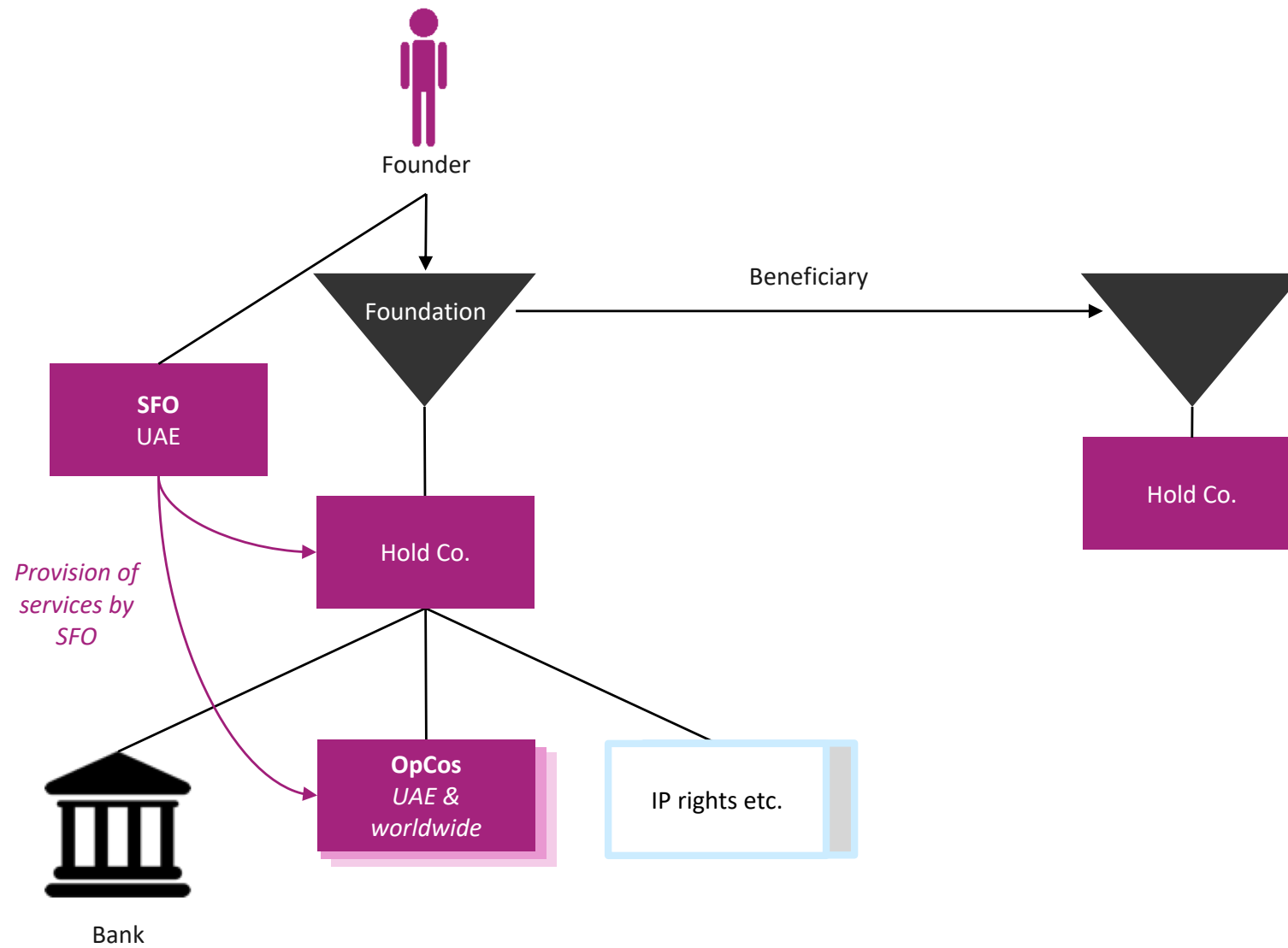


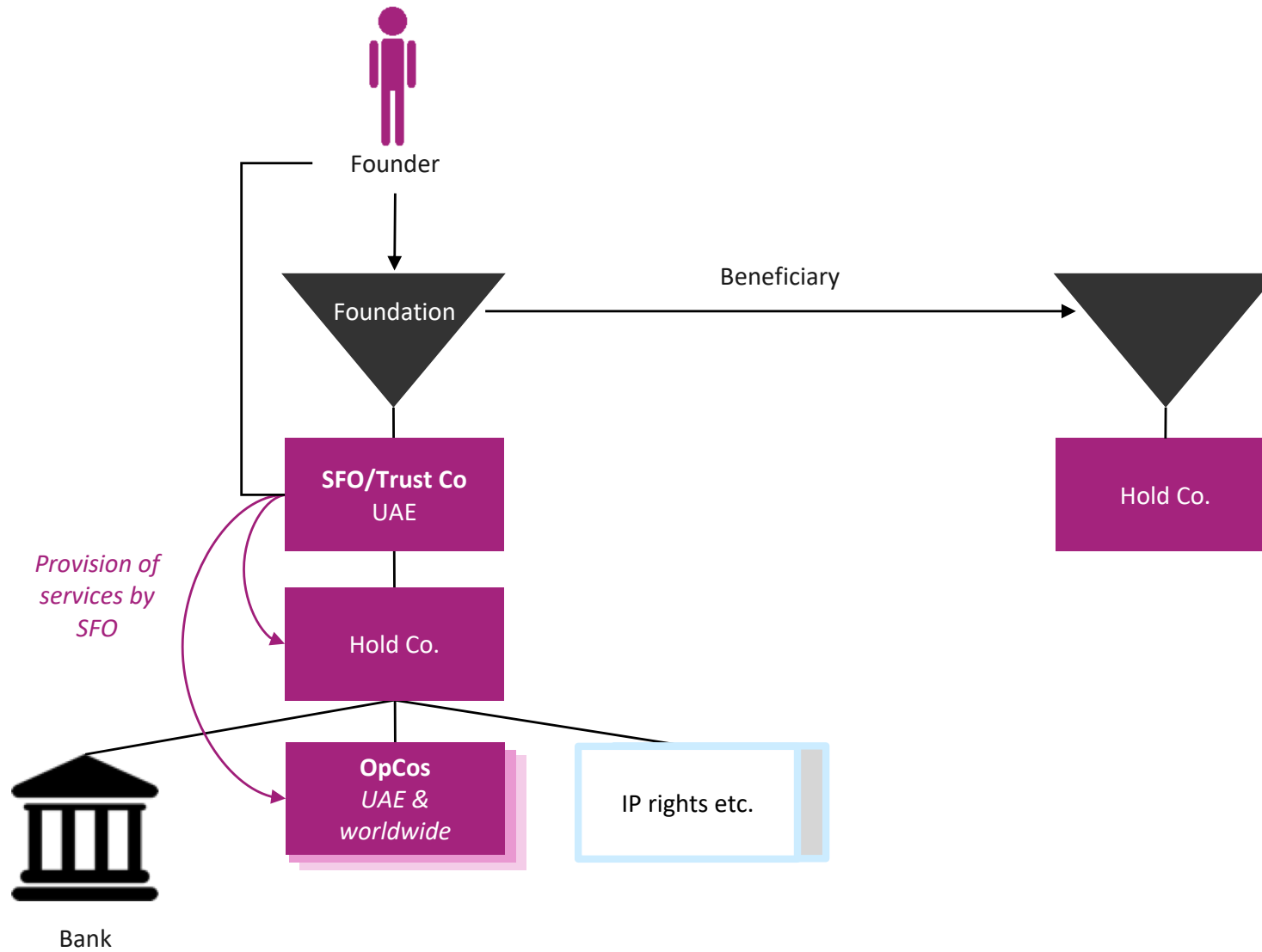














What will you take home?

Are domestic Foundations the answer?



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STEP Arabia



11 November 2018, Abu Dhabi