Family Offices

The STEP Handbook for Advisers, Second Edition

Consulting Editor **Barbara R Hauser**

Consulting editor
Barbara R Hauser

Consulting editor to the previous edition
Clare Archer

Managing director
Sian O'Neill

Family Offices: The STEP Handbook for Advisers, Second Edition
is published by

Globe Law and Business Ltd
3 Mylor Close
Horsell
Woking
Surrey GU21 4DD
United Kingdom
Tel: +44 20 3745 4770
www.globelawandbusiness.com

Printed and bound by CPI Group (UK) Ltd, Croydon CR0 4YY

Family Offices: The STEP Handbook for Advisers, Second Edition

ISBN 9781787422810
EPUB ISBN 9781787422780
Adobe PDF ISBN 9781787422797
Mobi ISBN 9781787422803

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About STEP

STEP is the global professional association for practitioners who specialise in family inheritance and succession planning. STEP works to improve public understanding of the issues families face in this area and promote education and high professional standards among its members.

STEP members help families plan for their futures, from drafting a will to advising on issues concerning international families, protection of the vulnerable, family businesses and philanthropic giving. Full STEP members, known as TEPs, are internationally recognised as experts in their field, with proven qualifications and experience.

Find out more at www.step.org.

Introduction

Barbara R Hauser
Independent family adviser

"Everyone should buy this book!" The speaker was a university sponsor of a day-long workshop on family offices in Hong Kong. The audience was 40 or 50 families and advisers who came from mainland China. Everyone was given a copy of the first edition of this book. Family offices continue to be a hot topic. They are growing rapidly, on a global basis. We saw that it was time for this expanded second edition.

This book will help advisers and families understand key issues. Should the family consider creating a family office? What would be the advantages, compared with traditional bank wealth management? Where should the office be located? What services should it provide? How much will it cost? How do you find the right talent? Can family privacy be protected? Is the senior generation ready to share information with the younger generation? What happens when a family office no longer serves its original purpose?

A new concept that is receiving attention is the idea of having a 'virtual' family office, instead of a bricks-and-mortar office. The chapter on the details of setting up and operating a virtual family office is written by the most prominent US expert on that subject. The chapter on the lifecycle of a family office, written by the chief executive of an award-winning multi-family office, offers a long-term view of the various stages and the options at these different stages. The new chapter on choosing the 'right' jurisdiction is a valuable addition to this edition.

For advisers, we also offer specific guidance on working with family offices in a way that benefits everyone.

This excellent compendium is truly a 'one-stop shop' for everything about family offices. For example, there is a detailed explanation of what goes into a family constitution. There is a process to follow to create an effective family mission statement.

The issues in this book apply far beyond the family office category. All very wealthy families struggle with many of the same challenges, with or without a family office. How can they foster harmony in the family? How can they prevent inheritance litigation? How do they motivate young family members to develop their talents? How does philanthropy fit into the family's legacy?

The first part of the book contains updated chapters by some of the leading experts in the world on these issues. In this second edition, we have added several new topics on risk and reputation, and a new chapter that is focused on generational health and wellbeing for the entire global family. The second part of the book continues the development of individual country reports. We have added Bermuda, Italy and Singapore, as well as updating many of the country reports that appeared in the first edition, to keep up with this ever-changing and always fascinating field.

We welcome your comments and suggestions, and add our appreciation once again to the Society of Trust and Estate Practitioners for its support.

What is a family office?

Ian Macdonald
Wright, Johnston & Mackenzie LLP
Mark McMullen
BDO UK
Francis Moore
Moore Family Office Limited

1. Setting the scene

At its simplest, a family office is the structure used by a family to manage the business of the family. On that basis, every family has a family office, and although family offices are normally thought of as the preserve of wealthy families because of the resources required to manage a complex family's wealth and the costs involved, it is instructive to introduce the concept by looking at how the management of any family's affairs might develop as its wealth grows and the numbers of family members and generations increase.

At first, a family office is quite simple and is usually called 'Mum and Dad'. The parents will typically set the family's attitude and values on wealth, risk and investment allocation, and will select advisers to help with technical structures. If Mum and Dad cannot deal with all of the administration themselves (often because they are too busy running the family business that is generating the wealth in the first place), they will usually use the resources of the business itself or delegate the administration to a trusted adviser.

Such early-stage family offices tend to grow in an unplanned way, without the family having a deliberate objective for the family office or a shared understanding of what it is intended to achieve. In due course, one or more of three things will happen and force the family to consider a more structured way forward:

- The family wealth will grow beyond the ability and capacity of the people involved to manage it.
- Mum and Dad will grow older and less able to manage the family's assets directly and the next generation will want and need to become involved.
- Undue mixing of family and business matters will distract those working for the business or its advisers from what should be their primary focus – the business on which the family's wealth is based.

At this point, either as part of their estate planning strategy or through their wills on death, parents often simply divide the family's assets into pots of roughly equal value and transfer these to family members. The next generation

then creates its own individual family offices. However, this approach has several limitations:

- Some assets such as land, property, valuable collections and shares in the family business itself are not easily divisible, so the family members may need to remain connected with each other through shared ownership of these assets.
- The family might want to remain connected through shared ownership of other assets that are used in common or have sentimental value, such as the family home or estate or a holiday home.
- Dividing assets into separate pots reduces the family's buying power and is likely to mean that each branch will lose potential value and incur higher costs compared to keeping the assets and management together.

If the family does decide to combine the management of some or all of its shared assets, whether by choice or because the nature of the assets effectively forces their hand, the family will need to think carefully about why it is doing this, what assets it will include and how those assets will be managed. We look at this process later in this chapter, but the structure that is now emerging is more recognisable as what is called a 'family office'.

Larger single family offices are likely to have a separate legal personality from the family, with all or most of the family's specialist advisers employed directly by the family office. Equally, however, a single family office may just be a place where the family administers its affairs; or it may be a network of employees and advisers in a number of different places who work together to run the business of the family.

One other point to note at this stage is that this type of family office will normally develop alongside the founding family's business, but the concept is just as valid if the family office is completely separate from the family business, if there is no longer a family business or indeed if there never was one.

2. Is there a common understanding of what a family office is?

It is easier to identify and agree on the definition of a 'family office' (in the sense that most people now understand the term) when it has been created by and serves only one family. The first family offices with their own infrastructure and professional and administrative staff were created in the 19th century by wealthy industrial and banking families, mainly in the United States. The United States provided us with a statutory definition of a 'family office' when the Dodd-Frank Act of 2011 created a new exclusion under which family offices are not 'investment advisers' subject to the stringent compliance requirements of the Advisers Act.

In summary, Section 202(a)(11)(G)-1 of the Advisers Act provides that a 'family office' is a company that:

- has no clients other than family clients;
- is wholly owned by family clients and is exclusively controlled by one or more family members and/or family entities; and
- does not hold itself out to the public as an investment adviser.

'Family clients' include present and former family members and key employees; 'family entities' include trusts, foundations and companies for the benefit of family members or for charitable purposes; and 'family members' include lineal descendants of up to 10 generations from a common ancestor and the spouses of those lineal descendants. Thus, the official definition of 'family office' is wide, but it clearly encompasses only family offices serving a single family.

This is important because some entities that were set up as single family offices later branched out into providing family offices for other families that could not afford or did not want to set up their own. These businesses became known as 'multi-family offices' and this model was then adopted by private and international banks, investment managers and professional firms, which used their own skills, resources and compliance structures to offer multi-family offices to a wider range of wealthy families. But are all these multi-family offices actually true family offices? To help us answer this question, we need to consider what range of services a family office can provide.

It is generally recognised that family offices will offer most or all of the following services – although which services are provided and by whom, and the scope of each, will vary considerably from family to family:

- investment strategy;
- financial and tax planning;
- record keeping and reporting;
- family succession and estate planning;
- trustee and company management;
- philanthropy;
- risk management and security;
- lifestyle (generally non-financial) services;
- family governance; and
- family education.

These are the headlines only; the detailed services are listed in Appendix 1.

A bank or investment manager may provide integrated investment management and reporting for all members of a family, usually via a family office advisory team; but that is not enough to allow it to call itself a family office. Indeed, some are now recognising this and have started using other titles, rather than calling themselves family offices. This is more accurate due to the services that they provide, which – while valuable to the family – are limited in scope.

Equally, many professional firms which now wrap up their services to families under the family office banner do not offer services that go beyond investment management and tax and estate planning. It is the non-financial services listed above which mark out a true multi-family office – particularly risk management and family governance and education, without which the family office will lack the necessary foundations.

3. Historical development

Although there is good contemporary research, little effective historical research has been undertaken into family offices. This may be because many single and multi-family offices kept their affairs to themselves, for the obvious reason of wishing to keep the affairs of their client families confidential, and it was not possible to conduct anonymous surveys as effectively in the past as it is today.

Accordingly, a detailed historical study is not feasible; however, some broad themes in the historical development of family offices are set out below.

The very early single family offices included Joseph and his team in Egypt, offices of certain Chinese and Japanese dynasties, the heads of prominent Roman houses and some crusaders' trustees.

More recently, as described above, the single family office emerged in the 19th century in the United States as a natural extension of the chairman's office in many major corporations, looking after the private and family affairs of the key shareholders and their families.

In Europe, the industrial, banking and landed estate giants gave birth to a similar array of single family offices, including those established by the Medici, Rothschild and Fleming families. The chairman's office again extended into the private side, and in the landed estates the estate office adopted the twin roles of running the estate and the owners' family financial affairs.

The multi-family office is widely believed to have originated from requests to single family offices for provision of their services to other families. Sometimes this was the result of a deliberate strategy; at other times, it resulted from an unsolicited approach from, usually, a contact of a satisfied family member. The main benefit to the original family was a sharing of costs, while secondary benefits included economies of scale, greater resources and increased breadth of expertise.

More recently, a new breed of multi-family offices has emerged. These provide services on commercial terms to a number of unrelated families. Some have their beginnings in single family offices and others in private banks and trust companies. There are many well-known examples, including national and multinational names.

Additionally, some commentators add in a third category of family office: the virtual family office, without premises and powered by technology.

4. Trusted adviser

Most ambitious advisers strive for the key status of 'trusted adviser'. This status is a natural role for someone in the family office to fulfil. The role itself has many facets, which justify a book on this subject alone; and indeed there are several of these, including one leading text that is referred to below. However, the characteristics of trusted advisers in a family office context are briefly summarised in the following paragraphs.

In families without a family office, the trusted adviser is typically a lawyer, accountant, financial adviser, investment manager, family business expert or land agent.

In a family office scenario, an individual within the family office will usually adopt the trusted adviser role. Some suggest that a trusted adviser can be a corporate, but the authors' view of a trusted adviser is that this is an interpersonal relationship, so it will be an individual in the family office who interacts with one or more individual clients.

This trusted adviser in a family office will typically:

- put the client first and make him or her feel important;
- understand business and be worthy of the client's confidence;
- behave like a fiduciary;
- look to the very long term (certainly 10 years, but perhaps up to 200 years forward);
- be discreet;
- have chemistry with the client and relate to him or her;
- deliver reliably and with the highest quality;
- be independent;
- be rounded, well read, financially mature and able to talk around the issues;
- think about the client and be proactive;
- stand up to the client and offer another solution in case of disagreement with the client; and
- have wisdom.

The trusted adviser should communicate by using these strategies:

- connecting effectively (ie, being a good listener and responding with insight);
- being available (eg, providing a mobile and home telephone number);
- understanding whether the client prefers the phone to email;
- using social media to interact with the client;
- speaking to each client at least every month;
- returning emails and calling the same day;
- remembering clients' key issues; and
- remembering clients' personal details, such as birthdays.

From the perspective of the family office itself, the trusted adviser should:

- excel at client care, including outside his or her own area;
- be commercially aware;
- exceed expectations;
- manage the relationship, including fees;
- share information; and
- make sure the whole team (especially the key roles of the secretary and the front-of-house staff) cherish the relationship.

David Maister (a well-known adviser to professional services firms), Charles Green and Robert Galford wrote *The Trusted Adviser*, which was originally published in 2000 (an updated edition was published in 2002). This book provides insightful analysis into the attributes of a trusted adviser and the benefits to client relationships that result.

The book's thesis is that the development of trusted adviser status follows the progression of the depth and breadth of the adviser's role in the client relationship from technical adviser to trusted adviser. The level of trust is measured by a combination of credibility, reliability and intimacy, as moderated by self-orientation (ie, is the adviser looking to maximise the benefit for the client or for himself or herself?). This measurement takes the form of an equation that adds together credibility, reliability and intimacy and divides the sum by self-orientation.

There are risks for the family office in being a trusted adviser. These include:

- failing to perform to expectations;
- having the wrong person as trusted adviser; and
- losing a client relationship (if the individual trusted adviser leaves).

However, the risks are usually outweighed by the benefits, which include:

- additional work from the client;
- internal and external referrals;
- high-level and quick communication; and
- less pretence and a more honest relationship.

5. Single family offices

Family offices come in all shapes and sizes, just like families. They range from one-person advisers to large units. Structure and regulation are dealt with in other chapters.

In the United States, the Securities and Exchange Commission (SEC), in its notes accompanying the proposals to the Dodd-Frank Investment Advisers Act amendment mentioned above, commented that:

> *'Family offices' are entities established by wealthy families to manage their wealth, plan for their families' financial future, and provide other services to family members.*

> *Due to their associated running costs, single family offices generally serve families with at least $100 million or more of investable assets. There has recently been an increase in the number of family offices in existence, and industry observers have estimated that there are now over 10,000 single family offices around the world. It was previously estimated that these single family offices manage more than $1.2 trillion in assets, and that number will only have increased.*

The single family office has, at least at the time of its commencement, a single family as its client. As the family grows, the single family office may find itself looking after many different family units, which usually have common ancestors. Eventually, as wealth is dissipated throughout the succeeding generations, the minor family branches may migrate to other advisers, unless new wealth can be generated, which often has the effect of binding the extended family together.

The market perception is that the number of single family offices worldwide, currently thought to be in excess of 10,000, will increase as new wealth is generated and as existing wealthy families explore the benefits that such an office can bring.

Although the SEC refers to $100 million investable assets as a minimum for a single family office, other commentators believe that a lower figure may be a more appropriate minimum.

6. Multi-family offices

As described above, multi-family offices have many different antecedents.

Multi-family offices have their own minimum criterion for joining, which is usually in the range of $5 million to $250 million of investable assets.

Their major distinguishing point is that they can offer an independent and holistic advisory service which gives their clients better risk management, governance, education and financial management than alternative providers, without a product push. In part this is due to the availability of greater resources and in part to the exposure of the multi-family office to more different and varied scenarios.

It is estimated that there are now several thousand multi-family offices worldwide. The total appears to be growing, albeit at a slower pace than the number of single family offices.

7. Comparing single and multi-family offices

Each family will have its own unique set of circumstances (both financial and human) and its needs, aspirations, risk tolerance and ideas will differentiate it from other families.

Whether a family is best suited to a single family office or a multi-family office, or to managing its own relationships with its different advisers, will

require careful thought and evaluation by the family as to how best its requirements can be met. There is no magic bullet or template providing a single solution.

A family considering setting up a single family office will usually draw up a business plan with professional help, review the feasibility of the plan and its projected outcomes and then decide the correct way forward. Examples of what might be included in a business plan are set out in Appendix 2. If it is to set up a single family office, the family will normally employ an expert in implementation in order to negotiate the complex demands, which include structuring, staffing, regulation and technology.

In a situation where a family is considering joining a multi-family office, a typical scenario is that family members will obtain the names of potential multi-family offices from end users and other contacts. A process will then commence which could involve anything from casual discussions to a full-blown tender exercise. In any event, it is usual for appropriate due diligence to be carried out by the family.

8. The relationship between the family and the family office

It will already be obvious that the family is a crucial component of the family office, and not just because it is the client. A family office is about creating, preserving and extending the family legacy; so who better to create the family office in its image and to meet its requirements? If the whole family is not closely involved in the creation of the family office (if it is a single family office), or the selection of the best organisation to provide family office services through a multi-family office, the family office is unlikely to provide the long-term solution through which the family is seeking to manage and pass on its wealth.

We have already identified certain situations that can act as a trigger to the process of setting up a family office – increasing numbers of family members, ageing, ill health or death of the senior generation, or mixing of family and business matters to the detriment of both. Many other situations and events can prompt discussions about a family office, such as the sale of the business, retirement and other family events, or simply the broader economic situation; but the process can be started at any time the family feels ready to do the work.

The first thing for the family to consider is what the purpose – the fundamental mission – of the family office is to be. This may seem obvious, but there are many reasons why a family office may be set up and not all of them may be relevant for each family. The structure must reflect the priorities of the family. Each family must decide who will participate in establishing the purpose of the family office, but there may be value in holding a meeting of all the adult family members whose lives will be affected by the family office. If family members are not encouraged to participate in building the family office, they are less likely to value and remain committed to it.

This approach is more likely to succeed than leaving the objectives and structure of the family office to senior family members only; far less to professional advisers who may be tempted to create the family office in their own image, emphasising their own specialisms at the expense of other functions which are equally or more important.

The family then needs to decide what assets within the family office are being managed for the whole family (so that information on these assets will be available to all), and what assets (eg, individual bank accounts and investment portfolios) are to be confidential to the family members or entities that own them. Another aspect of this tension between the individual and the collective is that the family should consider not only how family members can join the family office and make use of its services, and how the costs of the family office are to be allocated among them, but also how and on what terms they may be allowed to leave.

Once the family has developed the purpose, services and structure of its family office, it needs to consider what role the family will play in running it. Some families might want to design their family office to capitalise on the skills and interests of family members and thus ensure that the family has a prominent role in running it, in order to keep as much control as possible over its own affairs. If, however, family members do not have the skills and abilities to manage their own family office, the family will need to engage outsiders. This is one of many areas where the lessons and techniques that have been developed over many years of advising family businesses can also be applied to the family office. Setting out at an early stage criteria for employing family members will give the family certainty for the future and influence the shape of the family office over the years.

Even if family members are not directly involved in the day-to-day running of the family office, this does not mean that they will be isolated from it and only become passive participants. Any worthwhile family office strategy should include practical advice on how the business of the family can be well governed, as well as being well managed.

"What next? Governing a family office through leadership succession" looks in detail at governance of the family office, so here we simply set out the building blocks that families may want to use to set up their family office system. As families grow and it is no longer possible to discuss issues among the whole family informally, a family assembly provides a forum for discussion and social interaction. In larger families where the assembly of the whole family is too unwieldy to allow easy decision making, a family council with representatives of each branch and generation of the family can be created as the vehicle for decision making, while still being guided by the family assembly.

Comments on a family council are included in Appendix 3.

Thus, the family office and its associated bodies become the support structure for the family in the same way as the other two 'circles' of the family business

system have their supporting organisations: the business has its management and technical services, while the owners of the business are supported by boards of directors and committees. Just as the business and the owners will change and develop over time, so the family and the family office will change and grow. The structures, systems and people in the family office will also have to develop to address these changing requirements. Like the business, no family office can stand still, so improving and adapting must always be on the agenda.

9. Supporting the family office

An increasing number of membership organisations exist to support family offices and their staff. These provide a forum for confidential discussions, research, sharing knowledge, networking and learning.

In addition, some private banks and professional firms run networking and educational sessions.

10. The role of the adviser to the family office

This book is intended primarily to help professionals from any discipline who are advising family offices, rather than those actually working in them – although there is likely to be a substantial overlap between these two groups, particularly as the family office market develops. Again, subsequent chapters develop the theme of how advisers should relate and respond to family offices, and this section merely sets out some general principles.

There are three typical structures for family offices which produce different relationships with and demands on its advisers:

- Single family offices with a large permanent staff may try to cover all of the different types of professional advice which their client families will normally require. Outside advisers engaged by these offices are therefore likely to be highly specialised advisers addressing out-of-the-ordinary situations.
- Multi-family offices set up by banks and professional organisations will normally provide in-house professional advisers for the business areas covered by the host firm, but may need to engage outside advisers to address service areas which the host chooses not to cover (perhaps for financial or compliance reasons) and the wide range of specific issues which may be encountered by the multiple families that the offices serve.
- Family offices of both types may take a deliberate decision not to try to provide every kind of professional advice that client families may require, but instead to select the most suitable advisers for each category of service the families need and each type of issue they may encounter – in effect, being a manager of managers.

Whatever types of advisers are engaged (and this will apply equally to the

professionals employed within the family office), they will need to be truly client-centric in their approach and look beyond the technical specialism they have been asked to bring to the table. This means understanding the family dynamics, appreciating how the family and the family office operate and relate to each other, and giving advice that is right not only for the individual or group affected, but also for the wider family.

Outside advisers also need to take care that their duties of client confidentiality and avoiding conflicts of interest are not compromised by working within the family office structure when the client may be only one individual or a group within the larger family. Where a number of advisers are engaged – whether on specific projects or on a longer-term basis – the family office has a critical role in managing and coordinating the advisory team. In this area, as in so many others, communication is the key and the family office should encourage a collaborative approach.

11. Frequently asked questions

11.1 Why should I establish or use a family office?

The reasons for establishing or using a family office include the following:

- to obtain expert, independent wealth management and financial advice at a reasonable price;
- to have a dedicated family finance director;
- to delegate the administration of financial affairs while retaining control; and
- to simplify reporting.

11.2 What does it cost?

In the United Kingdom, the minimum cost is usually in the range of £1.5 million to £2 million per year.

With a single family office, the cost of the operation plus an appropriate profit margin is divided among the family members in an agreed way.

With a multi-family office, it depends on the level of services provided and the value of assets managed, but you can expect to pay more than the equivalent private banking fee.

11.3 Are there double layers of charges?

In some cases yes, although these can usually be reduced or even eliminated by virtue of the buying power of the family office.

11.4 What are the main disadvantages?

The burden of regulation is perceived to be a significant disadvantage in many jurisdictions.

Other disadvantages include the difficulties of succession planning and incentivisation and remuneration strategies within the family office. It can be difficult to recruit and retain staff with the right skill sets. The risk of staff moving on is significant in a small office.

11.5 What is the optimum jurisdiction?

This will depend on many factors, including:

- the countries of residence of family members;
- the locations of family assets;
- economic and political stability;
- the applicable legal system;
- the existence of a well-established and efficient financial industry with available external advisers, especially lawyers;
- the availability of staff;
- the preferred structure;
- confidentiality; and
- taxation.

11.6 What governance structures should be put in place?

This is dealt with in "What next? Governing a family office through leadership succession".

11.7 Isn't the use of the description 'family office' by single family offices, multi-family offices, accountants and others just a gimmick to mask the delivery of the same services at a higher price?

Undoubtedly this is applicable to a few situations, but in the main a well-run single or multi-family office can deliver significant advantages to its clients. In a full-service scenario from a service provider, the advice would usually be better coordinated when delivered by a dedicated family office team.

11.8 What happens if a single or multi-family office doesn't offer the additional service that I need?

Usually, family offices will have outsourcing arrangements in place to enable them to deliver any additional services that the client may require through third parties if they are unable to provide such services in-house.

Appendix 1. Typical services provided by a family office

- Investment strategy
  - Investment objectives
  - Asset allocation
  - Investment vehicles
  - Engagement of investment managers
  - Oversight of asset classes and managers
  - Custody of assets
- Financial and tax planning
  - Retirement planning
  - Bank financing
  - Financial analysis
  - Tax returns and planning
  - Income and cash flow
- Record keeping and reporting
  - Investment performance reports
  - Income analysis
  - Comparison with plans and targets
  - Consolidated statements
  - Personal assets
- Family succession and estate planning
  - Family objectives
  - Financial requirements
  - Estate planning strategies
  - Estate planning structures
- Trustee and company management
  - Trustee and fiduciary services
  - Selection of trustees
  - Private trust company
  - Corporate trusts
  - Foundations
  - Estate administration
- Philanthropy
  - Charitable objectives
  - Selection and training of trustees
  - Trust and foundation administration
  - Personal giving and charitable activities
  - Monitoring of how donations are used
- Risk management
  - Investment and financial risk
  - Personal security
  - Personal insurance

    - Property insurance
    - Reputational risk and media policy
    - Safety of physical assets
    - Cyber risk
    - Compliance with the EU General Data Protection Regulation and data controller services
- Lifestyle (generally non-financial) services
    - Personal employees and payroll
    - Property management
    - Travel arrangements
    - Individual cash flow and bill payments
    - Management of luxury assets
- Family governance
    - Family vision and values
    - Family structures, including assembly and council
    - Regular review of structures as family grows and develops
    - Organisation of family meetings
    - Communication
- Family education
    - Education of the next generation
    - Career planning and monitoring
    - Leadership training
    - Trustee training
    - Beneficiary mentoring and education

Appendix 2. Contents of the business plan for setting up a family office

First, the family should consider the following questions:

- Why do we want to set up a family office?
- What will the family office deal with?
- How will the family office relate to the family business (if there is one)?
- How will the family office relate to other family structures?
- How will the family office relate to individual family members?
- How will the family office work?

If the family decides to proceed, a business plan will typically include the following:

- Executive summary
    - A short executive summary that encapsulates the whole plan, preferably just one page.
- Introduction – about the family
    - Describe the family, including its history, structure, strategy and mission.

  - Highlight the skills and experience of key family members.
  - Explain the rationale for the creation of a family office.
- Introduction – the family office
  - Outline the services to be provided.
  - Include an analysis of strengths, weaknesses, opportunities and threats. Do not avoid weaknesses or threats – these can be dealt with only after being identified.
- About the market
  - Analyse projected turnover.
  - If setting up a multi-family office, include information about competitors in this section – for example, their strengths, weaknesses and market share.
  - Detail any major family groups that will be clients.
  - Outline marketing activities to demonstrate how you identify and develop new business.
- Financial information
  - This is normally provided as an appendix. It should include a five-year summary of profit and loss accounts, key ratios, profit and loss projections, cash-flow projections, a forecast balance sheet, a detailed explanation of any assumptions and a sensitivity analysis.
- Property plan
  - Report on your proposed business premises and outline any planned expenditure.
- Staffing plan
  - Describe anticipated personnel requirements, including any training and promotion policies. Recruitment, remuneration and succession planning should be covered; the family/non-family employee dilemma is particularly relevant here.
- IT plan
  - Describe anticipated IT requirements and costs.
- Legal structure
  - Describe the anticipated structure, including the jurisdictions to which it will be subject.
- Governance
  - Summarise how governance will operate, including the family office's relationships with existing family structures.
- Regulatory matters
  - Summarise the regulatory environment and what will be needed to address regulations.

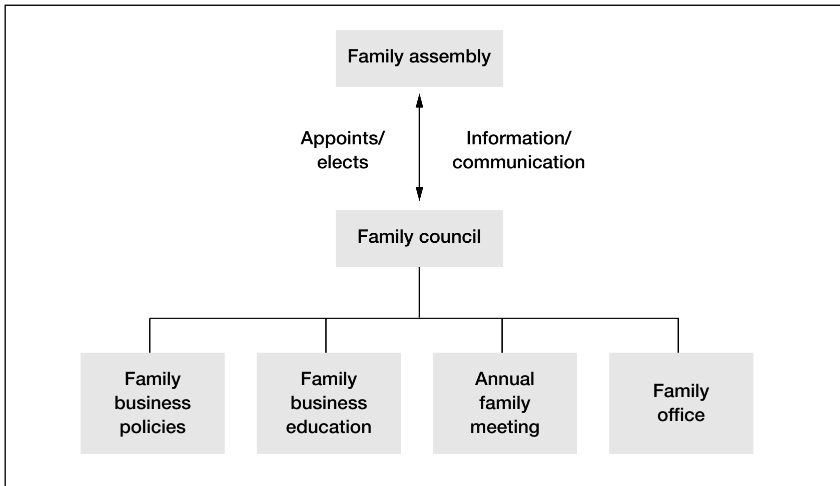
Appendix 3. The family council

Typically, the family council will be a separate group with responsibility for

running the family assembly and being the main governance link between the wider family and other parts of the enterprise, such as the board of directors. The family assembly will normally include all members of the family over the age at which the family has agreed they should participate – usually between 18 and 25 – while the family council is a much smaller group of family members representing different generations and branches.

Figure 1 shows the important role that a family council can perform in overall governance.

Figure 1. Role of the family council in governance



The family constitution dictates what structures will exist – family assembly, family council, family office and so on. Within that framework, the family council will be subject to the governance criteria that are established.

The family council will typically have terms of reference which include:

- purpose;
- composition;
- reporting lines (upwards and downwards) and methods of reporting;
- budget; and
- frequency of meetings.

Establishing the family office

Barbara R Hauser
Independent family adviser

This chapter covers the steps that a family goes through in establishing a family office. It begins by looking at the catalyst for forming the office and deciding what services it will provide and how it will operate in a general sense.[1]

1. When does a family decide to establish a family office?

Some family offices evolve over a number of years, beginning with some simple services and growing to include additional and more complex services. When these services are offered through a family-controlled operating business, they are often referred to as 'embedded' family offices. At some point the group providing the family services looks and acts like a family office. Other family offices are created all at once, in a deliberate act of forming a family office. The way that each operates is often based on whether it evolved or was deliberately formed. In all cases there is significant family wealth (some estimate that a family should have more than $100 million in assets to consider having its own family office.)

1.1 Gradual process

Although 'family office' is a fairly recent term which developed primarily in the United States, where it was heavily marketed in the 1990s, the services provided by a family office have been provided without using that name for centuries all over the world.

When a family is wealthy enough to pay others for services that are dedicated to that one family, it is receiving the benefits of a family office. From the old literal 'gatekeepers' in Asia to the home servant staff in English manors, dedicated service is the hallmark of the family office.

These older models usually developed gradually: one butler would later supervise a full staff for upstairs and downstairs. This increase could take place over several generations. The main measure of a family's wealth was often in the

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1 This chapter includes material from Barbara R Hauser, "The Family Office: Insights into Their Development in the US, a Proposed Prototype, and Advice for Adaptation in Other Countries", *Journal of Wealth Management* (Autumn 2001).

land, the castle, the farm or the ranch. Hence, portfolio management of liquid investments was a much smaller issue and was often handled by outside advisers.

In the United States, it often happened in the 20th century that the family's operating business would share some of its staff to help with the family's personal matters. This could range from help with travel plans to shopping and party planning. As the personal liquid investments would grow, often from dividends, the financial officers in the business might help out with basic investment decisions. Without conscious direction, some of the company staff would begin to take on functions that would now be classified as family office functions. The range was as broad as the needs of the entire family: obtaining financing for an adult child to purchase a home; hiring and firing household staff; planning private business/social events; keeping bank accounts in order; paying household and personal bills; getting tax returns filed; and so on.

As the needs increased, it became increasingly awkward to fulfil all of the family services through the operating company staff. At a minimum, to preserve the tax deductibility of business salaries and overhead expenses for the company, it was necessary to maintain internal allocations of time, with the personal time paid for in some other way. In most cases, though, this probably was not done.

From a family perspective, it also became increasingly awkward to have its personal finances scrutinised and organised by operating company staff. If one or more family members were actively involved in managing the company, other family members faced the additional problem of concealing confidential matters from those members who were managing the company.

The relationship between the family and the operating company was often very opaque. Unsure of their rights as family owners of the company, younger family members in particular were hesitant about asking for personal assistance. The operating management team was often unclear about what, if any, involvement the family members should have in the direction of the business. Using internal company staff to handle family office functions often looked like a bridge between these two groups.

Ultimately, though, the confusion of roles, overhead allocation and concerns of confidentiality would sometimes prompt a split. A physically separate family office would be created.

Another catalyst for separating personal family services from the operating business came when a family business reached a stage where it wanted to make itself attractive to outside investors (to be listed or to go public), in which case the family would start to separate its services from the business. Sometimes this was done by allocating an internal charge for the family owners to pay personally for their partial use of the business executives and/or of the business's physical space.

If the family services became substantial enough, the family and business would often decide at some time to separate the family services from the business physically. This would be the birth of a family office.

It is common for the family to give a special name to its new separate family office. It might be based on a favourite vacation site or some other private family meaning. (For example, the Cargill family office is called 'Waycrosse', which is a combination of two place names special to the family.) Even when they have formed a separate family office, families generally prefer to stay very private. This includes a preference not to have the family name mentioned anywhere. In some countries families are also concerned with their physical safety – another function that can be provided by the family office.

1.2 Liquidity event

The other principal catalyst for the creation of a separate family office is when the operating business is sold or goes public. This has two major effects on the family owners. First, they suddenly have much more liquid wealth than ever before. Second, they no longer have access to company staff to take care of their personal and family needs.

Many owners become paralysed at this point. The activity they knew so well – operating the business – is gone. Liquid wealth is not something they have had much experience with, and they do not know whom to trust. A surprising number of suddenly liquid owners in the United States simply put the money into ordinary treasury bills while wondering what they need to learn about the sophisticated investment world. Their day-to-day conveniences are also gone: no more secretary, no more office to go to every day, no more staff and so on. This sudden transition can be very tough.

Consultants are often hired at this stage to advise on how to set up a family office to take care of the new financial needs. Facing the family office market for the first time can be bewildering. Other family offices wishing to expand will offer to add the new family to their original family group base. Large institutions will compete for the financial management services and promise that they can be the family office substitute themselves.

This is a very confusing time for a family. Those that can speak directly to other families which have been through similar experiences are extremely grateful. Families have found particularly helpful opportunities to participate in off-the-record small group discussions on many of the issues that need to be addressed when creating a family office.

All families are different, and their needs and interests vary considerably. There is no one perfect design. A wry comment in the industry is, "If you've seen one family office, you've seen one family office."

2. What does the family want in terms of services?

As mentioned above, an incredible variety of services can be provided by a family office. A shorthand description of a family office that is primarily focused on investment services is that it "does not walk the dog". See Appendix 1 to the chapter "What is a family office?" for a checklist of those services that one might expect a family office to consider.

Deciding what services should be provided is a very personal evaluation. It should not matter what most family offices provide. What matters is the unique needs of a particular family. For example, one investment professional hired by a new family office complained that this was not a 'real' family office, because most of the positions on the organisational chart related to looking after six international homes and their staff, including local nannies. In that case there was still a successful operating business, with a relatively small amount of liquid investments. Nonetheless, this was a good example of a real family office. The services were built to serve the current needs of the family.

Many families have a strong interest in philanthropy and this is another area in which the family office can provide a number of services. The family office, for example, can evaluate all requests for charitable grants and make recommendations to the family. If there is a family charitable foundation or trust, the family office can organise the meetings and make sure that all records are properly kept, and that any income tax filings are properly prepared. Families that previously had operating businesses often prefer a more active role in their charitable giving. Often referred to as 'venture philanthropy', the family in effect starts another venture, based on philanthropy. For example, a family might decide to build a school, hospital or mosque. The family office can handle the oversight and administration of such projects. This ability of the family office to help with charitable activities extends to the recent interest in impact investing.

When the family has shared assets (eg, a yacht, aircraft, compound or foreign vacation home), the family office can oversee their staffing, insurance, maintenance and agreements for their shared use. These assets often cause a fair amount of friction within families, so having the family office involved can be very helpful.

In terms of liquid investments, the appeal of combining their investment funds is generally that as a larger fund, they can pay discounted fees, can qualify to enter funds with larger minimums and can have access to top national and international managers. From time to time, one or more family members will decide that they would rather handle their investments on their own and may leave the family office entirely.

All wealthy families are aware of the importance of the next generation in planning for the future. Some family offices will establish educational programmes to ensure that everyone has a background in the areas they think they should know (which can vary by family).

As part of the family services, most family offices will oversee estate planning (usually carried out by outside lawyers). This includes family trusts, wills, pre-nuptial agreements and marriage dissolutions.

Another role played by some family offices is simply to be the glue that keeps family members connected with each other. This can be especially important when the family business has been sold. At that time, many family members are anxious about losing that connection with each other.

The family office may organise regular gatherings of the entire family. In some cases the family office will hire outside advisers to help the family create its own family council, mission statement or family constitution, to help keep the family closely connected.

3. Who will be working in the family office?

After listing and evaluating the services that the family wants to receive, the family members will have an idea of the kinds of people they should look for to staff the family office. There are several placement firms geared to the family office market (see the chapter entitled "Recruitment and talent management strategies").

One sensitive issue is whether any family members should also work in the family office. On the one hand, a family member will generally be trusted by the entire family to be sure that the office is well run. On the other hand, not all family members like the idea that their individual finances (including budgets and spending reports) will be open to other family members.

In a number of family offices in the United States, one trusted family member runs the entire family office, with administrative support only, outsourcing specific services as appropriate. More common is to have non-family staff managing the family office on a day-to-day basis (see the chapter entitled "Recruitment and talent management strategies"). The family should have some official oversight role, which is often provided by forming a board of directors for the family office (see the chapter entitled "What next? Governing a family office through leadership succession").

4. Where will the family locate the office?

It used to be assumed that the family office would be located physically close to the family. On an international basis, this is not always true. For example, several families in Mexico feel more comfortable if their family office is located outside the country; sometimes they choose Texas (even though that adds the regulatory complexity and related tax issues in the United States).

Today, a number of family offices are split between two distant locations, neither of which is physically close to the family. For example, London is often an investment centre, but Bermuda or Cayman could be the centre for the group of family trusts. In a few cases the family office manager may live in one

city, while all family members live in a variety of other countries. In one case the family lives in Lebanon and has its family office in Switzerland, with a full-time art curator based in London. Again, what needs to be considered is how best to serve the needs of the particular family.

5. Will the family partner with a larger firm?

Due to the costs and complexity of running a proper family office, some families look at using a larger, established firm (even one as large as an international investment firm) to take care of their more tedious back-office needs. The actual family office (the front office) can then have a much smaller (and more responsive) staff.

If there are a number of trust settlements in the family group, it often makes sense to partner with an experienced trust company to handle the administration and filings for the trustees. In some cases the head of the family office is also named as the trustee (or protector). The appointment is often a generic one, so that if one individual is replaced as the head of the family office, the new head automatically becomes the new trustee (or protector).

Some large family offices have created their own trust companies to administer family trusts. It is even possible with a private trust company to have the family control the ownership and management of the trust company, which several families find appealing.

Another interesting option is to consider partnering with a multi-family office (discussed further below). Once a multi-family office is established, with a well-organised staff and procedures, it can offer to supply the back-office services for a single family office. This compromise allows the single family office staff to remain the primary contact for the family, while relieving it of many of the administrative burdens.

6. Comparison of a single family office with a multi-family office

6.1 Joining a multi-family office

A newly wealthy family (eg, after a liquidity event) looking at alternatives to manage the family wealth is likely to consider joining an existing multi-family office. The most appealing type of multi-family office will be one that itself began as a single family office and then grew to create a structure and staff large enough to support additional families. These are offices with the experience of handling multi-generational issues in families.

The advantages of a multi-family office are:

- a perceived reduction in operating costs;
- the use of qualified, experienced family office staff;
- increased investment capabilities; and
- the ability to share in some areas with the other client families.

As mentioned above, an increasing option for single family offices is to outsource various functions to a qualified multi-family office.

The principal perceived disadvantage of a multi-family office is that the family office staff is shared with other families. This means giving up that single dedication which is the hallmark of a traditional single family office, as well as giving up total control by a patriarch or matriarch. If the multi-family office began as a single family office, there are often concerns as to whether the new clients will have equal priority. Sometimes there are also concerns about privacy, although most multi-family offices adhere to strict privacy principles.

6.2 Creating a multi-family office

Three very different types of multi-family offices exist. The first, as described above, is the traditional single family office that decides to offer its services to additional families. This includes some well-known family offices such as the Rockefeller office, which is now a multi-family office and has a separate public trust company, as well as a separate public company for philanthropic services. Another example is Pitcairn (a multi-family office), which began as a single family office, then added additional families. It provides a full array of services for families with "generational wealth" and has "open architecture" for investments (independent investment advice, with no internal products).

The second type of multi-family office arises when a small group of unrelated individuals (eg, business partners, accountants and/or lawyers) decide to open a new family office for themselves and to take on additional members from the beginning. Often there is an expectation that they will make a profit from operating a multi-family office. It is quite difficult to rely on profitable operations if the multi-family office offers the traditional single family office services. If it decides to focus primarily on investment services, it is probably more accurate to call it a private investment office.

The third type of multi-family office seems to be merely a rebranding of the private client group inside a large investment firm. Even an institution as large as Citigroup has called itself a family office. The principal aim of this type of multi-family office seems to be to earn profits on the investment assets and to use the name 'family office' to attract new clients.

7. Will the family look for a family office network?

Once the family has created a traditional family office, it often becomes interested in what other similar families do and how those family offices handle similar issues. One source of information is to attend some of the many conferences that exist for family offices.

Another source of information is to join one of the several networks for family offices. Some of these networks are quite private. Others – such as the Family Office Exchange, the Family Office Association and the Family Office

Network – engage in active marketing, offer menus of fees and assemble large collections of data about family offices, in addition to hosting their own conferences.

Electronic networks (some are more networks of providers) also exist, such as the Family Office Channel, Family Matters Online, the Family Offices Group, the Asia Family Office, the European Family Office Network, the Family Office Network India and the Family Office (Spain).

8. Cross-border alliances

After the global financial crisis in 2008, many family offices became more cautious investors. They have increased their interest in partnering with other family offices for direct investments in other countries. For example, the Quilvest family office, owned by the Bemberg family for more than seven generations, has private equity partners in Switzerland, Argentina, London, New York and Dubai. A number of family offices invest alongside the Quilvest partners in various countries.

Another recent trend is for family offices to invest in another family's privately owned operating business, which is often a more familiar environment. The investing office will enjoy being on the board, but will not expect to control the business. One example is the organised creation of Families Investing in Families (based in the United States and Belgium). For its part, a family-owned business appreciates the presence of investing partners which are seen as having patient capital and which will understand the long-term nature of growing a business.

As a final example, the chief investment officers of eight family offices from around the world – Pitcairn (United States), Sandaire (United Kingdom), The Myer Family Company (Australia), HQ Trust (Germany), Northwood Family Office (Canada), Progeny 3 (United States), Mutual Trust (Australia) and the Turim Family Office & Investment Management (Brazil) – created the Wigmore Association, which meets to review global investment opportunities of interest to the diverse families that those offices serve.

9. Conclusion

For wealthy families that want one, and are willing to pay for it, creating their own private family office can be a rewarding solution to their many needs. The secret to success seems to be having a focus on the actual needs of a particular family and then finding the right staff to provide those services. To have a truly dedicated staff, who can be trusted completely, is a valuable luxury.

Selecting the right family office jurisdiction

Jan van Bueren
Thomas Ming
FOSS Family Office Advisory – Union Bancaire Privée, UBP SA

1. Introduction

In recent years an increasing number of high-earning business owners and families which have sold their businesses have been turning to a family office solution for support, instead of standard financial management services.

When families consider whether to set up their own single family office or use the services of an existing multi-family office, they often overlook the matter of the jurisdiction in which that family office should be located or established. In reality, this is an essential aspect that deserves serious thought.

This chapter outlines key factors relating to jurisdiction and the reasons why these are relevant. Although it primarily discusses them from a single family office perspective, most factors apply to multi-family offices too.

2. Where to start – establishing a single family office

The family office industry is relatively challenging for those wealthy families which start to explore it. When families consider establishing a single family office, they often do not know where to start. There are many challenges to face at the same time, such as:

- establishing the objectives of the family and the family office;
- identifying the assets to be managed and controlled;
- identifying the services required;
- budgeting the costs involved; and
- selecting the proper legal structure.

One element that often does not receive the necessary attention in this process is the selection of the jurisdiction in which the single family office should be located. Several questions should be answered before a family decides on the best jurisdiction for its family office.

All aspects of setting up a family office correlate in some way with the actual jurisdiction in which it will be established. As these aspects are closely connected to the family and its objectives, there is no 'one size fits all' solution. It is advisable to weigh the family's criteria with the elements of the family office and then select the most suitable jurisdiction for the family's specific needs.

The best way to approach this is to establish a longlist of jurisdictions based on all relevant criteria and then filter down to specific jurisdictions by prioritising those criteria which are most important for the family.

3. Where is support required?

A good starting point when drafting a longlist of potential jurisdictions for the establishment of a single family office is to analyse those jurisdictions in which the family will need support. This support relates to the jurisdictions where family members live and where assets are held.

This is best explained through a comparison between two different families. Assume that family number one lives in Germany and consists of a couple with three adult children, two of whom are married. All the family members live in Germany and they all hold German passports (only). Their assets consist of the family business and a portfolio of diverse real estate investments, both located in Germany. They also hold bank accounts in several jurisdictions. As this family is centred in Germany, Germany clearly should be on the longlist. Moreover, as the family office staff should be well acquainted with German legal and tax issues (which are relatively complex), and preferably fluent in German, jurisdictions such as Austria, Liechtenstein, Luxembourg and Switzerland should also qualify for the longlist. Depending on its proximity to where the family is located, one of those jurisdictions might be ranked higher on the list than others.

The second example involves a family with a Russian background. The family consists of a couple with two children, one already of legal age and one a minor. The father owns a large company in Russia and is primarily based there. The minor attends a boarding school in the United Kingdom, where the mother also resides. The young adult is a student at a university in the United States and intends to remain in the United States when he finishes university. They all hold Russian passports. The mother and minor have a residency permit in the United Kingdom. The young adult holds a visa to study in the United States. Purely based on where the family is residing, Russia, the United Kingdom and the United States should be put on the longlist of potential family office jurisdictions.

Based on these two examples, one can conclude that the home jurisdiction(s) of the family should always be on the longlist; but this will not automatically be the right jurisdiction in which to establish the family office. Especially in the case of larger families involving several generations, family members are often spread throughout numerous jurisdictions. This is a growing trend. In order to serve all family members properly, a central location may well be more suitable. Care should be taken to avoid a situation where, due to time differences between jurisdictions, some family members have access to the staff of the family office for only a limited number of (odd) hours, while others have

relatively unlimited access. Families evolve, so not only the existing situation should be taken into account, but also any future plans of family members, where possible. Family members might already be considering relocating to other jurisdictions.

4. Where are the family assets located?

The family assets must also be taken into account when considering the potential location of the family office. If a family lives in jurisdiction A and holds most of its assets (eg, in the form of businesses, direct investments or real estate investments) in jurisdiction B, jurisdiction B should clearly qualify for a place on the longlist. This is relevant even for non-fixed assets such as bank accounts and liquid investment portfolios. Once again, not only the existing situation should be taken into account, but also the future investment plans of the family members. Large investments in certain jurisdictions may already have been decided.

Of course, it is not compulsory to locate the family office in the same jurisdiction as the family's assets. It is also possible to have the main family office operations based in one jurisdiction and some staff acting primarily in another jurisdiction. A good example of this situation is where household staff take care of large holiday homes in foreign jurisdictions. Although such staff might be directly employed by the family office and in that sense are part of the family office staff, the family office need not, by definition, be located in the jurisdiction(s) where the holiday homes are located. When assets are spread all over the world – which is often the case with wealthy families – the family should clearly consider adding jurisdictions to the longlist that are centrally located in respect of these assets, also taking time zones into account.

5. Staff and leadership

In most cases a single family office has the main task of managing financial assets. Therefore, the family office is normally staffed primarily by personnel with a financial background, administrative staff and some additional members of varying expertise.

For those jurisdictions on the longlist, the family should investigate the availability and possibility to recruit experienced, motivated, accurate and educated staff with financial experience. This is often the case in the more established financial centres and developed Western jurisdictions, but not so in developing jurisdictions. Some good examples of well-positioned jurisdictions in this respect are Singapore, Switzerland, the United States and the United Kingdom.

As a second step, the family should check whether local immigration rules allow staff from abroad to be employed in the relevant jurisdiction. It should be possible to recruit staff from different jurisdictions with different citizenships. A

considerable number of jurisdictions do not allow foreigners to take up residency or have a limited annual quota of residency permits available. Employees may be required to have achieved a minimum level of education. This could interfere with the recruitment policy of the family office.

Even when it is legally possible to recruit and appoint staff from abroad in the preferred jurisdiction, this jurisdiction may not necessarily be attractive for this group of potential employees. Overall quality of life, standard of living, affordable housing and the local tax environment all play a role in this respect. One can easily imagine that it is not particularly attractive for professionals to move to a jurisdiction that is under-developed and offers a very low standard of living.

It is important in this respect to consider the culture of both family and staff. Many families prefer to appoint a trusted person as chief executive officer (CEO) of the family office. This could be a former executive of the family business or an accountant or lawyer with whom they have cooperated for years. In most cases such professionals reside in the same jurisdiction as the family and will not be particularly willing to relocate to another jurisdiction. If the family insists on working with such a person, this could limit its options regarding the jurisdiction. It might also be the case that one (or more) family member(s) is actively involved in managing the family office – for example, as the CEO. In such case he or she will have a significant influence on the location of the family office.

The level of personal income tax (and social security premiums) is another important point to consider when aiming to attract financial talent. Generally, professionals working in the financial industry are very focused on financial compensation and if the family office is to be located in a jurisdiction with high income tax, it could be difficult (and expensive) to attract the right talent to manage the family's affairs. This automatically implies that staff costs could be higher overall. The family should be aware of the fierce international competition to acquire the right family office talent. The growing number of wealthy families establishing a single family office has made the search for high-quality family office executives increasingly difficult; only a limited number of people have the necessary generalist skillset. Offering a highly attractive compensation package could be of significant benefit in attracting the best-qualified staff.

Finally, the family should consider the employment laws of the jurisdiction. In some European jurisdictions in particular, it is relatively easy to find and hire talented employees, but difficult to dismiss them at a later stage. The legal inability to fire staff without difficulties not only may be problematic for the family, as it could bring the family office operations to a standstill, but also will almost certainly entail extra costs.

6. Local infrastructure and expertise

The quality of local infrastructure is also relevant when selecting the most appropriate jurisdiction. Communication networks and internet connections should be well developed and stable. The family office should preferably be easily accessible. Family members should be able to reach the office without much effort. If the office is located outside the home jurisdiction of family members, the jurisdiction should at least have excellent flight connections. It would be an additional burden for family members if they had to apply for a visa to visit the office. A family office on the other side of the world will not be optimal; this should be considered only by families from low-developed jurisdictions. Staff should be able to travel without too many hurdles. Within the jurisdiction, there should be a good road and rail network; although this does not necessarily mean that the office must be situated in a prime location in the city of choice.

Proximity to external expertise is another important element of what we regard as 'infrastructure'. Although there are many remote communication possibilities these days (eg, video conferencing, WhatsApp, Skype, WeChat), it is still highly beneficial for a family office to be located close to expertise of all sorts. Proximity to solid (private) banks, asset managers and other financial service providers is advisable, as one of the primary tasks of a family office is to manage the family's wealth. In the case of significant wealth, it is necessary to sit down face to face with financial service providers on a regular basis – whether to conduct regular reviews, to address problems or to discuss made-to-measure solutions, complex products or financing. With a growing interest of family offices in private equity and direct investments, access to private equity deal flow is another good example. Proximity to other high-standard specialists – such as tax advisers, law firms, financial planning specialists, notaries, audit firms and trust companies – is also highly beneficial. As a family office, you will not want to have to travel long distances to discuss issues with all your important stakeholders and advisers, or vice versa.

Another part of the local infrastructure of a jurisdiction is a reputable, trustworthy and solid legal system. Simply put, the wealthier the family, the more legally complicated the situation. As the amounts invested become larger and less straightforward, and investments such as private equity and co-investments are executed, it is important to have a solid legal framework for drafting and executing reliable contracts. Being based in a legally stable and reputable jurisdiction that meets expectations is of great value to a family. The jurisdiction should not be over-regulated and ideally should have easily accessible tax and regulatory authorities that are open to discussions.

Another benefit of a jurisdiction with a good infrastructure is that it is also attractive for other family offices. When the family office is based close to similar firms, this stimulates cooperation, co-investment and shared knowledge

and experience. As a result, most family offices prefer to be located in a jurisdiction with a solid and reputable financial centre, as this simplifies activities considerably while at the same time decreasing the risk profile of the family.

7. Legal form

Defining the legal form of the family office and selecting the most suitable jurisdiction go hand in hand. In practice, we notice that families often tend to confuse the legal structure of the family office with the legal form of the assets they hold. In fact, the legal structure of the family office is not necessarily the structure that legally owns the family assets. The same applies to succession planning structures that the family has or will put in place.

Regarding the legal structure, four main issues should be considered:

- The structures, and their jurisdictions, already in place for the management of affairs and assets should be analysed. Are one or more of these structures suitable to act in future as the family office structure or should a new structure be established?
- Will the structure also act as owner of the assets or will the family office have its own standalone structure? In some jurisdictions, from a regulatory perspective, it might be easier to combine the two.
- The legal structure selected for the family office itself should be the most preferred and most suitable structure for the family. It should be verified that it is in fact possible to establish this preferred structure in the preferred location. Selecting the right structure for a family office is in itself a challenge and warrants a separate chapter of its own.
- The legal framework of the jurisdiction should allow the family office (once established) to manage all of the family's entities – such as onshore and offshore companies, trusts and foundations – out of that jurisdiction. If, for example, the family has settled one or more trusts and the single family office is acting as trustee, it will be highly beneficial, if not absolutely necessary, that the jurisdiction in which the family office is located have ratified the Hague Convention on the Recognition of Trusts. This will enable the family office to act as trustee of the family's trust structure without any negative tax and legal consequences.

Based on these four points, analysis should be conducted to establish which of the longlisted jurisdictions will enable the family to establish its preferred structure without negative legal consequences. Obtaining legal advice from an external expert in this respect is highly advisable. The difference between common law jurisdictions and civil law jurisdictions in relation to the main home jurisdiction(s) of the family should be taken into account in this analysis. Once the family office is established, the staff must monitor legal developments

in the jurisdictions where the family lives and keeps it investments, as well as in the family office jurisdiction itself.

8. Licences and regulatory requirements

Most jurisdictions do not require a single family office to obtain a licence to operate. In fact, most jurisdictions do not even have such a thing as a single family office licence. Most jurisdictions have financial licensing requirements only for those who manage the financial assets of a diverse group of clients (ie, the public). If only the assets of a single family are managed, an exemption almost always applies.

A very limited number of jurisdictions have introduced an official single family office licence or specific single family office regulations in recent years. One example is the United Arab Emirates, where the Dubai International Financial Centre currently encourages families to apply for a single family office licence/registration.

Although in most jurisdictions a licence is not required, a considerable number of family offices still apply for a general licence to manage financial assets in the jurisdiction where they are established, as though they were providing services to the public. Although we strongly believe that it should be clearly reviewed by the family whether and which licence requirements exist in the jurisdiction of choice, we are not convinced that the existence or absence of a single family office licence is a relevant issue when deciding on the selection of a family office jurisdiction.

Other regulatory obligations should be considered and analysed. Some jurisdictions require all individuals engaged in some sort of financial advice to be personally licensed or to hold some form of qualification. In other jurisdictions the single family office entity could be eligible as an institution that qualifies as a reporting agent under local anti-money laundering legislation.

In most cases, it is not the fact that there are certain regulatory requirements that presents an issue, but rather that keeping within the boundaries of such regulations takes time and costs money.

9. Taxation and costs

Setting up and running a single family office is a costly exercise. Keeping the costs under control is an objective in itself for most families. Most of these costs consist of staff costs and the costs of office infrastructure (ie, the actual office costs, overheads and the necessary software solutions). As the implementation of software solutions does not differ between jurisdictions, this should not normally be of influence when selecting a jurisdiction.

Although real estate (rental) prices are very high in some jurisdictions, in most cases this will not have a strong influence when selecting a jurisdiction.

As a single family office need not be situated in a prime location in a city, there is a certain amount of flexibility when selecting suitable office space to avoid the highest rents.

Whereas for most businesses corporate tax is one of the most relevant costs to take into account, this is not so much of an issue for most single family offices, as the majority do not have the objective of operating for profit. Most single family offices operate as a cost centre, which means that they charge the family (or its structure) for their services just to cover their costs. An increasing number of family offices operate on a cost-plus basis. No profit simply means no taxes. Low profits mean minimal taxes. If the family office is operated commercially (which is usually the case with multi-family offices), the costs of taxation can be relatively high, depending on the jurisdiction. This in turn means that the family will need to take this aspect into account when selecting the jurisdiction.

Normally, service agreements are put in place between the family office and the family's entities (or even with the family members directly). An important tax aspect of such service agreements is the applicability of value added tax (VAT). Depending on the jurisdiction, these agreements will potentially be exposed to VAT, which means that if the jurisdiction has a high VAT levy, the overall costs for the family will increase. Both the exposure to and the level of VAT should therefore be examined. Another issue is the transfer pricing aspect of such service agreements. The family office should provide its services based on the arm's-length principle. If it does not, this could trigger a dispute with the local tax authorities, resulting in a revised compensation for the service agreements – meaning costs.

Another tax aspect – although one which results more indirectly in costs – is the risk that offshore structures used by the family, but managed and controlled by the family office, may be brought into the tax net of the jurisdiction where the family office is located. When certain entities are considered to be located in the family office jurisdiction instead of offshore, this can expose the family assets to a high level of taxation. The involvement of the family office – by actually managing and controlling those structures – can change the effective place of management. It is thus important to establish that the family assets and structures located in low tax jurisdictions can indeed be managed from the preferred jurisdiction before the family office is actually established there.

Social security premiums and obligatory pension premiums also form a potential cost for the family office. In some jurisdictions, social security and pension premiums are much higher than in others. The family should consider this in the selection process.

10. Data protection and privacy

Data protection, cybersecurity and privacy are increasingly important topics for affluent families. The jurisdiction in which the family office will be located should enable the family to protect its interests as much as possible. The family should be able to safeguard, shield and protect itself. Strong local legislation protecting the privacy of individuals should therefore be in place. It is also advisable to save the electronic data of the family office in the same jurisdiction that the office is located (especially when the office is located abroad). This is advisable not just for privacy reasons, but also as part of risk management.

An important element of privacy protection today is the review of local legislation with respect to ultimate beneficial ownership (UBO) registration. UBO and trust registers are increasingly being introduced, in order to prevent money laundering, tax fraud and the financing of terrorism. In Europe, this is a result of the implementation of the fourth and fifth EU Money Laundering Directives. A side effect is that large family wealth becomes fully visible to the public, leading to exposure, unwanted publicity and higher security risks, such as kidnapping. Some jurisdictions have registers which are completely open to the public; others have more privacy safeguards in place or may not yet have introduced such registers. As wealthy families nowadays are regularly in the spotlight, this aspect should also be taken into account when selecting the jurisdiction for the family office and the appropriate family office structure (and clearly, also for the asset holding and investment structures that the family office will manage).

11. The obvious suspects

In selecting a jurisdiction, one should not forget to consider the obvious suspects: financial centres. Nearby financial centres should therefore be added to the longlist of jurisdictions under consideration. As mentioned when discussing the infrastructure of a jurisdiction, financial centres can be of great value to family offices.

Most financial centres offer a combination of attractive taxation and a solid and flexible legal framework, without being over-regulated. This almost always allows for the establishment of interesting family legacy structures, such as trusts and foundations, corporate investment vehicles and professional investor funds for qualifying investors. This results in a lot of professional trust providers, lawyers and tax lawyers being located in the jurisdiction, which is of benefit to family offices. Financial centres are home to numerous banks – commercial, private and investment; both local and more renowned global banks. Proximity to banks is not just attractive, but also advisable for single family offices.

It is for this reason that a considerable number of single family offices (and a large number of multi-family offices) can be found in financial centres around

the globe. Asian-based families nearly always consider Hong Kong and Singapore. In the Middle East, the United Arab Emirates is home to an increasing number of single family offices. In Europe, Luxembourg, Switzerland and the United Kingdom are often considered; but the smaller financial centres such as Gibraltar, Guernsey, Jersey and Monaco also promote themselves as ideal jurisdictions for the establishment of a single family office. In the Americas, the obvious subject is clearly the United States.

Financial centres attract not only single and multi-family offices, but also wealthy families. Countries such as Luxembourg, Singapore, Switzerland and the United Kingdom offer specific investment visas for wealthy investors and/or attractive tax regimes for new residents coming from abroad. Because of such regimes, an increasing number of ultra-wealthy families combine the establishment of a single family office with the relocation of one or more family members to another jurisdiction. This can be because one of the family members takes up a leadership role within in the single family office or, more often, because one or more family members relocate for tax and/or lifestyle reasons.

Especially when a family business is sold, a lot of changes occur for the family members. They no longer own the family business, but have large amounts of cash and equity, which changes the way they are taxed in their home jurisdiction. Often it is much more difficult to defer taxation on an investment portfolio than on an operating business. Something similar applies with inheritance tax. In jurisdictions where inheritance tax is levied (primarily Western developed jurisdictions), large exemptions often apply when the inheritance involves an operational business. Many families react to this by relocating. Their daily business also changes completely as they no longer have to manage the family business and this opens up the opportunity to relocate away from the original family business jurisdiction.

12. Stability and wealth preservation

A common mistake made by families is simply to establish the family office in their home jurisdiction, instead of carrying out thorough research. Because this appears to be the easiest solution, little time is invested in analysing alternative jurisdictions. Although the home jurisdiction can be very practical from a communication point of view (proximity), it is often not the best choice when examined from a wealth preservation perspective, especially for families living in developing nations.

One of the primary roles of a family office is to safeguard assets and to assist the family in various circumstances. This means that the family office should not merely manage the family assets and execute its daily tasks, but also protect those assets against geographical, political, religious, personal and economic risks, while remaining fully operational in all or at least most circumstances.

Therefore, it is only logical for families living in less developed and riskier jurisdictions that the family office be located in a secure and stable jurisdiction. This does not necessarily mean that the entire staff or services must be located in a foreign territory – local secretarial support, lifestyle management services and local real estate management, for example, can be based in the family's original jurisdiction.

The number of unstable and unsafe jurisdictions around the globe is still far greater than the number of stable and safe jurisdictions. One could conclude that most families' single family offices should be located outside their home jurisdiction. But this is not completely true. The majority of wealthy families still originate from developed, relatively stable jurisdictions. However, this is changing rapidly.

For most families, keeping or gaining more control is an important driver for the establishment or use of a family office. It is often this desire that draws the family in the direction of establishing a family office in its home country. A single family office close by provides the family with (the impression of) greater control. Balancing this desire with the need to protect against potential geographical, political, religious, personal and economic risks – and the potential loss of all control – is a major challenge for wealthy families.

13. Multiple offices from the outset

In the case of large families involving several generations, with members spread across numerous jurisdictions, a set-up with more than one office could be considered from the outset. This is normally an option only for families with very significant wealth, as it involves higher costs, more coordination and increased complexity. Size does matter.

Services such as investment portfolio management need not necessarily be provided from the same jurisdiction as that in which the team investing in real estate is located, whether that be foreign or local real estate. Secretarial support and lifestyle services can be based in the family's home country. As long as the family office is well structured and properly organised, a number of jurisdictions could work well.

14. Conclusion – suitability and selection

As every family is unique and has unique needs, there is no single ideal jurisdiction in which to establish a single family office. Although there are many aspects that should be taken into account when deciding on the jurisdiction, there will always be different priorities for each family.

We would advise that a family initially draft a longlist of potential jurisdictions for the establishment of its single family office. As a next step, the most important criteria for the family and family office should be cross-checked with the actual possibilities and restrictions of those jurisdictions. The family

will end up with a shortlist of the most suitable jurisdictions for the establishment of its family office. Only then should personal preference be a decisive factor in the choice of jurisdiction.

Nevertheless, the elements to be considered, as highlighted above, will ultimately limit the best possible jurisdictions to only a few. That is why most single family offices and multi-family offices are found in a handful of jurisdictions, such as the United States, Singapore, Switzerland, the United Kingdom and Luxembourg. In our opinion, these countries – along with about a dozen others, including some well-known financial centres and highly developed jurisdictions – are the only jurisdictions that families can seriously consider for the establishment of their single family office, rather than merely relying on their local jurisdiction or another foreign jurisdiction.

Global virtual family offices

Thomas J Handler
Handler Thayer LLP

A clear trend in the international private client industry is the development and evolution of family offices. Although virtual family offices (VFOs) have been in use for over 25 years, they have accounted for a higher number of new family offices in recent years. The VFO nomination is generally attributed to the Family Wealth Alliance, which is believed to have coined the phrase. It is one of the five large US-based family office associations, and is known for its educational conferences and award-winning research and publications. As the global proliferation and concentration of wealth continue to escalate, family offices have become the global best-in-class approach to facilitating family governance and achieving long-term wealth management and preservation.

In view of recent developments, it is likely that family offices and VFOs in particular will continue to flourish in the United States. A recent US Tax Court decision may shed some light on best practices which support the viability of family offices as operating businesses and the concomitant income tax deductions. In addition, the relatively new Tax Cuts and Jobs Act[1] has effectively eliminated a whole category of income tax deductions that were previously very difficult for high-income taxpayers to take. Under the Tax Cuts and Jobs Act, however, such deductions are now impossible to take in the absence of an appropriate operating business.

1. Introduction to virtual family offices

VFOs are legally organised businesses designed to manage, control and facilitate both the financial and non-financial wealth of a family.[2] These enterprises typically are not merely in the business of investment and financial management; rather, VFOs can handle tax, legal, risk management, control, family education, governance and asset protection functions. Typically, one or more family members and a small staff handle the overall management of these affairs and some services are outsourced to independent service providers with greater expertise, resources and staff professionals. VFOs are particularly

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1 Tax Cuts and Jobs Act, Pub L No 115-97 (22 December 2017).
2 Thomas J Handler, "Establishing Virtual Family Offices", *Trusts & Estates Magazine*, 41 (March 2014).

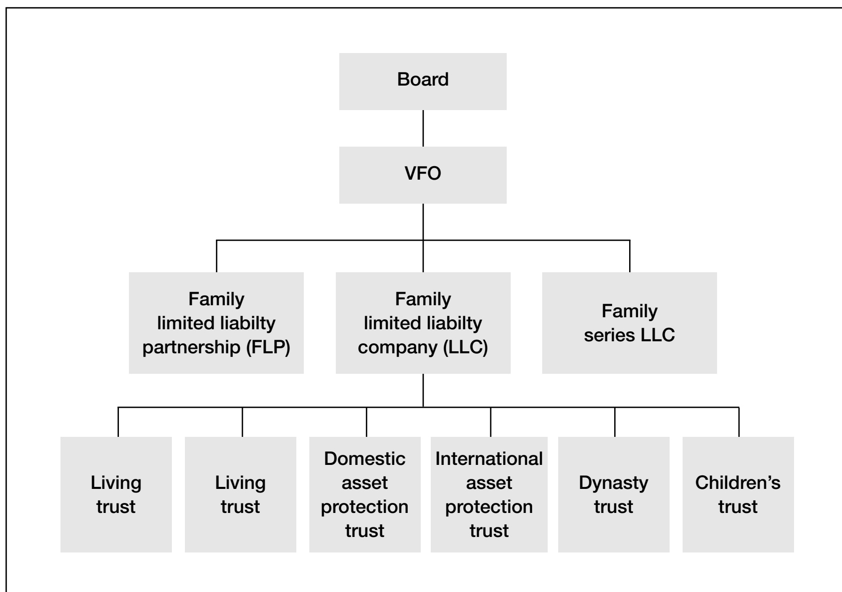
attractive to newly liquid sellers of family businesses and privately held companies. Their use allows families to obtain the many wealth management benefits afforded by family offices without committing to a large payroll or the 'bricks and mortar' presence of single family offices. The consistent trend over the last 25 years has been that family office revenues have been growing slowly, while family office expenses have been growing rapidly.[3] In large measure, this may be due to reliance on compensation models based on assets under management. While asset growth and corresponding yields have been slowing globally, family office operating costs have continued to rise, outpacing revenues. Consequently, cost containment has been a consistent key objective of many family office executives, which has driven increased outsourcing and the proliferation of VFOs.

This trend in favour of VFOs has been driven by several key factors:

- Most existing family office structures are inefficient and outdated;
- Increasing global regulation and compliance requirements have made it more difficult to operate family offices; and
- Many family office structures are affected by significant estate, gift, payroll and income tax leakage.

Figure 1. Integrated structures

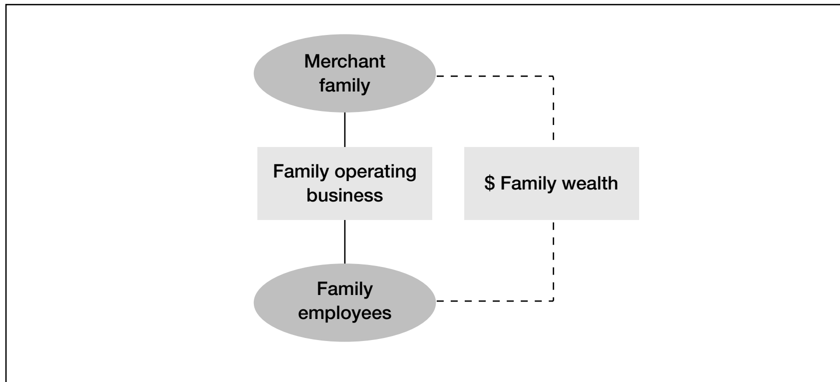
The virtual family office (VFO) serves as the managing member, manager or general partner of family holding companies.



3 See generally, Family Wealth Report, *Single Family Office Study* (2012).

Consequently, family office structures put in place prior to global regulatory changes such as the Patriot Act,[4] the Dodd-Frank Act,[5] the Foreign Account Tax Compliance Act (FATCA)[6] and similar international laws should be reviewed to ensure regulatory compliance and to capture tax opportunities.

Figure 2. Embedded family office structure



As the business grows and non-family employees, qualified pension plans, employee benefits and incentive-based compensation become features, the situation changes quickly and dramatically. Suddenly, what once were common business conveniences quickly become problematic business practices. Examples of these practices include having assistants pay personal bills, run personal errands and make personal restaurant, hotel and travel reservations for the business owners. Other examples include having the business accountant handle personal income tax returns and financial planning, and having the in-house counsel handle apartment leases and contracts for the owners' children. Use of business premises and equipment for personal purposes is similarly problematic. An operating company should not allow family owners to use office facilities to store personal property or personal records. Similarly, company transport should not be used to move personal property between homes and college dorms or apartments.

These common practices seem innocent enough until you consider the impact on employees, bankers, non-family owners and related third parties. The subject business is often taking on unwanted risks and liabilities and suffering a diversion or unauthorised use of its assets or personnel. These legal problems are

4 See generally, Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001, HR 3162, 107th Cong (2001).

5 See generally, Dodd-Frank Wall Street Reform and Consumer Protection Act, HR 4173, 111th Cong (2010).

6 See generally, 26 USC § 6038D (2010).

real and significant, and may have serious unintended consequences. A wide host of issues are presented. Uses of company resources including personnel, equipment and intellectual property are impermissible diversions of company assets. This removes resources otherwise available for dividends, bonuses or pension plans. A related problem is that some of these uses or diversions of resources are non-deductible personal expenses, while others constitute tax deductions allowable elsewhere because they are tied to investments or the production or preservation of income. In any event, these deductions do not relate to the business of the operating company and should not be taken as deductions by such company. In addition, these diversions of business assets often constitute breaches of bank covenants, violations of the federal Employment Retirement Income Security Act, breaches of fiduciary duties and breaches of contract. Further, these often-overlooked practices can provide the basis for government proceedings by the US Department of Labour, the Internal Revenue Service (IRS), the Securities and Exchange Commission (SEC) and their international counterparts, in addition to local jurisdictions with concurrent subject-matter jurisdiction. The bottom line is that a business expense for the use of any business employee – including accountants, attorneys, assistants and other staff – for personal or investment purposes is prohibited.

In turn, the business owners and executives are left unable to make traditional representations and warranties which are a standard requirement for bank loans, financing transactions, mergers, acquisitions and sales. This problem may have serious adverse financial consequences. In this regard, the VFO can serve a useful defensive function – particularly for growing businesses, larger businesses and businesses with sophisticated exit strategies. The key goals of the defensive use of VFOs are to assure the integrity of accounting allocations and adherence to duties, contracts and other legal obligations. By forming a separate enterprise to coordinate the long-term wealth management and preservation objectives of a family, the family can also bring better discipline and financial integrity to the family business. The VFO can legally incur, pay for and deduct expenses incurred for the creation or preservation of income. These expenses typically include accounting fees; tax preparation fees; tax counsel, investment management and advisory fees; and other related expenses. If such expenses are paid out of the family operating businesses, the VFO can simply reimburse the operating companies, which has the effect of properly transferring such expenses to the VFO as if it had originally incurred such expenses. Of course, such expenses are legally permissible in the VFO and most are deductible for its income tax purposes.

2. Coordination of wealth management functions and creation of income tax efficiency

The end result of the coordination of the VFO approach is that the books and

records of the operating business are 'cleaned up', thus enhancing accounting integrity and removing breaches of various covenants, income tax rules and fiduciary duties. For US taxpayers, another key attribute of the VFO structure is that it is a beneficial platform that is efficient for income tax purposes. A common problem encountered by high-income taxpayers – even prior to the enactment of the Tax Cuts and Jobs Act – was the loss of some or all expenses related to the production or preservation of income. Historically, the US income tax regime provided for the full deduction of both expenses arising from a trade or business and expenses for the production or preservation of income. Such non-business expenses include investment expenses, tax preparation and planning, tax and securities litigation and numerous similar expense items. A distinction was drawn, however, when the US Supreme Court decided that trade or business expenses are deductible, while profit-oriented deductions are not, unless such expenses are incurred in an operating business.[7]

Congress responded quickly with legislation designed to create some parity between expenses incurred in a trade or business (now known as Section 162 expenses) and those incurred in the pursuit or preservation of profits (now known as Section 212 expenses). Section 212 expenses incurred in the pursuit of profits outside of a trade or business are very difficult to deduct, due to four almost insurmountable limitations. First, these expenses are aggregated with unreimbursed employee business expenses, reported on Schedule A to Form 1040 as miscellaneous itemised deductions, subject to a floor of 2% of adjusted gross income (AGI). Pursuant to this limitation, only expenses greater than 2% of AGI are included with other itemised deductions. Consequently, these financial deductions are sometimes completely disallowed for high-income taxpayers. If this threshold can be exceeded, the second limitation – known as the Pease Amendment – further limits net itemised deductions for high-income taxpayers by triggering an additional limitation on itemised deductions, which is the lesser of 3% of AGI over a specified statutory level or 80% of the itemised deductions otherwise allowable.[8] Furthermore, the third limitation derives from the 'below-the-line' placement of Section 212, whereby such expenses are also unavailable to offset state income taxes because almost all states with an income tax start with AGI or modified AGI which is not reduced by itemised deductions. The fourth limitation is created by the alternative minimum tax (AMT), which excludes certain itemised deductions, including those incurred in the pursuit or preservation of profits, in the calculation of AMT taxable income.

Although many practitioners fail to appreciate the poor treatment of Section 212 expenses and the rationale behind it, for now the debate is over. The Tax Cuts and Jobs Act effectively eliminated all deductions of expenses incurred for

7 See generally, *Higgins v Comm'r*, 312 US 212 (1941).
8 Form 1040, Schedule A instructions, Line 29.

the production or preservation of income conducted outside of a trade or business. The deductibility of expenses under Section 212 has been suspended for individuals and trusts through to 2025. Consequently, the importance of capturing these expenses in a valid trade or business has become even more important.

In the absence of any case where the IRS has attempted to disallow the expense deductions of a family office, the IRS attempted to do so with respect to the Lender family, which resulted years later in *Lender Management, LLC v Commissioner.*[9] This taxpayer victory resulted from the operation of a family office providing only investment management services to both family members and non-family members. The office was compensated for its services and employed five people. The court's analysis in this memo decision centred on whether the family office constituted a trade or business eligible for deducting investment and related expenses, or whether it was merely performing administrative services for its family holding companies which were investment limited liability companies (LLCs) (in which case deductions would be limited under prior law and now eliminated under the Tax Cuts and Jobs Act).

The US Tax Court found that the family office was a business because it sought to derive a profit on a substantial ongoing basis and operations were commenced. The court then turned to the issue of whether the investment activities alone were sufficient to constitute a trade or business. Generally, the activities of a taxpayer managing its own money – no matter how large the assets under management or how broad the scope of activities – do not constitute a trade or business. The court found in favour of the family office – in part, because it was managing the money of other, adverse family members (in addition to others), the profits interest compensation was disparate from ownership interests in the underlying family holding companies and it allowed withdrawals, thus operating in a manner similar to other investment businesses. The *Lender* case is only one isolated example; it provides some authority that family offices can legitimately continue to deduct their expenses incurred for the production or preservation of income under Section 162 and are not limited by the provisions of Section 212.

3. Choice of entity considerations

One of the key elements of modern family office structures is that they are legally organised entities with some measure of liability protection for the acts of the principals, officers and directors. If the enterprise is properly established and maintained, liabilities of the enterprise will generally be limited to the assets of the enterprise. Accordingly, creditors and plaintiffs will be unable to reach the personal assets of the principals, officers and directors in the absence

9 *Lender Management, LLC v Comm'r*, TC Memorandum 2017-246.

of tortious acts or criminality. In order to preserve this liability protection, each legal entity must maintain its status by filing annual registration statements and franchise tax returns, maintaining record books and accounting records and filing annual income tax returns.

Another consideration for US-based family offices or subsidiary family offices is the necessity of a profit motive. Since a family office is a business enterprise, it must have a profit motive as one of its goals. At any point in the life of the VFO, compliance, risk management, tax efficiency, asset protection or estate planning may be a more compelling goal. Any family office, however, would be prudent to charge enough for its services to derive a profit periodically in order to validate its business status and avoid a potential 'hobby loss rule' argument from the IRS and other tax authorities.

VFOs are typically established as limited liability companies, S corporations or C corporations, or their international counterparts. This choice is often ultimately dependent on income tax, executive compensation and employee benefits considerations. Often, these legal entities grew out of *de facto* family offices embedded inside family operating companies. Traditional family office structures are standalone enterprises that are not integrated or otherwise tied into family tax, estate, asset protection, income tax or business plans. Such entities were initially established by trustees to assist families with their long-term wealth preservation and management efforts. However, a key problem associated with these structures is that they were 'upside down', in that the family office reported to and was controlled by the trustees. By contrast, a key goal of contemporary family offices is to expect some measure of control over trustees and not to allow trustees to have absolute veto power over family office decisions, at least in most cases.

Another problem associated with standalone structures is that their compensation is limited to:

- cost sharing with family foundations and supporting organisations;
- contractual compensation for providing investment management or other services, or managing such services; and
- reimbursement of professional fees and costs.

Without the ability to own equity upside in family businesses, private equity ventures and other investments, it may be difficult to attract and retain family office employees, derive sufficient revenue to sustain the family office or align family office compensation with performance and its tax attributes. It is for these reasons that family offices, including VFOs, are increasingly integrated into family holding companies and comprehensive advanced plans. Without question, the most sophisticated and impactful advance plans consider estate planning, asset protection, risk management, liability management, tax planning, investment management and other financial considerations.

Integration of these considerations and plans into family office structures and operations provides a potentially higher level of planning, control and customisation.

In addition to utilising management agreements and other contracts between the VFO and trusts, family holding companies, foundations and operating businesses, modern VFO structures are tied into family holding companies with equity ownership and carried interests. In turn, the interests in these family holding companies are owned by various trusts.

4. Coordination with family holding companies

Family holding companies tied via ownership or contract to family offices can be structured as family limited partnerships (FLPs), family limited liability partnerships (FLLPs), family LLCs (FLLCs), series family limited liability companies (SFLLCs) and their international counterparts. Family holding companies have emerged as the cornerstone of sophisticated estate plans for ultra-high-net-worth individuals. In the last 25 years, modern family offices have increasingly been structured to integrate with the subject family's advanced planning goals and structures. As a result, the inclusion of family holding companies has become a key element of modern family office structures and operations. Nineteenth-century planning was primarily effected through dynastic trusts in the United States and, as a result, many of these advanced plans were upside down, with the trustees in control of family investments, often in control of distributions and commonly in control of the family office often established by these trustees.

As the first quarter of the 20th century was ending, however, family holding companies structured as family general partnerships and FLPs began to be used both in conjunction with dynastic trusts and as an alternative to them. By the beginning of the fourth quarter of the 20th century, FLPs were firmly established as the preferred vehicle for family holding companies in the United States. One key attribute of this vehicle was that the general partner of an FLP was personally liable and completely exposed to the liabilities, risks and lawsuits of the FLP. As a result, whenever the FLP contained assets other than publicly traded securities and bonds, the general partner was often an incorporated entity which shielded the individual general partner, now the corporate president, from personal liability. These enterprises were typically S corporations with conduit tax treatment or C corporations with potential double taxation. 'Conduit tax treatment' refers to the ability of the enterprise to avoid federal taxation and have its income taxed to its owners whether or not distributions are made. A key consideration in establishing these enterprises was whether the state of domicile or state where operations were to be conducted imposed an income tax or franchise tax that functioned like an income tax or asset tax on the net income or total assets of the FLP.

Concurrently, a significant number of international jurisdictions established laws allowing a partnership-type business entity with conduit tax treatment and no personal liability for either the owners or the individual or company running the operations. These enterprises emerged as one of the dominant choices for both operating companies and family holding companies in these international jurisdictions. LLCs are generally attributed to the German law of 1892 which authorised the *Gesellschaft mit beschränkter Haftung*.

Subsequently, the United States began adopting this concept when Wyoming passed the first law authorising true LLCs based on the German model. It was similar to the English private limited company and the limited partnership association authorised by the state of Pennsylvania in 1874. Once established in Germany, the LLC concept was quickly adopted by Portugal (1917), Brazil (1919), Chile (1923), France (1925), Turkey (1926), Cuba (1929), Argentina (1932), Uruguay (1933), Mexico (1934), Belgium (1935), Switzerland (1934), Italy (1934), Peru (1936), Colombia (1937), Costa Rica (1942), Guatemala (1942) and Honduras (1950). Given that the operator (manager or managing member) of these LLCs was not personally liable for the liabilities, risks and lawsuits of the enterprise, LLCs soon emerged in the United States as the preferred choice for family holding companies. Again, the state of organisation remained a key consideration as families sought to maximise flexibility, ease of operation and avoidance of state income taxes and franchise taxes.

Once again, the United States borrowed the concept of cell enterprises which were popular in a number of international jurisdictions. Under the laws of these countries, a business enterprise could be established whereby each cell was separate and distinct for ownership purposes and legal liability purposes. This cell concept was a key element in the evolution of business enterprises because it allowed separate silos of assets, owners and liabilities in one enterprise. Thus, the owners of Cell 1 could own one farm parcel operated by Company A, an agribusiness operator, while the owners of Cell 2 could own a different farm still operated by Company A with no fear that the liabilities, risks or lawsuits of Cell 1 could adversely affect their interests.

The first state to adopt this cell structure was Delaware, when it passed the first series LLC statute in the United States in 1996.[10] Series LLCs are currently authorised in 16 states in the United States and Puerto Rico, while they are under consideration in other states. Series LLCs are sometimes called 'master LLCs' that have separate divisions, similar to an S corporation with Q-subs. The concept of the series LLC was first used in the United States by the fund industry and is similar to the segregated portfolio company or protected cell company. Segregated portfolio companies exist in a number of international jurisdictions,

10 See generally, Del Code Tit 6, § 18-101 (1996).

including Guernsey, the British Virgin Islands, Bermuda, the Cayman Islands, Mauritius and Belize.

Although many states in the United States have not yet authorised series LLCs and many legal questions remain unresolved, series LLCs are quickly emerging as the preferred structure for family holding companies managed by family offices. Each series must be run as a separate, independent business (per statutory requirements). Each series must have its own bank account and maintain a separate and distinct set of records. The manager must also maintain records for the company as a whole on a consolidated basis. The commingling of any funds is forbidden by statute. Failure to abide by these requirements could result in a series being disregarded and expose the assets of the non-compliant series to additional liability.

In an integrated, modern advanced planning structure, the family office serves as either the general partner of FLPs or the managing member of FLLCs and SFLLCs. In turn, all interests in the holding organisations are held in various family trusts. Funding is achieved by transferring family holding company interests to such trusts or by having existing trusts transfer assets in return for such interests.

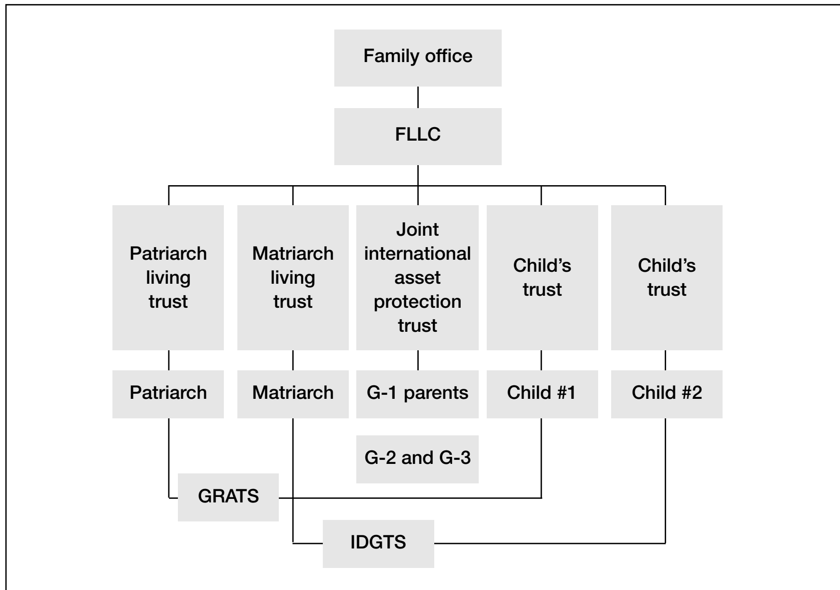
Generally, these are not taxable transactions for US income tax purposes. In this manner, a family can achieve numerous advanced planning goals, including income tax efficiency, gift and estate tax discounting, liability protection, asset protection, pre-marital planning and financial efficiencies. This comprehensive, integrated strategy reflects the current global, best-in-class foundational advanced planning structure for ultra-high-net-worth families.

An emerging best practices concept is the establishment of a family support fund to support the long-term efforts of the family, including paying for its faculty, annual meetings, educational seminars and similar ongoing expenses. Using dedicated funds to facilitate governance and cover such meetings and educational events encourages family members to participate. These funds are traditionally held in family holding companies, such as in a separate series of an SFLLC or in a separate, dedicated LLC or LLP.

A relatively new version of this concept is to establish a dedicated trust for this purpose, sometimes called a family advancement trust. While this concept can be similarly effective, the liability protection and asset protection afforded by LLC entities set up in several states or in various countries providing for statutory exclusivity of the charging order as the sole remedy are far superior and more likely to yield better long-term results.

Managing significant assets properly can be a business in and of itself. Family holding companies are a business, ideally managing a diverse group of assets, such as various business entities, mutual funds, public securities, other private securities, real property (typically not the primary residence), holiday homes, rental properties, collectibles and insurance.

Figure 3. Advanced FLLC/FLP structure



As the value and diversity of the assets in an FLLC increase, so too do the entity's business purpose and ultimate effectiveness. When properly administered, FLLCs protect assets from liability and are the most powerful domestic financial and tax planning vehicle available today.

Another key feature of FLLCs is the power created when multiple family members contribute their assets to an FLLC. Pooling resources allows the participating family members to obtain greater asset diversification than is available on an individual basis, provides access to investment opportunities and managers previously out of reach and increases leverage, affording the potential to negotiate lower management fees. Additionally, since participation in an FLLC is limited to family members, FLLCs' investment philosophy and policy statements can be tailored to the family's unique situation, unlike commercial investment products commonly offered to individual investors on a take-it-or-leave-it basis.

Using an FLLC to own personal assets offers a significant layer of asset protection in the event of litigation and protects against lawsuits involving other members. The liability protection associated with an FLLC is derived from the courts as well as protective statutory provisions, which in desirable states limits judgment creditors of the members to the exclusive remedy of a 'charging order' for recovery of the judgment. Charging orders protect by offering a creditor only the right to 'step into the economic shoes' of a member as a temporary assignee until the judgment is satisfied. This essentially provides that

the holder of the charging order will receive payment if and only if there are distributions to members, similar to garnishment of wages.

An FLP is often used for wealth preservation, asset protection, estate planning and tax planning. Some countries and their geographic subdivisions that have not authorised LLCs, as well as a number of countries with LLC statutes, have also authorised LLPs. A family limited liability partnership (FLLP) can be created by two or more family members who want to operate a family business. The LLP business structure is similar to a general partnership, with the same taxation and management organisational structures.

Unlike a general or limited partnership, LLPs allow all partners to enjoy limited liability depending on the jurisdiction. Some states and countries, including Canada, have provided for the formation of LLPs. LLPs tend to be a common business organisation choice among professionals because of the limited liability given to all partners. Furthermore, since LLCs are not an option in Canada, LLPs are a popular tool to reduce the liability of the members while maintaining the tax benefits of a partnership. However, the rules regarding LLPs vary from jurisdiction to jurisdiction. For example, some states and Canadian provinces allow LLPs only for professional organisations such as firms of lawyers, accountants and architects.

The main advantages of FLPs, FLLCs and FLLPs are as follows:

- They facilitate the transfer of large or small slivers of investment property without having to re-title the underlying property;
- They help to protect against creditors of an owner (when the entity has more than one owner);
- They help to protect the status of non-marital property (eg, family businesses); and
- If a given interest in an FLP, FLLP or FLLC has the right conditions, it may qualify for valuation discounts, reducing the amount of estate, inheritance or generation-skipping transfer tax.

5. The regulatory environment

When determining the appropriate family office structure, practitioners must consider both the planned and future services to be provided and the applicable government regulations to which they may be subject. As families, family office executives and their professional advisers discuss family offices, they often refer to them as though they were a single enterprise, when in fact single family office structures are often comprised of several enterprises. The structure and nature of some of these entities are determined by regulatory, liability and asset preservation considerations. These structures include the family office management company (or so-called ‘control entity’), in addition to related and ancillary entities. The most common related family office entities include ancillary family offices, real estate property management companies, captive

insurance companies, registered investment advisers (RIAs), broker/dealers and private trust companies. Since VFOs tend to be either start-up family offices or scaled-down family offices, these ancillary entities are rarely of concern. However, the realities of government regulation apply to all family offices, including VFOs. In this regard, securities regulation and FATCA most often come into play.

5.1 Dodd-Frank compliance

The Dodd-Frank Wall Street Reform and Consumer Protection Act effected sweeping global financial regulations in the family office space in the United States.[11] The Dodd-Frank Act provides for full extraterritorial application and enforcement. In this regard, it is a truly global law.

Prior to the passage of the Dodd-Frank Act, any investment adviser with fewer than 15 clients was exempt from registration as a registered investment adviser under the Investment Advisers Act of 1940. The old rules (which exempted family offices with fewer than 15 clients under the private adviser exemption and those with under $25 million in assets under management) were replaced with much more specific, better-delineated rules with significantly more complexity. Pursuant to these rules, a 'family office' is defined as an entity which provides advice only to 'family clients', is wholly owned by family clients and controlled by family members, and does not hold itself out to the public as an 'investment adviser'.[12]

The SEC has defined 'family clients' as current and former family members, key employees and certain charities, trusts and not-for-profit organisations funded by family members or key employees. A 'key employee' is defined as a person who is either an officer, director, trustee, general partner or person in a similar capacity at the family office, an affiliate of the family office, or a person employed by the family office or an affiliate for at least 12 months who participates in the investment activities of the family office in the course of the employee's regular duties. If investment advice is provided to entities that are not family clients, then those officers, managers or entities need to register as investment advisers under the Investment Advisers Act and the Dodd-Frank Act. Whether a person or entity is providing investment advice is a facts and circumstances analysis.

5.2 Registered investment advisers

An RIA is an investment adviser registered with the SEC or a state's securities agency. An 'RIA' is defined by the Investment Advisers Act as a person or firm that, for compensation, is engaged in the act of providing advice, making recommendations, issuing reports or furnishing analyses on securities, either directly or through publications.

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11 See 12 USC §§ 5301-5641 (2015) (codifying the Dodd-Frank Act).

12 17 CFR § 275.202(a)(11)(G)-1 (2011).

The US SEC regulates investment advisers under the Investment Advisers Act and the rules adopted under that statute. For individuals and firms that meet the definition of 'investment adviser' under Section 202(a)(11) of the act, registration with the SEC is required unless they are exempt or prohibited from registration. Under the Investment Advisers Act, an 'RIA' is a person or firm registered with the SEC that, for compensation, is engaged in the business of providing advice, making recommendations, issuing reports or furnishing analyses on securities, either directly or through publications. A person or firm must satisfy all three broadly construed elements of the definition to be regulated under the Investment Advisers Act. The receipt of any economic benefit will satisfy the compensation element. The business element is deemed to be satisfied even if an investment advisory business is not the person's or firm's principal business activity if:

- the person or firm holds himself or itself out as an investment adviser or as providing advice;
- the person or firm receives separate or additional compensation for providing advice about securities; or
- the person or firm typically provides advice about specific securities or specific categories of securities. This element is satisfied if the advice relates to securities (ie, advice about market trends, advice concerning the advantages of investing in securities or mere provision of a list of securities to a client, even if the adviser does not make specific recommendation from the list).

Sections 202(a)(l l)(A) to (E) of the Investment Advisers Act expressly exclude certain persons or firms from the definition of an 'RIA'. In addition to these exclusions, the act gives the SEC the discretion to exclude other persons or firms not within the intent of the definition of an 'investment adviser' that should be registered.

Additionally, a person or firm that does not meet the criteria in Section 203A of the IAA or Rule 203A-2 is prohibited from registering with the SEC as an RIA. Generally, only larger investment advisers that have more than $25 million or more of assets under management or that provide advice to investment company clients are permitted to register with the SEC as RIAs. Generally, smaller investment advisers register as RIAs under state law with one or more state securities authorities. RIAs are held to a high fiduciary standard and are obligated to obtain the 'best execution' of clients' transactions.

5.3 Broker-dealers

Other SEC rules may require family offices in the United States to register as 'broker-dealers'. The applicable provisions of the Exchange Act covering the registration of broker-dealers are contained in Section 15 of the United States

Code.[13] Section 15(a)(l) states that it is illegal for a broker-dealer to use any means or instrumentalities of interstate commerce to "effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security", unless registered with the SEC. Section 3(a)(4) of the Exchange Act defines a 'broker' generally as "any person engaged in the business of effecting transactions in securities for the account of others". Section 3(a)(5) defines a 'dealer' generally as "any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise". The definition of the phrase 'engaged in the business' comes from case law and SEC no-action letters. According to these sources, when determining whether a person is engaged in the business of buying and selling securities, an important element to consider is the regular participation in securities transactions.

In addition, family offices may be required to report as the manager of hedge funds or private equity funds, as an institutional investment manager under Section 13(f) or as a control person under Section 16 of the Securities and Exchange Act of 1934. Moreover, family offices which are RIAs may have to make additional disclosures if regulatory assets under management exceed $150 million, pursuant to a recently issued joint rule by the SEC and the Commodity Futures Trading Commission. Further, family offices may be required to file notices of exemption or register with the National Futures Association as a commodity trading adviser if the family office provides advice regarding certain investments or makes such investments, including commodities, derivatives, futures or options; or is a commodity pool operator operating a fund for multiple investors.

Overall, the reaction to these regulations by most single family offices has been to undertake nearly herculean steps in order to avoid registration. This often extreme reluctance to register as an RIA or broker-dealer stems primarily from concern over increased costs and unwelcome administrative work, loss of privacy and confidentiality and unwelcome government intervention into private lives. The most common approaches include wholly outsourcing the investment function, eliminating funds and qualified plans which include non-family client investors, and making contributions of non-family client funds held in foundations.

5.4 FATCA

FATCA[14] was enacted to enable the US Treasury Department to discover and trace broadly defined international accounts held in all FATCA treaty countries. It imposes a 30% withholding tax on payments of interest, dividends, rents, royalties and certain other types of income sourced in the United States to

13 See 15 USC § 80b-1-80b-21 (2010) (detailing the provisions of the Investment Advisers Act).

14 26 USC §§ 1471-1474, § 6038D (2010).

foreign financial institutions (FFIs).[15] Generally, a foreign private investment entity will be classified as an FFI and must enter into an agreement with the IRS to avoid the withholding tax on certain payments made to the foreign entity. Therefore, certain family offices need to pay special attention and register their FFI with the IRS to avoid the withholding tax.

6. Conclusion

As VFOs continue to proliferate around the world, these business entities will be increasingly integrated into family holding companies designed to carry out key wealth management, asset protection, pre-marital planning, estate and tax planning and risk management objectives. In addition, VFOs provide an excellent starting point for managing newly liquid wealth, a better platform for embedded family offices and a possible solution for outdated existing family office structures. The VFO structure also facilitates control and minimises estate tax and income tax leakage. Accordingly, it is highly likely that the use of VFOs will continue to expand as global families seek to benefit from long-term, best-in-class strategies.

15 Internal Revenue Service, FATCA *Information for Foreign Financial Institutions and Entities* (1 May 2016), www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions.

Recruitment and talent management strategies

M J Rankin
The Rankin Group LLC

Conducting a search for quality talent that will meet your expectations for performance in any industry can be an excruciating process. It is even more complex for a family office. It takes a major commitment of time and resources to find a shortlist of top candidates with the unique skills, experience and background to work successfully with wealthy families in a family office structure. Since each family office's situation and the family clients that it serves are unique, finding candidates who will transition well into these roles is challenging.

Another challenge is getting family members to recognise that their family office is a business that not only helps to manage their assets and lifestyle issues, but also helps them to become better stakeholders and risk managers of their family wealth. Consequently, the questions of who they should employ and how the family office should be managed going forward are closely intertwined with the family's goals and its vision for how the family office can help it to accomplish those goals.

Additionally, the culture, values and behavioural DNA of family members and employees are critical elements in making these unique relationships work. Unfortunately, too often, family members do not realise the importance of incorporating and supporting organisational structures and processes that positively influence worker behaviour and motivation.

1. The one-page office plan

Whatever the size of the family office (serving one principal or multiple generations), starting with a plan provides the clarity needed to define the purpose and expectations of the family office. This leads to the development of job descriptions and skills/experience criteria for prospective candidates. It can also help to determine governance structures that guide the roles of the family office professionals.

Investment in the time required for a discussion about how best to manage the family's wealth both today and for future generations is critical to define the role that the family office will play in assisting family members with the challenges and complexities of wealth management.

The skills and experience of the family office professional should complement those of family members regarding the in-depth technical knowledge of the financial services (investment, tax and wealth transfer planning and philanthropy) needed to grow the family's financial capital, along with business management and leadership skills, and the emotional fortitude to achieve success, however defined by the family clients.

Since each family is unique and each family office is thus unique in how it is structured and staffed to meet the needs of the family members it serves, success may be measured against performance expectations in terms of either tangible or intangible benchmarks. For example, it can mean asset growth or preservation of capital; enhanced communication between family members; business succession; establishment of philanthropic goals; or family continuity.

Table 1 sets out an example of a one-page office plan that can be used to guide discussions about what you are creating in the family office and how it will ultimately relate to the people whom you empower to accomplish your goals and objectives – whether they be family members, external advisers or family office executives.

Table 1. Family office plan

Vision:

Describe what this family office will look like in three, five and 10 years. Include the nature of the business, service offerings, a description of family clients served, geographic scope and what the family is passionate about.

Vision = graphically describes the business of the office.

Mission:

Describe why this family office exists in one sentence or less.

Mission = purpose.

Why the family office exists from the family's point of view.

Objectives:

List between four and eight goals that this office must achieve to meet clients' expectations.

Objectives = measurable results.

Strategies:

Describe between five and eight things that this office must do extremely well over time.

Strategies = define how the office will be built and managed.

Action plans:

What are the six to eight specific business-building or infrastructure projects that this office must successfully complete to implement the strategies listed above?

Plans = work or tasks to be completed.

Source: © The Rankin Group LLC

2. Search process based on risk management

Recruiting professionals to work in a family office requires discipline, patience and a commitment to completing the appropriate amount of due diligence that controls the risk of making a bad hire. A successful search does not just mean hiring people to staff an office; it means hiring the right people, who will stay with you for a long time. You are making a substantial investment that deserves the same attention that you give to evaluating your money managers.

Executive due diligence can make or break the search process. It involves more than finding an impressive CV; it requires digging deeper to assess whether a person is a good business risk for the long term.

A poor investment in human capital can become a major expense financially and emotionally. In today's market, hiring the wrong person costs between three and 14 times salary and benefits, plus potential family conflict and untold personal anxiety.

3. Success factors for better hires

Here is where we circle back to the family office plan. Once you clarify your family mission, the goals and purpose of the family office, and the values statements that define your culture, you can begin translating those into job profiles and performance expectations. As examples, consider the following:

- Do you have an operating business that your family office executives will help to manage?
- Are you seeking guidance on philanthropic initiatives or assistance in educating future generations?
- Are your needs focused on the more traditional aspects of wealth management relating to financial and investment expertise?

The key to a successful hiring process is to provide a clear definition of responsibilities for the job as well as the personality characteristics required for communication and success. The next step is to take the time to profile your goals in ideal candidate terms, whatever your strategic vision. Determine which skills, experience and personal characteristics will complement your family's level of expertise, culture and unique family dynamic.

This goes beyond the development of a traditional job description, which typically focuses on the candidate's background and experience, not on the job. In contrast to outlining experience, duties, tasks and responsibilities, a more comprehensive job profile will detail the results expected in the successful execution of the position, emphasising outcomes that this specific job delivers that no other job can do. The objective is to 'let the job talk', describing what this job does, what the successful candidate will be held responsible for and how performance will be measured at review time.

The job analysis process is the most essential and most neglected aspect of hiring because most people do not want to dedicate the time. In the long run, however, this initial effort saves valuable time, money and misunderstandings when it comes to screening candidates.

If you already have an existing family office and are replacing someone, do not just recycle the original job description. Chances are that the role has changed based on the family's evolving needs. A fresh look will help you to determine what the job needs now and what new skills and experiences you would like to add to the team. You may also discover that parts of the job should be outsourced or handled by someone else in the office.

- *Know what you want:* Invest the time to develop the one-page business plan and determine what the job needs.
- *Create a comprehensive job profile:* Focus on outcomes and competencies that are required for success. Develop a scorecard and candidate criteria to screen candidates against. This helps to eliminate unqualified candidates quickly.
- *Look for the intangibles:* A candidate's success goes beyond functional abilities and includes soft skills such as leadership, communication, work style, personality, fit with culture and values. Consider using behavioural assessment tools to look beyond the CV.
- *Organise the interview process:* Agree on an approach that will objectively and systematically evaluate prospective candidates. Consider things such as who will be involved in the interviews, how impressions and information gathered during the interviews will be collected and interpreted, and who will make the final hiring decision.
- *Look for reliable resources:* Take advantage of human resource experts to help you with job profiles, development of screening tools and appropriate interview practices. Look to your advisers and colleagues for candidate referrals. Work with a search firm that specialises in family offices.
- *Be competitive:* Set a realistic compensation package for the job. Determine market value standards for the job and for the types of people that qualify for the job. Structure a package that makes sense for current market demands and sets reasonable precedence for your own organisation and family expectations.

- *Be patient:* Hiring the right candidate takes time. Develop a comprehensive hiring plan and stick to it.

4. Candidate screening that looks beyond the CV

People's behavioural style, values and attitudes play a major role in determining not only whether they might fit in a family office environment, but also whether their style fits the job, the culture and the dynamic of your family. We are all hardwired to work a certain way that plays to our strengths and personal satisfaction. Behavioural profiling helps you to look beyond the CV to assess which candidates are a good business risk in terms of personal and professional fit with the job.

The number one reason for resignations or terminations is that the job or workplace was not the right fit.

For example, in many family office jobs, career growth is restricted, leaving limited opportunity for upward mobility. The job challenge comes from the variety of the work; the job satisfaction comes from helping others to achieve their goals. This means looking for people who are motivated by serving others rather than climbing the corporate ladder. By screening for an individual's motivations, maturity and emotional intelligence, you can ensure a better fit with the unique roles for family office professionals, as well as reducing hiring costs and turnover.

Today more than ever, we are faced with the challenge of screening candidates with vastly different generational talents and very different value structures. Additionally, candidates are better prepared for the interview process, making it more difficult to determine their innate abilities from their prepared performance for what they think you want them to say in order to land the job.

A good interviewer can uncover candidates' skills, educational background and employment history. The challenge is determining whether their soft skills and judgement ability mesh with the requirements and expectations of the job and the organisation. Behavioural-based assessments and interviewing techniques can help with this.

One of the key concerns in using assessments is the risk of discrimination litigation. You should never use an instrument that does not meet all the stringent requirements of the Equal Employment Opportunity Commission. You should also engage the services of an expert who is trained in the use of the assessment tools and knows how to conduct the interviews and interpret the results.

5. The screening and interview process

Most employers have not been trained to interview well. Consequently, they tend to overlook key points that should be covered in discussions with candidates. The process of screening candidates takes time and effort. There are no real shortcuts. There are, however, some techniques and pointers that can accelerate the process and help reveal the candidates who most closely fit your criteria.

There are three steps in the candidate screening process that sets you up for personal interviews and behavioural assessments: reviewing CVs and cover letters; phone interviews; and sorting for the top candidates. A number of approaches can be used, but we suggest doing whatever makes sense for you and the level of the position. Your time is valuable. Finding the most efficient way to identify and screen candidates is important, which is why contracting with outside experts when you do not have internal recruiting and human resources staff can be the best approach.

5.1 CV review

The most efficient process for reviewing CVs is to scan for keywords that relate to skills and experiences that you have identified in your job criteria and to read over the last three to five years of job duties. Look for long gaps in employment, stability and tenure with employers, and progressively more responsibility. Examine cover letters and letters of reference along with the CVs to give you an overall impression of the candidates. This will give you a sense of their writing styles and how they are perceived by previous employers and colleagues.

5.2 Phone screen

For candidates who make it past the CV review, the next step is often a quick phone screen. This serves two purposes: first, you can use it to verify that candidates are active and available for new positions; second, you can find out how candidates present themselves to prospective employers and gauge oral communication skills. If you like what you hear during the phone screen, you should set up a time for a phone interview.

5.3 Phone interview

You should have a plan for what you want to accomplish during the telephone interview. With some well-thought-out questions, you can often gauge quite a bit on this call with regard to practical experience that meets your needs, motivations for career moves, expectations for the candidate's next job choice and ability to transition into your job for the right reasons.

Part of your focus should be to fill in any gaps that are missing on the candidate's CV, and to gauge interest and fit with the position and your expectations for someone working with your family. Before starting the phone interview, you should have a copy of the candidate's CV, the job description and screening criteria in front of you. You can make notes or jot down questions on the CV, referring back to items in the job description that need clarification. For example, you may look at a CV and not see where the candidate has the requisite 10 years' experience, but that may be because it is wrapped up in parts of two different jobs.

It is also appropriate to ask questions about salary and other requirements

of the job. For instance, you can make sure that the candidate understands the salary range and that the job requires travel or relocation.

Anything that is unclear should be addressed at a preliminary level before the candidate is brought in for a personal interview. You do not want to spend unnecessary time with someone who is not right or shows no potential as a fit for the job.

5.4 Sorting for top candidates

This is not so much a scoring exercise as a chance to find the top candidates from your phone interviews who should move to the next level. You should identify at least five, if available, for the initial selection. Next, have two or three other people review them (ie, your family search committee), and select those who will move to personal interviews.

5.5 Personal interviews

Before the personal candidate interviews, you should transfer the most important candidate criteria into a candidate rating chart that is weighted on a scale from one to 10 in importance. After candidate interviews, each interviewer can rate the candidates according to the weighted criteria. This tool helps you to compare candidates objectively and quantitatively, and allows you to arrive at a sound hiring decision.

One of the best approaches to conducting candidate interviews is to use behavioural-based interviewing techniques. The goal of the interview process is to predict future job performance based on examples of previous specific behaviours, which illustrate the desired competencies through tactful probing and diagnostic evaluation of a person's personal style, values and motivators. The interviewers are looking for behaviours in situations similar to those that will be encountered in the new job. By relating candidates' answers to specific past experiences and determining their behavioural DNA, you can develop much more reliable indicators of how they will most likely act in the future. Behavioural questions ensure more genuine spontaneity than traditional questions, since candidates cannot practise as easily for them in advance.

Past behaviour in past situations will more accurately indicate a candidate's attitudes and behaviours. A person can have the knowledge and the competencies to do the job, but may not have the desire to do it. The behaviour-based interview incorporates structured questions on the candidate's past behaviour in situations similar to those that will be encountered in the new position. It goes beyond determining whether a person can do the job. It determines whether a person will do a good job: how it will be done and to what extent.

To ensure that the candidates you wish to hire have represented themselves accurately, it is important to utilise the services of an investigative agency to

conduct a thorough background, criminal and credit check on finalist candidates. You should also complete extensive reference checks by talking with previous employers, former colleagues of the candidates and people whom they have managed.

6. Designing a retention plan

After you have invested considerable time and money in recruiting and training your employees, it is important to design a plan to ensure that those valuable employees are productive and remain loyal to the family office. Losing experienced employees results in significant costs to the family office and the family, both financially and emotionally.

As stated earlier in this chapter, one of the main challenges for retention of employees within a family office is the static nature of the jobs relative to upward career mobility. If they are not people dedicated to serving others and who thrive on the ever-changing agenda of tasks in any given day, other attempts at keeping them in the job long term will be ineffective. Their work environment and the nature of interaction that they have with family members are also key factors. Make note, however, that there is a fairly common burn-out rate in these jobs of between 12 and 14 years. This is a good reason to do some succession planning for the office early on.

The keys to employee satisfaction and retention are founded on strong leadership and sound management practices, along with good operating systems and tools to allow staff to do their jobs well. We know that in most cases families hire family office executives to run their family office and take over the leadership and management roles of the other employees. However, the engagement of family members through a family committee or board is essential to ensure that the family office executives receive the leadership they need.

Additionally, family members are often oblivious to the impact that their words and actions have on their employees. For example, showing little interest in what the employees do or respect for the effort it takes to handle the many complex issues that they face in support of the family quickly leads to low morale and dissatisfaction. Not responding to inquiries or actions on time-sensitive matters causes unnecessary frustration and delays that could negatively affect the family member's situation. An attitude that suggests your family office employees are servants rather than trained professionals can quickly result in turnover and difficulty in hiring replacements.

The following sections outline a few basic talent management practices that will provide a strong basis for building a retention plan.

6.1 Compensation

As in any job, compensation is a critical factor in driving performance and loyalty. The structure and level of compensation relate directly to the overall

success of the family office and the motivation displayed by its employees. Due to the diverse nature of the jobs performed by family office employees, it has been difficult to create compensation standards such as those in other segments of the wealth management and financial services industries. Titles and responsibilities do not correlate as easily to responsibilities and duties performed as they do in other industries. Compensation and benefits vary considerably in terms of the type of family office, the degree of direct interaction with family members and where the family office is located. Additionally, compensation in family offices is noticeably lower in many cases than that found in the wealth management professions from which they draw talent.

A number of compensation surveys are available from organisations such as The Family Office Exchange (Chicago), Rothstein Cass (New York), Mclagan-AON/Hewitt (New York) Campden FO/Sulger Buel & Company (United Kingdom) and some individual wealth management firms such as Fidelity; but each provides only a snapshot of the real picture and admits that its validity is limited to an inconsistent sample of the market. What they do show as a consistent trend is that most family offices structure their compensation plans on a traditional model that is based on salary and benefits more than on a performance bonus approach.

Our approach when consulting with clients is to help them to focus on the perceived internal value for the position and the true market value. Salaries are measured against industry standards for similar positions with similar responsibilities and current salary for prospective candidates. Most comparable salary levels are found in privately held small businesses, boutique wealth management firms and other family offices.

Performance measurement generally includes evaluation against tangible financial achievements and intangible (subjective) measures, such as the effectiveness of the executive director's style of leadership, management, communication and influence on the success of the family office. Maintaining a report card of accomplishments that helps family clients to understand what employees have achieved can be beneficial in supporting bonus pay-outs.

6.2 Orientation and motivation

A thoughtfully planned orientation and welcome for new employees helps to set the stage for a positive experience in the new workplace. First impressions are lasting and a positive initial impression can be highly motivating to a new hire, reinforcing the decision to accept the position. In this way, it can directly reduce turnover. By personalising the process, new employees can become acquainted with key leadership, their managers and other employees, as well as the values of the family that carry over into the family office.

As in any small company, the key to keeping employees engaged is to remember that when employees' career goals match what the family and family

office is trying to achieve, they stay and contribute effectively to the team effort. As soon as these diverge, they become dissatisfied and may look for another option.

Here are a few things to consider:

- Challenge them: Most employees want to be challenged: as you raise expectations, performance levels and job satisfaction also increase.
- Empower them: Give employees the ability to make their own decisions and be responsible for their outcome. Many human resource articles and surveys indicate that employees who have control over their daily environment have a higher level of job satisfaction and stay longer.
- Communicate with them: Listen to your employees and let them know that they can talk with you without fear of judgement. Clearly define your beliefs and values, so that they know how to act relative to your goals and objectives.
- Recognise them: When you recognise employees' good work by appraisal or acknowledgment, they are motivated to do the work with more sincerity. A few words of praise can have a greater effect than rewarding with money.
- Evaluate them: It is often easier to avoid the discussion about how well or how poorly someone is doing in his job against your expectations. However, by consistently assessing an employee's skills and performance, you have the opportunity to reward the stars and identify those who are not doing their jobs. There is nothing more debilitating to hardworking employees than a peer who is not doing his job. Non-performers should be weeded out quickly and replaced by contributing members of the team.
- Respect their personal goals: Always remember that your employees have personal goals that are as important to them as your goals are to you. Find ways to help them accomplish their goals while helping to fulfil yours.

7. Running the family office as a business

All family offices, no matter what their size, should put in place effective and efficient human resource practices and procedures. These should include:

- establishing overall guiding principles for the family office:
  - overview of strategic goals;
  - overview of disaster plan;
  - procedures for office closure;
  - office appearance;
  - working hour expectations;
  - computer policies;
  - travel/mobile phone policies;

- benefits and policies for benefits usage:
  - holiday and paid time off;
  - eligibility;
  - procedure for requesting time off;
  - types of paid time off;
  - leave balances at end of year and termination;
  - voluntary benefits;
  - educational benefits;
- retirement plans:
  - eligibility;
  - company contributions;
- healthcare and insurance:
  - eligibility;
  - types of insurance; and
  - annual window for changes; and
  - other employee benefits;
- setting up appropriate record-keeping systems:
  - insider trading policy;
  - discloure of employee trading activity (quarterly);
  - Form U4 disciplinary proceedings (annual);
  - non-exempt employees (Fair Labour Standards Act);
  - number of hours worked day by day;
  - employee CVs;
  - initial job applications;
  - job descriptions;
  - acknowledgement of corporate code of ethics;
  - confidentiality agreements;
  - minutes from ongoing employee reviews;
  - any disciplinary actions; and
  - special recognitions; and
- developing termination procedures:
  - face-to-face interviews;
  - provision of reasons for termination;
  - production of any prior documentation; and
  - documentation of final interview to personnel file.

Although this may seem overwhelming, it is necessary to protect you and your employees and to meet human resources fair employment practices.

8. Summary

The family office is an important business that manages the personal financial and lifestyle affairs of its wealthy clients with confidence and discretion. To

succeed, it should apply certain basic business principles. There is significant risk if you get it wrong through poor planning, hiring the wrong people and taking the wrong approach to retaining and managing them.

Family office environments are often unstable, which makes working in them less attractive as a career path. Consequently, finding people who will remain long term is difficult. These are unique jobs because of the emotional aspects rather than the business functions performed. For this reason, you need to evaluate prospective employees carefully against realistic expectations for personality, style, values and professional experience.

Additionally, you need a clear vision as to why and how establishing an office will achieve your desired goals and objectives. Once you have established your vision, it is important to tie job functions to your goals and objectives, which in turn will help to define the recruiting plan that manages your risk of making a poor hire. Hiring the wrong people can be an expensive mistake, both financially and emotionally.

You also need to set realistic compensation based on the market value of the people you want to hire and the value that they will deliver in the job. In a single family office, combat pay should be considered in view of the emotional and sometimes irrational aspects of the job.

Building a quality personal services firm, which a family office is, requires motivation and drive to harness your employees' individual skill sets and motivation. Optimising the family office's service offering requires a focus on optimising the individual strengths of the family office team.

It is important to pull together people with complementary skills and styles to get things done – whether they be direct employees or outside advisers. A lot can be gained by understanding and appreciating the value of different styles and where an individual's strengths reside. That is why we encourage our clients to look beyond the CV and assess behavioural styles as well as technical credentials when conducting a search. Look for people who fit your culture, who mesh with the team and family member clients, and who are prepared from the beginning to interact effectively.

Attracting applicants is not hard; but using the right criteria to select the right candidate is.

Carefully define your screening criteria. Determine who should be part of the interview process. Organise your thoughts around specific issues and observations to be addressed in the interview. Organise your findings so that you remember what you liked and did not like about each candidate. Compare notes with the other members of the interview team.

Finally, address the need for human resource policies and procedures, employment contracts and effective leadership and management techniques.

Appendix I: Ten tips for long-term hires

- Develop a formal hiring process. Commit the necessary time to define your culture and success criteria for prospective candidates.
- Write a well-defined job description that relates to the company's goals and objectives and expectations for the person in this role.
- Set a competitive, market-valued compensation for the job.
- Interview more than one candidate and look beyond the CV to determine cultural and behavioural fit with the organisation and other members of the team.
- Hire candidates who are not just like you, but who complement your skills, experience and style.
- Follow through on background and reference checks. Be sure you know who you are hiring.
- Promise a candidate only what you can deliver.
- Have others in the organisation/family interview the candidate(s).
- Do not rely on classified or internet advertising.
- Network to keep tabs on the hiring pool in anticipation of future needs; develop internal bench strength when you can.

Appendix II: Organising and interpreting your findings

Balance sheet

Applicant ______________________ Position ____________________

Interviewer_____________________ Date _______________________

Recommended _________________ Not recommended ____________

	Strengths	Limitations
Education/experience		
Degree	☐	☐
Certification	☐	☐
Related experience	☐	☐
Intellectual		
Analytical ability	☐	☐
Problem-solving skills	☐	☐
Written/oral communication skills	☐	☐
Judgement	☐	☐
Logic	☐	☐
Organisational skills	☐	☐

Interpersonal		
Leadership skills	☐	☐
Team player	☐	☐
Training skills	☐	☐
Self-confidence	☐	☐
Extrovert/introvert	☐	☐
Persuasive	☐	☐
Patient	☐	☐
Motivational		
Interests	☐	☐
Energy	☐	☐
Salary expectations	☐	☐
Hobbies	☐	☐
Cultural fit		
Evidences benefits and values similar to ours	☐	☐
Service oriented	☐	☐
High work standards	☐	☐
Technical competence	☐	☐

While listening to the applicant, the interviewer should be getting some good answers to the following questions:

- Is he/she interested in the role? Did he/she take the time to prepare for the interview?
- Does he/she show effort? Think before he/she speaks? Is he/she thoughtful?
- Does he/she show sincerity? Get to the point? Avoid ducking or evading the question?
- Are his/her answers appropriately matched to questions? Does he/she avoid prepared answers?
- Does he/she lead with benefits? Distinguish between features and benefits? Highlight the facts that favour his/her being hired?
- Does he/she communicate effectively? Stick to the point without over-elaboration?
- Is his/her expression clear and precise?
- Does he/she show confidence? Commit to an idea?
- Can he/she spar? Maintain composure in stressful situations?
- Am I enthused? Would I want this candidate working for me?

To assist in your objective evaluation, the following checklist may be considered:

- **Work attitudes and habits:**
  - How does he/she work? What is his style? What results does he/she get?
  - Why does he/she work? What does he/she like about work?
  - Can he/she take broad, general assignments?
  - Does he/she need emotional support? Is he/she independent?
  - Will he/she follow through on action?
  - How will he/she respond to pressure?
- Drive and ambition:
  - How energetic is he/she? How does he/she use energy?
  - Will he/she take the initiative? Start things on his/her own? Broaden assignments?
  - What are his/her career goals and ambitions?
  - What does he/she want from life and work? What motivates him/her (money, status, power)?
  - Do his/her aspirations appear to be realistic?
- Intellectual ability:
  - What is his/her overall level of intelligence when compared with other candidates?
  - Does he/she have any special talents?
  - How well does he/she communicate?
  - How would you describe his/her thinking (colourful, dull, dramatic, pedestrian)?
  - How does he/she approach problems (impulsive, deliberate)?
  - How about his/her judgement?
- Emotional resources
  - How would you evaluate his/her overall stability (mature, sound, spontaneous)?
  - What is his/her confidence level?
  - Can he/she see own strengths and weaknesses?
  - What is his/her reaction to conflict and aggression?
  - What are his/her major characteristics (passive versus active, dependent versus independent)?
- Interpersonal relations:
  - What was his/her general impression on you (pleasant, remote, cool, sociable, aggressive)?
  - Does he/she understand and interpret interpersonal situations (perceptive, sensitive, oblivious)?
  - Can he/she adjust to different social levels (snobbish, intolerant, humane, flexible)?

- How will he/she operate with superiors (rebellious, resentful, cooperative)?
- How will he/she operate with subordinates (push or lead, friendly or remote)?
- How will he/she operate with peers (friendly, distant, competitive)?
- How will he/she get along with outside advisers and family members? What if there is customer contact involved (service oriented versus exploitative, logic versus charm, hard sell versus soft sell)?

Investment

Charles Peacock
Sandaire
Alexander Scott
Applerigg Limited

1. Management

While the term 'family office' can incorporate multiple forms of business and services, the core function of the great majority is oversight and management of the financial assets of one or more families. This chapter addresses the investment and associated activities that are central to the fulfilment of this responsibility.

The management of assets, rather than oversight (a role that could simply involve receipt, consolidation and analysis of reports from one or more investment organisations) provides the greatest scope for interpretation and management in each office. Families that have decided to incur the cost and complexity of having a family office have done so because they believe that the outcome of this decision will be a better response to the family's investment requirements than that of a third-party bank or investment manager (though the services of external financial institutions are likely to be employed via delegation).

Having concluded that a family office is the right route to pursue (as examined further in the chapter on establishing a family office), the choice lies between an office dedicated to one underlying family (the single family office) or one serving the needs of many families with similar investment requirements (the multi-family office). Both forms are likely to be dedicated to serving families rather than institutions; the key differences are likely to be those of the resources that can be applied to the management of a family's financial affairs and the fact that a multi-family office's services are not delivered exclusively.

The costs of running a single family office will need to be paid for by one family, so the asset base under management needs to be sufficiently large to ensure that the annual compensation bill is proportionate to the value that the family office is capable of adding. The fact that it is increasingly expensive to build and run a financial services business with appropriate skills and competencies has led to the emergence of multi-family offices as an alternative to the single family office.

The key roles and responsibilities that employees of the family office are likely to undertake can be described under three main headings:

- investment (responsible for investment strategy, asset allocation, portfolio risk management and all investment-related functions, such as safe custody);
- operations (responsible for reporting investment performance and the management of the investment office); and
- finance (responsible for financial reporting, operational cash flows and risk management).

For the purposes of this chapter, we focus on the first two. The smaller the office, the greater the chance that more of these functions are part of the chief executive's remit. Herein lies one of the most important questions facing a family setting up a single family office: "Is the size of our liquid portfolio sufficient to warrant the recruitment of one or more experts to deliver the services outlined in this chapter? Can we recruit appropriate talent to deliver what we need?" If the costs of fulfilling the responsibilities to the level of professionalism required are greater than approximately 0.75% of the value of the family's portfolio, the impact of such costs compounded over many years will be significant. The family (and its trustees and advisers, if appropriate) must believe that the value thereby created is sufficient to warrant the cost. This cost/value trade-off will be on the minds of those establishing a single family office: "If we must limit numbers of employees to ensure that costs are appropriate to the size of our portfolio, are we putting too much responsibility on the shoulders of too few? Will we sleep at night if the resulting office is so small as to be vulnerable?" The challenge of acquiring appropriate expertise at an appropriate cost is one of the drivers behind some families' decisions to appoint a multi-family office rather than create a single family office. The bigger the family balance sheet, the less sensitive the cost/value decision.

The breadth and depth of skills available in-house to a family office will be of a different scale in comparison to most financial institutions, and it is for this reason that many of the functions necessary for the effective management of the portfolio will be sourced externally. Most family offices will choose to retain control over only those functions that they feel are necessary to the successful execution of their (or their clients') strategies. Their capacity to source appropriate external skills, to manage the resulting relationships both directly and as part of a wider web of interrelated relationships, to integrate the results of these external providers into a coherent strategy for the owners, to report on the outcomes and to deliver the family's financial strategy will be a fundamental factor in determining their success.

2. Asset allocation

We anticipate that all family offices will take a multi-asset class approach to the management of the wealth for which they are responsible. At a minimum, there

are likely to be three asset classes: equities, fixed income and cash. More likely, a family office will also consider property, private equity, commodities and possibly collectibles (eg, art, wine and cars). Hedge funds are sometimes cited as a separate asset class, although we would argue that most are essentially a style of management of the assets listed above, whether in equity or fixed income. An example of this would be a 'long/short' equity manager, who essentially merely takes a different approach to managing the risk in a portfolio, compared with a 'long-only' equity manager.

The importance of asset allocation lies in the fact that research[1] has shown that asset allocation explains about 90% of the variability of a fund's returns over time. It follows that this is the most important decision that a family office will take, both at the outset and as the portfolio grows and changes.

Investment returns vary across asset classes predominantly in accordance with economic conditions. While it is possible to have a view as to the likely relative performance of asset classes, accurately forecasting the magnitude of the returns in either nominal or inflation-adjusted terms has proved to be elusive.

Empirical observations tell us something about very long-term returns for asset classes. Investors in equity, for example, seek a premium over the returns on bonds to compensate for the associated additional risk. Looking back at historical returns shows that these have varied between markets and over different periods. Nonetheless, by way of example, Dimson, Marsh and Staunton of the London Business School calculated in their paper "Credit Suisse Investment Returns Yearbook 2018, summary edition"[2] that the geometric mean equity risk premium, relative to government long bonds, was 4.4% for the United States and 3.7% for the United Kingdom.

However, the variability of returns over the short term is so large and persistent that the simple rules of thumb described above are blunt instruments for the real-world task of meeting a family's financial requirements and objectives. In any one year, the returns from each asset class will often vary significantly. In 2013, for example, the total return from global equity exceeded 20%, while UK gilts produced a negative return of around 4%. There can also be meaningful divergence in returns even within an asset class. Using 2013 again by way of example, stock market indices showed emerging market equities recording a loss of around 5%, while US equity markets were up by nearly 30%.

Assuming sensible diversification within a portfolio, the impact of weaker-performing investments can be offset, or at least moderated, by better-

1 See, for example, Brinson, Singer and Beebower, "Determinants of Portfolio Performance II: An Update", *Financial Analysts Journal* volume 47, number 3 (May/June 1991); Ibbotson and Kaplan, "Does Asset Allocation Explain 40, 90 or 100 Percent of Performance?", Financial Analysts Journal volume 56 number 1 (January/February 2000).

2 Available at www.credit-suisse.com/media/assets/corporate/docs/about-us/media/media-release/2018/02/giry-summary-2018.pdf.

performing investments. Nonetheless, the allocations that are adopted will clearly determine the eventual return achieved by the portfolio. As no asset class consistently outperforms, investors need to consider carefully the weightings that they adopt for each.

However, there is no single approach to asset allocation, although most family offices will adopt a strategic asset allocation, which will be designed with the intention of fulfilling the investment objective for each portfolio. This strategic asset allocation may be expressed as a set of default weightings for each asset class which may be held in the portfolio. Commonly, there are a number of different approaches to managing the allocation to the different asset classes over time:

- an allocation that is rebalanced at set periods through the sale/purchase of investments;
- an allocation as above, but where rebalancing takes place not on a periodic basis, but as and when the percentage represented by a particular asset class varies from the default position by more than a certain amount; or
- active allocation, whereby the default or neutral position represents the spread of investments where the manager has broadly equal conviction on the prospects for each asset class.

Under this last approach, the family office takes a considered view of the stages of the economic cycles in major economies around the world, political issues, the state of financial markets and valuations to assess the prospects for returns from each asset class. Typically, if wealth is to be managed along these lines, minimum and maximum asset class limits and drawdown risk tolerance are agreed with the client and provide clear parameters for the manager of the assets.

Whether changes to asset allocation are semi-automatic, by way of rebalancing in the first two approaches above, or tactical, by active management, the frequency with which they are made is an important decision, since all will involve cost. The costs may include the difference in the bid-offer price spread, brokers' commission or managers' upfront fee, duty or tax and possibly the exchange rate spread if the investment is not in the portfolio's base currency. These costs may add up, if rebalancing is frequent, and weigh on the returns. In the case of some individual or one-off transactions, such as those involving property, the associated transaction costs can be considerable.

Where an active tactical allocation approach is taken, the frequency in trading will also be influenced by the philosophy of the family office or wealth owner with regard to market timing (the timing of investment purchases and sales with reference to the level of state of financial markets). This is notoriously

difficult, particularly at times of instability and limited investment visibility. A decision needs to be taken as to whether the focus should be on the longer (multi-year) investment cycles, shorter-term movements resulting from volatility or, to some extent, a mix of the two.

A final point is that the liquidity of investments (the ability to sell them quickly at a not significantly discounted price) will also influence the scale of rebalancing or the frequency of change in asset allocation. Investments in property and private equity can require multi-year commitment and hedge funds often have a minimum investment period followed by a rolling lock-up period. Consequently, rebalancing over shorter periods will be limited to the more liquid investments, a consideration when seeking to manage the level of risk carried in a portfolio.

While asset allocation is a critical element of investment management, it is equally important to understand and manage the risks associated with each asset. We expand on risk later in the chapter, but note here that risk is a more controllable element in portfolio management than returns. This proved particularly important in the immediate aftermath of the financial crisis that broke in 2007/2008, when market volatility was often at elevated levels.

Consequently, risk should sit at the heart of the investment process and the family office should seek clear agreement with the wealth owners as to the limits or guidelines on the level of the downside (or drawdown, a measure of the change in values from the peak to trough) risk that they are prepared to accept. The level of risk that wealth owners can tolerate will depend on a host of factors, including the quantum of their wealth and of their investible assets (recognising that much may be tied up in a family estate, company or other businesses), the time horizons over which they will judge performance and the purposes for which they wish to use their wealth.

While historical returns are not a reliable guide to future returns and risks will vary over time, influenced in part by asset valuations, there is great value in a process in which the family office and wealth owners consider together the risk associated with generating returns. It helps to ensure that there is a clear understanding that returns are rarely generated without risk and allows wealth owners to review and align their financial objectives and expectations with their attitude to risk. There should consequently be less scope for (unpleasant) surprises, even in the event that financial markets develop unfavourably.

3. Investment

After asset allocation has been determined, the focus switches to portfolio construction: selecting the assets that best meet the investment strategy. The family office will need to have regard to a number of what we might call 'operational issues' that will impact on the population of possible investments. These may include the style of returns, investment restrictions and stipulations.

The family office will need to have regard to whether a particular style of return is required. For example, there may be a need for a certain level of income, which will produce an income bias to the investments that a manager may select – that is, only investments that produce an interest, dividend or rental yield may be eligible for such a portfolio. This may particularly be the case where there are life interests or restrictions on the distribution of capital. Alternatively, the portfolio might be run on a total return basis, where the manager seeks the optimal (risk-adjusted) overall return from both income and capital, and any shortfall in required income can be distributed from capital. A total return approach provides a much greater range of potential investments to select from. Examples include many hedge funds that have 'non-distributor' status (ie, they do not distribute income), property development where capital gain is the goal, commodities, gold and collectibles.

Taxation may also influence selection – for example, if investors are subject to different effective rates of tax on capital gains and income. Particular care, for example, must be taken for UK investors with funds that do not have distributor status due to the unequal treatment of gains and losses.

The family office will also have to take account of any restrictions or stipulations imposed by the wealth owner. It is not uncommon to find that wealth owners have a bias towards sustainable businesses and investments, and want to avoid those involved in, say, the armaments industry or businesses that are viewed as unethical or environmentally unfriendly.

These criteria apart, the family office will face a number of decisions. Should it, for example, invest directly in individual company shares or bonds? The answer to this will be partly influenced by the resource issues mentioned at the start of this chapter. Does the family office wish to recruit staff to research satisfactorily individual investments across the public equity and bond markets? Besides that, will individual share investments make a great enough impact on performance to warrant such a resource?

Alternatively, the family office can make investments through passive funds (eg, exchange-traded funds) or draw on the expertise of third-party managers, through either collective investments (funds) or segregated accounts. Exchange-traded funds have become increasingly popular among investors, since they represent a low-cost way of accessing certain asset classes, such as equities. Exchange-traded funds are now available that offer high liquidity for investing in many of the indices of the larger equity markets around the world.

In some more developed markets, such as the United States, exchange-traded funds are also available for particular sectors, facilitating investment in industries that are perceived to outperform at different stages of the economic cycle. As mentioned above, exchange-traded funds are generally low cost, particularly in comparison with managed funds, are simple to trade and provide an effective way of increasing or reducing exposure to the market.

Consideration should be given to counterparty risk if derivatives are used to replicate an index in an exchange-traded fund.

While funds offer the opportunity to access expertise of specialist managers, many fail to outperform their benchmark index consistently over the longer term and across the economic cycle. It is not unusual to find that new funds start strongly but, over time, show a tendency to trend towards tracking the benchmark index. It is also worth remembering that, due to management fees and other costs, a manager will normally have to outperform the index in gross terms to deliver a performance equal to the benchmark or the slightly lower (compared with the benchmark) return of the exchange-traded fund.

An additional point of consideration in the choice between exchange-traded funds and managed funds is how quickly one can make or realise an investment. While exchange-traded funds normally have real-time pricing and allow intra-day trading, the ability to reduce exposure in a managed fund can be constrained by them having only weekly, monthly or less frequent trading. Furthermore, certain funds – especially hedge funds – impose longer fixed initial investment periods and retain the right to gate investors to prevent a significant outflow of funds. They may do this at times of heightened uncertainty or risk in the markets, to prevent forced selling of underlying investments at discounted prices due to limited liquidity, which would prejudice the interests of continuing investors.

All that said, managed funds may well be the investment of choice for many family offices. They may be the only effective way of accessing a particular asset class or investment strategy. They may also be favoured where the chief investment officer or portfolio manager anticipates that deriving returns on an asset class will be less reliant on beta (the returns delivered by investing passively in a market) and more on alpha (value added by skill of a manager in making investment decisions).

The key question, then, is how to choose from the vast array of collective investment vehicles. A rigorous approach to selection is recommended. From the asset allocation process, there should be a clear idea of the style of investment sought in each asset class. Specialist fund databases (eg, Morningstar) allow screening for investment candidates meeting specific criteria. At this stage, the process involves removing those that are not of interest because, for example, their historical performance has been relatively weak. While it is certainly true that historical performance is no guarantee of future performance, it does provide some insight into a manager's ability to add value.

Other factors that should be considered include the following:

- Volatility: How much risk has been taken on in delivering the returns and is that consistent with the investment strategy of the fund?
- Fees: High fees provide a drag on performance, so care should be taken

to look at the net total return after all costs. Different levels of fee are payable in many funds and care should be taken to ensure that a family office is paying the fee appropriate for the level of investment it is likely to make.

- People: The individuals involved are key, although the level of their importance will vary, depending on whether the fund management firm's structure is along the lines of a star manager or a team/process approach. Continuity and a break therein might have a dramatic effect on future performance compared with the past. If the family office wishes to have access to the fund manager on a regular basis to receive reports first hand, this is also something that should be established at the outset.
- Liquidity: How quickly can the investment be sold to raise cash or execute an asset allocation change?
- Operational aspects: A family office is likely to make fairly meaningful investments in funds. The greatest concern is that the capital should be safe and not subject to loss through fraud, as happened with Madoff's infamous fund, a one-time darling of the asset management industry. Two particular points to focus on are:
  - whether the performance reported is consistent with what is understood to be the investment strategy and approach; and
  - whether there is proper risk management and governance.

  Any material variance, or indeed resistance from the manager to providing information, should set off alarm bells. Where there is inadequate governance, separation of responsibilities and other risk management procedures in place, there is a heightened risk of fraud or other irregularity.

Once managers have been selected and investment made, the family office will monitor the performance of the funds to ensure that it is both satisfactory and in line with what was expected. We return to this later.

There are consultants who advise on manager selection and to whom a family office could outsource this part of the investment process. Similarly, there are the organisational aspects of dealing, settlement, record keeping and custody to be considered, and a decision to be made as to whether to keep these functions in-house or outsource them. For a family office, the question of custody is likely to be a straightforward decision to use one or more third-party custodians. The strength of the custodian's balance sheet and availability of segregated accounts for clients are key considerations for clients of a multi-family office (as they have delegated responsibility rather than building their own family office), because a multi-family office is likely to be more thinly capitalised than the major banks offering such services. The advantage of third-

party custodians is also that they have the resources and systems to deal with the regular flow of activity associated with holding investments, be they dealing with dividend receipts or payments in response to calls from private equity funds in relation to commitments made.

As noted earlier, risk is inextricably linked with investment. Some of the main risks that investors are concerned with include the following:

- Counterparty and credit risk: For example, in the case of investment in a bond, investors are exposed to the risk that the bond issuer (borrower) defaults and is unable to pay the interest or repay some or all of the principal, resulting in loss on investment.
- Interest rate risk: If interest rates rise, values of fixed interest bonds are likely to fall so that their yields are aligned with then current rates. This may make no difference to the overall return if an investor holds them to maturity, but the decline in capital value will be reflected in the shorter-term performance reported.
- Inflation risk: We touched on this above, but more generally, inflation undermines the preservation and growth of wealth by or for family office clients.
- Custody risk: Also noted above, this is an important consideration, since the custodian is the legal owner of the assets. Much can be done to reduce the risks associated with a custodian failing by insisting on segregated client accounts (assuming that the custodian's systems and controls ensure that this is done in practice).

In moving from the asset allocation decision to asset selection, there are still many factors to consider in choosing which investments offer the appropriate, or at least most acceptable, risk/reward balance. These include the following.

3.1 Cash and money market funds

Counterparty risk is an important consideration here. For most family offices, the amounts involved mean that government compensation schemes to protect retail investors will offer insufficient recompense in the event of failure. Banks used for deposits must be selected with care and similar issues lie behind the use of money market funds, even if the risk exposure is reduced through a greater spread of underlying institutions. Higher interest rates will not generally compensate for even a partial loss of capital from what should be the safest part of a portfolio.

3.2 Fixed income

This is a huge and diverse market worldwide and categories range from government bonds and debt instruments issued by supranational institutions (eg, the World Bank) to corporate debt. Investors can choose between investment grade, high-yield and distressed debt, their decision influenced by

their outlook for the economic cycle, interest rates, corporate profitability and an assessment of default risk specifically or more generally. There are agencies (eg, Standard & Poor's, Moody and Fitch) that produce ratings and research on issuers of debt, denoting how safe they view them to be. Ratings are based, however, on the interpretation of information relating to the issuer and also on anticipated macro-economic conditions. The start of the financial crisis in 2007/2008 demonstrated that the creditworthiness of quite a number of issuers was less robust than their respective ratings had previously suggested. It is also worth remembering that the ratings agencies are not completely free of potential conflicts of interest, in that they are paid by the issuers.

3.3 Public equity

The outlook that determines the tactical asset allocation will also inform the profile of exposure sought through public equity. Consideration will be given to where in the world to invest and what exchange rate risk is appropriate. This is less straightforward than simply looking at the different countries' equity markets and assuming that each will produce outcomes similar to the underlying economy, since global markets have become more correlated over recent years. Nevertheless, volatility varies between markets and some offer greater liquidity than others. For a UK investor seeking international exposure, a consideration may be the extent to which it gets this, *de facto*, by investing in the major UK-listed companies, since many of these either are foreign companies or derive the majority of their revenues and profits from countries other than the United Kingdom. Similar considerations will apply for some of the other major stock markets.

Another variable in the equity sphere is the degree to which the investor favours large or small cap (capitalisation) companies and, from a style point of view, value or growth (mature businesses are more able to deliver dividends than those at an earlier stage in their evolution). Having considered this, the next decision is whether to invest in individual stocks, through exchange-traded funds for low-cost broad market exposure or through managed funds. As noted before, liquidity is a consideration, but funds may well be the only cost-effective route to access the desired strategy or market with the required expertise. If the investment environment is one in which markets overall are not expected to deliver real returns, concentrated stock-picking funds and long-short funds may be favoured in a search for alpha.

3.4 Private equity

There are a number of routes into private equity, the main two being by direct purchase of an interest in an unlisted company (or partnership) or by investment in a private equity fund. Perhaps the most important feature of this asset class is the acceptance of significantly reduced liquidity and, if directly

investing in a company through a minority shareholding, fewer investor protections than are typically enjoyed with listed companies. Directly investing in an unlisted company provides a concentrated exposure, but may also offer the investor a seat on the board of the business and other involvement or influence. The period of lock-up in the company and prospect of dividends are clearly dependent on the performance of the company and, at an extreme, the investor carries the risk of total loss if the venture is unsuccessful.

The fund route provides reduced risk of total loss, since a fund diversifies the risk by investing in a number of opportunities and can offer access to experienced private equity investors/managers with the resources to carry out in-depth due diligence. At the same time, funds normally carry an extended lock-up – generally at least 10 and sometimes up to 15 years – and relatively high management fees during the life of the fund. Given the length of this relationship, investors should be satisfied that the manager has the process, contacts and capability to deliver on their promise, since evidence of success takes time to show. One further important feature to bear in mind is that the full investment commitment is not normally drawn down immediately, but over a number of years. Adequate cash resources or liquid investments need to be maintained within the portfolio to meet unexpected calls, some of which could come at a time when financial markets put investment portfolios under pressure.

3.5 Property

The principal decision here is whether to invest directly in property or through funds. Other important decisions include:

- whether the purpose is to invest for income/yield or capital gain;
- what type of property – for example, commercial (eg, office, industrial) or residential (for lettings); and
- where in the world to invest.

Many family offices tend to favour their own country as their underlying families have the comfort of greater familiarity and a better understanding of their home market.

These choices will be affected by the amount of money available for investment in the asset class and what is viewed as an acceptable level of concentration or exposure in individual properties. Where direct investment is concerned, instead of going it alone, a family office may prefer to club together with other families or investors.

If investment is through funds, this could be done through listed property companies or real estate investment trusts, or unlisted funds and limited partnerships. While shares in real estate investment trusts can normally be readily purchased or sold, the related share price movements will often be more

volatile than the underlying net asset values. Unlisted funds, by contrast, tend to come with a multi-year commitment and the ability to exit early is severely restricted. As a consequence, investment in property will frequently involve a degree of illiquidity. The reduced frequency and speed with which an investor can trade these investments mean that, along with private equity, property often represents a less variable element of an investment portfolio. Investment choices on property will accordingly be influenced more by the longer-term strategic asset allocation and less by shorter-term tactical weightings.

3.6 Commodities

Unless one has or can readily arrange storage facilities, investors will mostly access this asset class through specialist managed funds or derivatives. For certain commodities, namely precious metals such as gold, exchange-traded funds are available and provide investors with an ability to trade in the metal in a similar way to equities.

3.7 Other

In addition to the main financial asset categories above, family offices may look to invest in other assets, including wine, art and other collectibles. The extent to which they do will most likely be influenced or directed by the underlying families. These other assets will typically require specialist knowledge or skills (particularly for selection and authentication) and services (eg, storage, security and insurance), and the family office will need to decide whether it wishes to build in-house expertise or rely on third-party advisers. Traditionally, investment in such assets has been direct, but a growing number of specialist funds have sprung up to meet investor interest.

4. Compliance and risk management

Compliance is a wide-ranging subject and is important at different levels. At a high level, the decision whether to be a single family office or operate as a multi-family office will have significant implications for whether and how both the office and its staff are regulated. As a broad generalisation, single family offices are not regulated and nor are their direct employees. Multi-family offices, on the other hand, which seek to provide advice and services to a number of families, will likely be required to register with a supervisory body and be subject to the regulations, especially for their investment activities. The regulations with which a multi-family office must comply will vary according to the jurisdiction in which it operates.

The compliance issues that we concern ourselves with here are those more narrowly related to investments, operations and the associated risks. There are two main elements in addressing the compliance issues: organisation and reporting.

As noted earlier, the size of family office and whether it is a single family office or a multi-family office will dictate the level of resources within the office and the extent to which there is a proper division of responsibilities and checks and balances within the business. For example, it is desirable to have proper segregation of duties between trading and settlement functions, to ensure that positions can be independently reconciled and cash payments authorised. If resources permit, separating portfolio risk analysis and reporting from investment selection and day-to-day portfolio management should also strengthen decision making and risk management.

Reporting should fulfil two primary purposes: the periodic reporting to wealth owners, which we return to later, and the normally more frequent and detailed reporting that facilitates day-to-day portfolio management and compliance with the investment mandate. In both cases, it is preferable for reporting to require little manual intervention, to reduce the risk of human error. The complexity of the systems required will depend on what functions are retained in-house. For example, an approach that focuses on asset allocation and manager selection requires investment management systems that are less complex than those needed for one that has a greater emphasis on individual stock selection, which brings with it a requirement for greater amounts of data and analysis.

At a portfolio level, day-to-day investment management reports should provide information on:

- what positions are held, so that the actual asset allocation can be monitored and managed in line with strategic and tactical allocations, as appropriate;
- volatility/value at risk, showing how much potential volatility or risk of loss exists at any point in time;
- liquidity in the portfolio, to ensure that funds are available to meet any commitments to invest, such as may arise with private equity funds, or margin calls, if required for derivatives positions; and
- investment concentration and counterparty exposure, to enable monitoring of risk of capital loss from poor underlying performance, default or insolvency.

Even where third-party investment managers or managed funds are used, the family office remains responsible for the decision to invest with them and, accordingly, for the performance that the portfolio returns. As noted earlier, there are various reasons for replacement of managers, the most obvious of which is that they underperform. It may also be that asset allocation decisions dictate that a different investment style is required. Even where there has been no such change, it is not unheard of for managers to move away from their original strategy because it is no longer investible or the scale of opportunity

alters, and this may nullify the decision to invest with the manager in the first place.

A final point with regard to compliance is that where structures such as investment trusts, unit trusts and open-ended investment companies are used, there are often restrictions that must be complied with. By way of illustration, in the case of such structures in the United Kingdom, there are limits on the levels of cash that can be held, concentration limits for individual positions and outright bans on certain types of investment.

5. Reporting and review

Clients understandably expect to receive regular reports on how their investments are doing. In our experience, in the case of a multi-family office, the level of detail and the frequency with which it is provided will vary by client.

One of the benefits of a family office is, or should be, that a complete picture of a client's wealth can be provided, even where it is divided up into multiple portfolios. This crucial role of integration and interpretation allows the client to understand its total asset allocation, its risk exposure, how it has changed over time and what strategic initiatives are possible or desirable.

If appropriate investment management systems are in place, the family office should seek to report performance on a consistent basis across all investible assets. This allows a readier comparison of different assets and managers – something that is not necessarily possible where a number of investment managers or private banks have been appointed and only a collation of reports from them can be produced.

As we suggested earlier, risk sits at the heart of investment and should be a key feature in the investment reports. Without this, the returns achieved will tell only half the story. By reporting on and reviewing both the risks taken and returns generated, the investment circle can be closed. Family clients will gain a better understanding of the relationship between the two and this allows a regular review to be undertaken to ensure that the portfolio is achieving its purpose. Where circumstances, financial objectives or risk appetite have changed, the family office can return with the client to the start of the investment process and review whether the investment strategy and asset allocation are still appropriate or need revision.

Health and wellbeing: the journey to family longevity

Feisal Alibhai
Jing Cameron
Qineticare

To protect a family's future generations, advisers engage in detailed succession planning. However, despite their apparent meticulousness, family succession continues to fail at an unacceptable rate, with wealth too often wiped out by the end of the third generation.

Succession planning as it stands today can easily work against families rather than in their favour. We all work hard to preserve our family legacy and wealth, but unfortunately the ability to achieve family longevity and generational continuity more often than not eludes us.

The challenges that we face lie much more in the wellbeing space than in the financial. Only 13% of succession planning fails due to the financial aspect. Communication challenges account for 60%, with another 10% due to lack of trust among family members. These stunning realities present an opportunity for a paradigm shift in our approach.

1. The missing piece

The health and wellbeing of the family is the missing piece that can transform our objectives into reality.

Our focus has not always been on the individuals who make up the family, and yet it is they who will preserve the family's wealth and legacy. Most of our time, energy and resources are allocated to the business and family office.

In the same way that we create trusts to protect the family's financial assets, we also need to consider protecting the wellbeing of all family members. This should encompass their physical, mental and emotional wellbeing, along with the quality of their relationships – an aspect that is foundational for effective communication and developing trust. Only in this way will the purpose of our succession planning be brought to fruition.

As in no other era, a wealth of resources exists to address many of the issues that may arise in a family. The prudent approach is to move from a reactive to a proactive mode, providing family members with access to the life-changing support that exists beyond their current awareness. Preparedness is the new way of being and needs to become our default.

What we have done for our finances, we need to do for the members of our

families. A health and wellbeing trust provides a comprehensive platform that encompasses medical, beyond medical and family dynamics, allowing for a 360-degree view with a flow of communication between all elements.

2. The family health office

To facilitate an optimal approach to health and wellbeing, and thereby secure the success of our planning for the longevity of the family and the preservation of its wealth, should we not all have access to a support structure tailored for this purpose? This would enable the family to thrive in a manner aligned with its extensive financial planning.

Whatever the nature of a problem, we need to be able to address it before it becomes so entrenched that it is extremely challenging, if not impossible, to resolve. To this end, what is truly needed is a comprehensive platform that allows us to further the family's wellbeing with the preparedness that each deserves.

Just as a family office manages everything related to wealth, we need to create a family health office that does the same for the health and wellbeing of the family.

Wellbeing has many aspects. It encompasses whether we make healthy eating choices, tend to be physically inactive, experience difficulty sleeping, are frequently lost in thought, feel emotionally frozen or are prone to procrastinating on issues until they reach crisis point, by which time it is often too late to act in an optimal way.

In the days leading up to the founding of Qineticare, the first family office for health and wellbeing, I made an astounding discovery. Even among people of substantial means, few have a strategy in place to protect, manage and improve their own personal health and wellbeing, let alone those of wider family members.

Taking care of their health is something that people talk about as important; but in reality, this figures little in their day-to-day lives until they no longer have it. Again and again, I hear individuals say things such as, "My health is my wealth" or "If you have your health, that's all that really matters." It is a ubiquitous theme. Except that what people pay lip service to does not tally with what I observe in their day-to-day behaviour.

"It's such a brilliant idea," people have often enthused when they learn of Qineticare. I explain that this revolutionary approach to health and wellbeing actually came about as the result of a process in which life forced on me the key insights. I quite simply stumbled upon the missing link in much succession planning: the reason why, no matter how extensively and meticulously we plan, our strategies frequently fail to deliver the future we intend for the family we care so much for.

3. A shocking awakening

As I discovered when I was just 35 and at the pinnacle of my success, our health can fail unexpectedly at any age. I was running a company of 10,000 employees with operations in more than a dozen countries and revenues in the hundreds of millions. Overnight I went from being on top of my game to, "It may well be game over."

My diagnosis came as a complete shock. I was about to have dinner the evening before I was due to leave for my annual vacation. As I took my first bite, I found myself choking. Following the vacation, during which I inexplicably lost five kilos despite eating well, I spent a week in Hong Kong undergoing an endoscopy, a colonoscopy and a CT scan of my neck.

I was told I had acid reflux and a haematoma, both of which were eminently manageable.

The next three weeks were spent in Mozambique, Angola and the Democratic Republic of Congo, working with the various multinationals which were visiting to continue growing our highly successful fast-moving consumer goods distribution business. I continued on to Dubai and Pakistan, where we were looking at establishing truck and motorcycle assembly plants.

As a result of the tests I had undergone in Hong Kong, I was taking medication for the choking. Now other symptoms began appearing. Since I regularly worked 15 or 16 hours straight without tiring, the people with me were shocked to see my energy plummet. Ascending a flight of stairs in Angola, it felt as if I had asthma. Then in Pakistan, on my way to and from the site where we wanted to locate the factory, I fell asleep, which surprised everybody.

Upon returning to Hong Kong, more tests were ordered. Had the doctors missed something? The focus was on the possibility that, due to my frequent travel to exotic countries, I had contracted a tropical disease. But despite extensive testing, nothing showed up.

I requested my doctor, "Pretend you don't know me from Adam. Start from the basics with a clean slate." We began with an X-ray and basic blood work.

I was sitting with my doctor when the nurse walked in with the X-ray. When he examined it, his face turned white. Leaning over to peer at the image, I asked, "Where's my lung, doc?"

My lung had collapsed and one side of the X-ray was dark. On my way out the door, the doctor urged, "Whatever god you believe in, please pray." Since doctors don't normally talk about God until it is the beginning of the end, I was beyond shocked.

The following day, I was again in the doctor's office awaiting the results of a PET CT scan taken that morning. "I'm sorry, but I have bad news," he announced. "You have cancer." It turned out I had stage 3 cancer consisting of 10 tumours. The largest – the size of a Rubik's cube – was in the centre of my chest, which accounted for my breathing problems and my choking. In my

neck was a tumour the equivalent of a tennis ball in size. A further eight tumours populated my lungs.

4. Upending our compartmentalised approach to health

At the time of my diagnosis, my company was operating in seven countries in war-torn Africa and five in Eastern Europe, as well as maintaining buying offices in Dubai, Paris and Hong Kong. Fortunately, as a result of my vast experience of finding my way in the midst of economic, political and financial turmoil, I had been blessed with the insight and clarity required to identify a path through the medical maze, which can be overwhelming. This enabled me to do my utmost to survive. I discovered how critical it is to access the best medical care in the world without delay.

When my remission was in due course confirmed, I was given a 50-50 chance of a recurrence – not odds that I cared to hear. When I asked my doctors how a 35-year-old who was being screened annually ended up with stage 3 cancer and 10 tumours, they had no answer.

During the 11 months of treatment, I reached out to various world experts to understand how I might have unwittingly contributed to my illness and was made aware of the many ways in which I had lived a life of imbalance. This enabled me to determine a plan of action, both for my recovery and to live a full life after returning to work. I assembled a team of experts in various fields whose focus was on practices that could aid my recovery. The approach I began practising during my near-death crisis taught me that we must never approach health in a compartmentalised way or we will pay the price.

Following 11 months in and out of hospital, involving 20 rounds of chemotherapy augmented with three surgeries, a new vision for my life began to form. Within months of returning to work, I was honoured to be contacted by family members who had likewise been diagnosed with cancer. Witnessing the remarkable turnaround I had achieved, more and more family members began approaching me with their own medical challenges. I helped them to access the best medical care and research the most up-to-date protocols, while spending time with them in doctors' clinics and hospitals. This was the inception of a family health office for my extended family.

During these seven years, it became obvious that the approach to health and wellbeing that I had developed ought to be an essential component of every family's journey through life. This is especially the case for those families entrusted with contributing so much to the world economy through their ability to gainfully employ a large proportion of the world's workforce. This vision in due course led me to set about building the team that would eventually evolve into Qineticare. ('*Qi*' is, of course, energy; 'net' stands for network; and 'I care' represents self-care.)

5. Thinking beyond medical

In my prior routine, when I was at home in Hong Kong for six months of the year, I ate home-cooked meals and exercised daily. The other six months of the year I was travelling mostly to Africa and Eastern Europe, which meant that I ate out – often at irregular intervals – and did not exercise. Spending a lot of time in the markets, I also failed to hydrate adequately due to the poor sanitary conditions. Sleep, rest and recovery were also compromised.

I was continuously stressed, as there was always at least one African country in political turmoil. While functioning as the chief executive officer of my companies, I had no one to lean on as a mentor or coach. As a third-generation family member, I continued to operate in the shadow of my father, continually questioning: “Am I good enough?”

As I greatly expanded my understanding and practice of various disciplines, I realised not only that they could assist in recovery, but also that they were crucial for avoiding a serious illness in the first place. It matters not whether our objective is to restore or simply maintain a state of health and wellbeing; we each benefit from a multi-dimensional approach. Every aspect of our wellbeing needs to be integrated into the picture of a well-lived, fruitful, enjoyable journey during our time walking the earth.

As a result of spending my days in a quite different manner from my earlier life, it has now been 14 years since I entered remission. Today I am healthier and more fulfilled than at any time in my earlier life. I also have the privilege of serving families on every continent through Qineticare’s global reach.

6. Resistance to a multi-dimensional approach

Despite the universal agreement that we need to equip ourselves for the reality that illness can strike any one of us without warning, I could not have begun to anticipate the resistance I was about to encounter as I embarked on the revolutionary service that I wished to provide for those who could potentially benefit from it. Most of the people I met with approached matters of health solely from a physical standpoint and were unable to grasp the impact of the mental, emotional and relational dimensions of their wellbeing.

Each in turn agreed that what I had to share was “important”, a word I heard over and over. But for almost none was it urgent. Even truly smart, highly successful leaders seemed unable to see the urgency of having a strategy in place to protect, manage and improve their health and wellbeing.

To illustrate, while I was training as a presenter at a renowned centre, during the course of the final day I was privileged to meet the founder of this acclaimed organisation, outlining for him the goals and methodology of Qineticare. Impressed, he immediately saw the benefits. Yet even though he acknowledged how important the approach I was taking was, he failed to take me up on it.

Three months later the phone rang. “I have a problem,” this same individual

confessed. "I just returned from a visit with my cardiologist, who informed me that he saw blockages in my scan and needs to perform an angiogram and potentially angioplasty." He had made an appointment with his cardiologist because the results of blood tests during his annual screening had been abnormal.

We ask family members to engage in an onboarding to provide them with an opportunity to know themselves and avoid unexpected crises. This gentleman's case is an example of a reactive approach to illness, which is exactly what Qineticare is designed to avoid. If he had engaged in an onboarding when he and I first talked, he would have been aware of all the elements that were affecting him, enabling him to address the situation he was facing before it became critical.

An onboarding involves a two-hour visit with our head nurse and wellbeing head. The visit is conducted either in our office lounge or, for those living abroad, via Zoom. It is similar to what a bank attempts to do in a 'know your client' procedure. In our case it is a 'know yourself' procedure: a much deeper dive into helping people to truly know themselves from the perspective of health and wellbeing.

This gentleman needed a second opinion. It is for just such vital issues that my team – consisting of the head nurse, the wellbeing head, the healthcare coordinator, the head of research and various others – is prepared, since identifying the appropriate specialists for any given illness, and for the particularities of each individual, can be a matter of life or death. The team shared the options we had identified, accompanied by bio-sketches of those who stood out, based on several crucial factors, as the top three cardiologists for this particular case.

Following consultation with one of the cardiologists we provided as options, the gentleman learned why he did not require angioplasty, but instead needed to change his eating and drinking habits, which themselves were symptoms of him coming to terms with his wife dealing with cancer. He is an example of why a proactive, comprehensive solution is required if we are to have the preparedness that each of us deserves.

7. Three core pillars

In creating Qineticare, I was able to identify a model for such an approach that focuses on three core pillars:

- the medical dimension;
- an increasingly important aspect that we refer to as 'beyond medical'; and
- the ability to address the relational elements of our journey through life.

The medical pillar is grounded in a thorough understanding of our

predisposition to illness and disease. The focus is on the family's medical history, including grandparents and their siblings, parents and their siblings, and their own siblings. The objective is to answer the question: "Where do I come from and what tendencies did I inherit?"

The next focus is the individual's medical history, which enables him or her to understand how he or she has arrived at his or her present state. This covers everything and anything that has happened to the individual since birth.

Then we shift the spotlight to the individual's actual present state, so that it is clear where he or she stands today physically, mentally, emotionally and spiritually in terms of life purpose.

We further help to build a medical team that is willing to spend the time and energy to truly know each of the individual family members, to care for them not only reactively, but proactively. We help to curate the medical records so that they are accessible anywhere at any time. We review the medical insurance plan to include global coverage, along with providing 24/7 worldwide medical assistance.

We refer to the second core pillar as 'beyond medical', by which we mean having access to the world's experts on living meaningful lives that exude not only health, but also a state of wellbeing. Included among these experts are specialists in integrative medicine, functional medicine, Ayurveda and the psychosomatic aspects of health, together with life coaches, sleep experts and nutritionists.

A critical element is access to guidance and support with the fundamentals of everyday life. This encompasses eating, drinking, moving, sleeping, thinking and feeling. The information and support that family members receive empower them to tweak their choices step by step one day at a time, thereby not only safeguarding and improving their health, but also enhancing their wellbeing in all areas of life. Reviewing how we eat and drink, and the nature and intensity of the movement in which we engage, facilitates a consistent flow of energy throughout the day. Rest and recovery, with adequate sound sleep and sufficient time for self-care, are likewise essential components of living an exceptional life in terms of both our work and our home life.

We facilitate improving family members' ability to be present and engaged with those with whom they connect by building their mental muscle through practices such as meditation and mindfulness training. Such practices also facilitate a state of calmness, which enables them to remain centred and non-reactive even in highly stressful situations. Understanding our emotional triggers and developing a peacefulness has a positive effect on all with whom we interact on a day-to-day basis, as well as supporting our own mental and physical health.

The third pillar of health and wellbeing flows from an understanding of the importance of relationships. When I initially launched the pilot of Qineticare,

this element – which today forms one of the key components of caring for families – was not yet in place. I had not personally recognised the critical role played by the manner in which we relate to one another. In our closest relationships – such as marriage or with a romantic partner, as well as in our nuclear families and beyond – the quality of our connections can make or break us.

8. Relationships – the third pillar – can promote health or wreak havoc

My own insight into the importance of equipping ourselves with skills that promote healthy relationships came as a result of the most painful personal experience I have ever had to deal with. While going through the 20 rounds of chemotherapy and three surgeries that were crucial to my recovery from cancer, I was surprised to read that many couples who face such a level of medical challenge end up going their separate ways.

Considering how two people who survive such a challenge provide each other with support and care as never before throughout the process, I was unable to understand how such a fracturing of their relationship could occur. The bond created during an illness of this magnitude is unique, resulting from the mutual experience of a degree of vulnerability that most of us have never known.

You can imagine how shocked I was, seven years after my remission was confirmed, when the mother of my two sons turned to me in bed one night and informed me, "I'm sorry, but I don't love you anymore." The agony I suffered following this announcement was beyond anything I had ever experienced. Within the first 10 days, I had lost five kilos. My standing heart rate soared, for months hovering in the high 90s. Nothing I had endured up until this point prepared me for such an eventuality. I was completely out of my league.

My wife's admission that she no longer loved me and wished to separate came several weeks after I had built my initial team for Qineticare. Little did I know that spending three years in limbo as my spouse and I cared jointly for our two young sons, followed by eventual divorce, would prove to be a gift, providing me with insight that today forms the vital third pillar of the service that we provide for families across the planet.

Before cancer, I had come to the realisation that I was physically present in my home life, but neither mentally nor emotionally present with my family over the course of many years. It was a sad discovery.

Given that our external world is in so many ways a reflection of our inner state, our relationship with ourselves is paramount where healthy relationships are concerned. Behind my inability to be present and my drive was the question: "Am I good enough?"

As I learned to be still and to quiet my anxious thoughts, my level of

reactiveness became clear. I learned to respond to challenges and trying situations in a manner that did not feel like I was imposing on my loved ones. That I had within me the ability to move from being destructively reactive to being creatively responsive was a revelation.

It was also a revelation to me how great a difference the techniques that facilitate effective communication can make, vastly increasing the chances of a family not only staying together, but leading a fulfilling life. Learning to listen in order to truly understand, as well as to speak so as to be clearly understood, involved an awakening. Such skills are not only essential in romantic relationships; they improve the functioning of parents and their offspring, which in a family business is often a critical factor in the success of the business in the following generations.

These skills have the added benefit of facilitating smooth connections and in turn developing trust among the various nuclear families that comprise a large family enterprise. Developing this fundamental aspect of our lives supports us as we build the loving connections to which we aspire with those who matter most to us. These can then be extended to all within our community and beyond to the world at large.

A family health office approach that encompasses physical, mental, emotional and relational wellbeing allows for a paradigm shift, extending the focus of wealth to include the human capital. This expansion of family wealth empowers families to challenge the odds of succession in their favour.

9. Support through each stage of life

It amazes me how unprepared we all are for the curveballs that life can throw us where our health and wellbeing are concerned. Yet our level of preparedness is critical.

When we show up at our lawyer's office or to talk with our banker, we come prepared, having reviewed our situation and what we intend to address during the meeting. Painstaking effort also goes into the selection process of these professionals. Yet when it comes to our health, we show up in our doctor's office with no preparation and without a Q&A.

When we invest so much time and energy in estate planning, tax planning and succession planning, calling upon the skills of a well-selected team of professionals, it makes no sense to react to and deal with the disruption of a health crisis as it is occurring, scrambling for help in a way we do not in any other important aspect of our lives.

All family members need to be supported through each stage of their lifecycle in order to remain aligned with their purpose, necessitating both mentoring and coaching in all relevant aspects of their lives: an understanding of the masculine and feminine as one endeavours in a relationship, while being coached as challenges present themselves in the relationship; education

concerning the essentials of parenting and support by leading parenting experts.

Effective crisis intervention when health fails is but the tip of the iceberg when it comes to health and wellbeing. All factors that can contribute to such a crisis should be addressed on a continuous basis throughout the years, thus heading off many of the potential risks.

A support system that operates with true care at its core, with the ability to tap resources on a global level, is nothing less than what all family members deserve as they embark on the journey of life. The potential key disruptors of continuity are known and, with the appropriate expertise, readily addressable.

10. Consider establishing a wellbeing trust

In order for a family office to be truly effective in creating the continuity that it is intended to, the health and wellbeing of the family at large must be included in its planning. Only in this way can there be a smooth transition of wealth from generation to generation.

We have developed a 'family wellbeing trust' to provide the missing piece in achieving family longevity and generational continuity. This trust can be incorporated into a main family trust or added along with the education/medical insurance trust that is separate for many families. Funding for this trust should be done in the same manner as any other normal trust for generations to come. The trustees will select a family health office or equivalent thereof to help create and manage a bespoke health and wellbeing plan for the overall family and its individual members.

The value of creating a family wellbeing trust lies in the process of the families becoming open to support the health and wellbeing of each family member for whom the wealth and legacy are being preserved. This process allows for many taboos and judgements to be dissolved as they are discussed. The beginning of more open and truthful communication enables trust to be built in the family at large as a critical component of succession planning. This gives individual family members access to world experts at their fingertips, enabling them to take action without inertia or resistance. This awareness reinforces the proactive approach that is so critical to the future of the family.

Expanding our focus to include the physical, mental, emotional and relational elements of the family enables family offices to truly achieve the spirit of the planning that has gone into both perpetuating and strengthening the business, estate and wellbeing of the family itself, including its ongoing reputation and legacy.

Finally, families often invest much time and energy on philanthropy, which is laudable. Imagine the impact on society were they focused first inward, truly loving and caring for themselves as families. The family business is the largest employer and global contributor to GDP, and therefore the foundation of most

economies. Were they to show their families the respect that they more than deserve, there would be a shift towards continuity that would affect societies, economies and the world at large in a manner which far surpasses that of the philanthropy in which they presently engage.

When the founders have worked so hard to create an enterprise that adds value to the world, why would the family settle for anything less?

Professionals and family offices: putting a square peg in a round hole?

Joseph A Field
Pillsbury Winthrop Shaw Pittman LLP

In 1714 Alexander Pope, Jonathan Swift and John Arbuthnot wrote a mock theological epic entitled *Memoirs of the Extraordinary Life, Works and Discoveries of Martinus Scriblerus*. Tracing part of their thesis back to Thomas Aquinas in the *Summa Theologiae*, they debated the notion of how many angels can dance on the head of a pin.

While the issue is not one of satire, the question of the role of a professional adviser in a family office context is parallel, in that it is almost impossible to define. This is true because each family office is different and needs for outside advisers vary considerably.

1. Family office: a world in transition

The traditional family office based on the Rockefeller or Phipps family model has changed dramatically. The Bessemer Trust model still exists today, but the form is very different. It is not a single family office, and indeed it is no longer a cosy club of family members and close friends. The Rockefeller family recently sold most of its equity in Rockefeller & Company and the new company is being designed to transform itself from a family office into a large independent financial services company. The entire industry is thus in a state of flux.

Technology has also played a major role in changing the nature and scope of family offices by making information much more readily available, by providing sophisticated online investment analysis and diverse bookkeeping and operational services, and by reducing costs. As we are seeing, however, there is a dark side to this universe of information and perhaps the fastest-growing part of the industry today is therefore the provision of cybersecurity services.

In recent years we have experienced perhaps the greatest surge ever in wealth creation and expansion. A 10-year bull market now appears to be on the wane, but the experience of massive wealth creation has led to the formation of vast numbers of family offices – single family offices, groups of affinity-led multi-family offices and a whole range of multi-family offices providing a panoply of services, from investment management to the identification of opportunities for direct investment, alternative investments and non-correlated investments of all kinds.

Age also plays a major factor in several respects. The first is the history of the family wealth. Where there is new money and the wealth creator is still very much in control, direct management of the affairs of the family office often lies in the hands of the wealth creator. Where there are two or three generations, issues of direction and control of the family office and family investment portfolio are more complex and can often create problems. In a venerable family office, where wealth has been around for many generations, similar issues may arise; but the fact that the family has functioned through a family office for a long time can sometimes smooth the path. What is clear is that where families have been around for a longer time, the links with the creation of the wealth grow more remote. Indeed, as there are more generations (particularly prolific ones), the amount of wealth available to younger generations usually declines. In many cases, members of younger generations will create their own wealth; while in other circumstances, they will not.

We are also seeing the rise of a whole new category of family office, whose founders tend to be entrepreneurial businesspeople who have sold all or part of their business empire, or simply have very significant dividend income, and who wish to create a family office – in part to preserve the family's wealth, but very often in significant part to pursue a social or political objective which is near to the founder's heart. The traditional distinction between single family offices and multi-family offices has blurred considerably over the last 20 years and simply asking whether a family is wealthy enough to have a single family office is not the end of the question.

2. Who are the advisers?

As with everything else in the family office arena, the definition of a 'family adviser' is different in almost every situation and determining who is really a family adviser is not always clear-cut.

It is also important to distinguish between 'internal' advisers and outside 'professional' advisers. The former may be family members; they may be paid or unpaid; and they may have direct or diverse responsibilities. Often, family members will serve as internal advisers, feeling that they are doing their duty as family members. In a litigious world, it is sometimes difficult to convince them that they often fill positions which carry with them legal or professional responsibility, and the fact that they serve without compensation may do little to shield them from the pain and expense of a lawsuit. In many cases families have turned away from having family members run family offices; and while the chief executive may be a family member, quite often he is not. In some cases he is a former trusted outside family adviser who has been brought 'in-house' because of his intimate knowledge of the family facts and dynamics.

This question of professional liability (and the need for appropriate insurance) is not as much of an issue for outside professional advisers and is part

of their daily life, but it is something that leads professional advisers to be careful in the advice they give. So, who are the professional advisers? Most families rely on a team of businesspeople who are familiar with the family and its business affairs, as well as the expected cast of accountants, lawyers, bankers and investment advisers. Increasingly, very wealthy families and multi-generational families are turning to psychologists and other specialists in family dynamics to address questions of governance and transition. We are also seeing family offices retain the services of art advisers to build collections or assist in the purchase and sale of works of art. Consultants in other fields relating to collectables or yachts and horses are increasingly common. As families grow larger and more removed from the source of wealth, these consultants can do a great deal to address questions of how to interact with other family members, how to deal with declining wealth and the changing objectives of the family.

The roles of more 'technical' advisers are sometimes difficult to define with great precision. Clearly, basic skills such as accounting and legal and financial advice are reasonably easy to discern; but as the advice becomes more esoteric, the crossover points between and among advisers may collide and indeed conflict. A lot will depend on whether the family uses its outside advisers as a team or simply looks to each specialist to advise privately. In the author's experience, working as a team is often more effective; there are often crossover points between advisers and allowing them to approach a problem from their unique perspectives and then create a synthesis will often lead to a more effective solution to a given problem. This is particularly true for issues relating strictly to the family, such as when to inform younger generations about family wealth or when to insist that children execute prenuptial agreements.

Accountants are assuming a greater role in the family office space. In addition to keeping books and records and auditing a family's financial affairs, accountants are increasingly relied upon to come up with sound tax strategies. Today, many accounting firms specialise in dealing with issues relating to family offices; indeed, the Big Four accounting firms have entire teams dedicated to working with family offices to resolve problems.

Lawyers have long acted as advisers to families and family offices. Recently, their role has expanded as the reach and wealth of family offices have grown. A range of law firms now have teams dedicated to working with family offices. Lawyers often have skill sets which are well suited to the operation of family offices, and have the advantage of being able to offer the family and the family office the benefit of legal privilege. However, there is one issue with respect to lawyers which is sometimes irksome for families: lawyers can have only one client, and while they may start off representing an entire family group, in the event of trouble – or even the perception of trouble – they must either remain with one family member or recuse themselves entirely.

Investment advisers are a little more distinct in the role they play and are

therefore less likely to offer advice which conflicts with that of lawyers or accountants. However, they are somewhat at the mercy of the advice they give and may be in difficulty when markets (or uncorrelated investments) go the wrong way.

The position of the banker seems to be in full evolution today. Where once people relied on banks for fiduciary, investment and financing advice, banks are challenged today by investment advisers with respect to the management of funds, by professional trustees when it comes to offering fiduciary services and by a range of financial services companies when it comes to lending or financing certain activities. Banks are far from dinosaurs, but there has been some consolidation in the industry (particularly with respect to bespoke services to wealthy families). That said, they have been at this game a long time and are continuously developing new products and services to remain competitive.

3. So how do we all play together?

For this final section, I can only draw upon a long period of working in this field to arrive at a series of conclusions which are somewhat personal in nature.

This is an evolutionary issue. For younger and less wealthy families, the idea of having a formal family office with a staff of employees and a board of outside advisers may be too much, too costly and at the start unnecessary. As families grow larger and wealthier, the need for a team of advisers increases. Particularly when a family is in generational transition or when sensitive issues arise for the family, the insight of a team of experienced advisers who have witnessed a variety of problems in the same vein can be invaluable. While there is no magic bullet, advisers who have seen similar issues arise over time can be of great help. As a corollary to this theme, and while there is no guarantee as to results, where advisers have seen similar situations arise in the past, a plausible course of action is more likely to appear.

It is also important to draw attention to cultural issues which may be lurking. George Bernard Shaw once commented that the United States and the United Kingdom are two great nations divided by a common language. He was right. Although someone may speak the same words as you, these may not always mean the same thing.

Communication is very important. This is a sector where words are important – but not nearly as important as meaning. It is vital to create a sense of alignment in the advice that is given. Advisers sometimes forget that their role is not that of a friend or a sycophant, but rather one of providing dispassionate and independent advice; and that while they may agree or disagree with the office you are working for, their job is to make clear and unvarnished recommendations. Sometimes, family offices become sophisticated and even hierarchical. Many are staffed with non-family professionals. The role of the outside adviser is to advise in a way which is not

political or designed to curry favour. Maintaining a close and friendly relationship is important, but it should not colour your thinking.

It is also important to remember that the role of the adviser may also evolve. Sometimes, service to a senior generation over a long period may engender resentment in the younger generation and when the baton passes, the adviser should be prepared to depart gracefully.

Another point which is apparent all too often is that where there is a committee of trusted advisers, the advisers will often jockey for favour and this can operate to the detriment of the family or the office. Senior outside advisers should understand that they have been selected for their expertise and that they have been chosen to serve the family or the office. Ultimately, they are not decision makers and trying to put down or outshine other professionals is often counterproductive.

For more sophisticated families and family offices, having a team of advisers working together can yield considerable benefits. While individual advisers can give very good advice, an entire crew pulling together in formation will usually outperform an individual sculling at his or her best speed.

It is also important to draw a bright line between those issues where expertise can be of value and those which are more in the sole domain of the family. Deciding on when family members should be informed of their impending wealth or when younger members should come into funds is a delicate issue; if asked, an adviser may be in a position to draw on experience, but this is a sensitive issue, on which unsolicited advice may not be helpful.

We live in a world of instant communication, global villages and markets and laws which change rapidly. Family offices have been around for a long time and are likely to remain for centuries to come. There are some wonderful new tools available to families, and the best guarantee of survival is to have a team of well-positioned advisers to help guide the family through times of upheaval and discontent.

Family offices and technology: the challenge, approach and opportunity

William S Wyman
Summitas LLC

1. Introduction

All people now deal with issues in their business and personal lives that did not exist a few years ago, particularly due to the Internet's unabated growth and pervasiveness. The challenge is to reconcile the following seemingly incompatible objectives that are important to family offices:

- the need and desire for privacy;
- the benefits of transparency with immediate access to information; and
- the advantages of collaboration.

Family offices confront the same IT challenges as other sectors, but for these entities the situation differs in a few key ways:

- The information managed is deep (eg, pre-nuptial agreements, wills, trusts), broad in scope (eg, personal, philanthropic, business), and private (eg, tax strategies, spending allowances);
- The families supported may span multiple generations, each with its own level of comfort with technology, how it should be applied or avoided, and technology security standards;
- Most family and office members typically lack the breadth of expertise and technical infrastructure available in large organisations; and
- Price sensitivity may drive decisions without a full understanding of the true implications. Naturally, family members will strive to be sensible and cost efficient about overheads in a family office. As this chapter outlines, it is imperative to educate family members on the importance of securing technology platforms and understanding the cost/benefit of such investments. This will make it easier for family offices to implement new solutions to protect family members and their personal information.

Technology can be harnessed in ways that bring advantages to both family office professionals and the family members they serve. For example, families are about legacy, continuity and culture; using private collaboration tools can keep family members connected and ensure that family matters are kept

private. Family members want timely information about their portfolios and resources; using a secure digital vault can provide easy access to personal information and high levels of control. Now more than ever, family office professionals can avail of technology's advantages while protecting themselves and their clients from risks.

Before considering technology solutions, a family office should think about a few important questions. First, where is the balance point between ease of access and sharing, and digital privacy and securing sensitive information? Second, how does the family office evaluate the risks and benefits of different options, given the speed of technology change and innovation and competing claims of various providers?

2. The challenge

Family offices and their clients are desirable targets for hackers and scammers, and the entry point is often their online presence. Why? As Willie Sutton famously said when asked why he robbed banks: "Because that's where the money is." New technology can help families of wealth to communicate, but everyone needs to understand the implications and implement appropriate safeguards.

An example is pretexting, which is when a scammer gains unauthorised access to a person's email account under false pretences. Once the scammer has access to a client email account, he or she can send a message instructing a family office to wire funds. The family office professional might receive what looks like a valid email and then inadvertently execute a fraudulent transaction.

In another example, a client might use a non-secure public wireless network – commonly accessed at coffee houses or airport lounges. A hacker sitting nearby might gain entry to the person's device to find his user IDs and passwords. At a later time, those credentials may be used to gain access to online banking accounts that do not offer additional protection through two-factor authentication or dedicated internet addresses.

And finally, there is phishing, whereby seemingly authentic emails ask for a recipient's online access details such as PINs so that accounts can be fraudulently accessed.

The challenges are far reaching and the risks are increased by a lack of education, awareness or forethought, and understanding of the sophistication of attackers' techniques. In this environment, family office professionals have a critical mandate to provide their clients with a secure infrastructure that supports each family office's particular culture and business model. The scope may include everything from planning to portfolio management to concierge services to a family website.

Most family offices do not have the resources to build and maintain a

platform required to safeguard information. Just think of what they are up against given the regularity of security breaches at major corporations and government agencies, all with huge technology budgets and staff. The bad actors are smart, nimble and increasingly well funded and organised.

While individuals cannot completely eliminate the potential for harmful activity, each person can take a number of behavioural and process steps that, when combined with a solid technology infrastructure, will mitigate much of the risk. Most burglars, given the choice of breaking into a well-guarded home with electronic surveillance or an equally large home with minimal security, will opt for the latter. Especially for custodians of private financial and family information, family office professionals need to understand the risks and take the required steps to increase control of today's increasingly complex environment.

2.1 Cost

Consider this actual event: on December 24, a family office received a series of emails that appeared to be from the patriarch. The email contained instructions to wire various amounts to different bank accounts. The office was lightly staffed that day and those there were working to be responsive to his requests during the holiday season. Without realising that his 'free' email account had been compromised, the family office processed nearly $100,000 in wires before they decided to phone and confirm the validity of new email instructions received. For the family office, this was an expensive lesson in the use of unsecured email platforms and it led to major changes in controls and procedures. But it could have been much worse.

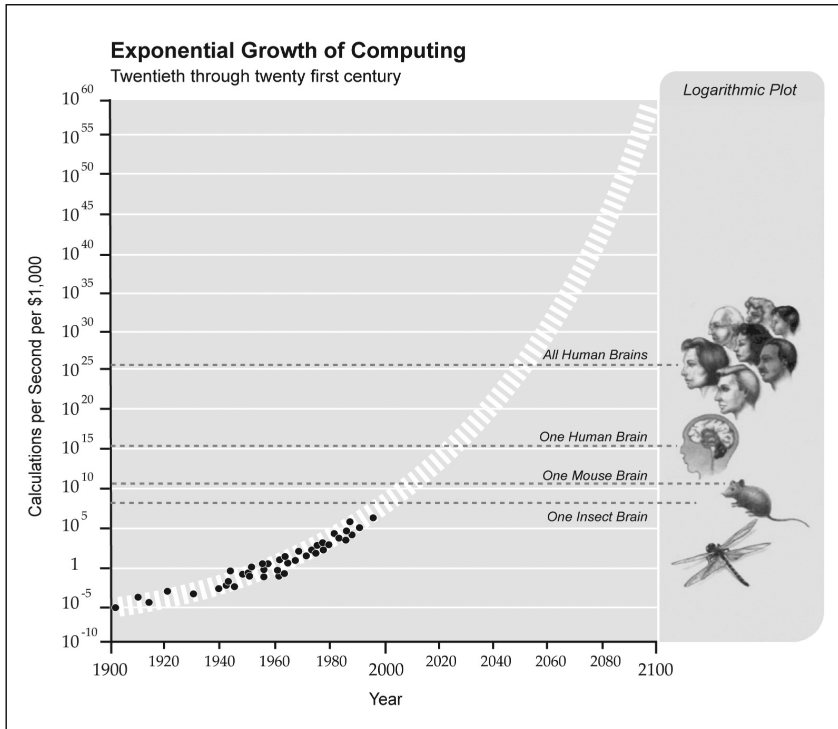
The cost and ramifications go beyond financial loss. A security breach can tarnish a person's professional standing or a family's reputation. There have been several high-profile changes of leadership and resignations of esteemed C-level executives due to data break-ins and failure to protect private information. They ultimately bore the responsibility for a lack of leadership and effectiveness in this critical area.

2.2 Change

Keeping track of investments, estate planning and other family office activities is challenging, and now there is another important task that must be added: understanding and leveraging technological change. Since individuals cannot specialise in everything, the smart professional must rely on experts – particularly those with enough knowledge of their domains to identify the right tools and communicate effectively with family office professionals.

To drive the point home about the pace of change, computer processing power has grown exponentially since the 1970s and the smartphone used today is about as powerful as a circa 1980 supercomputer.

Figure 1. Exponential growth of computing



Source: Kurzweil, The Singularity is Near (Viking Press; singularity.com)

This trend will continue and each person will need a plan to select the most effective solutions for his or her family office in an ever-expanding field.

Complacency in technology is the enemy. There are otherwise sophisticated professionals who think that because their systems and processes have been effective for years, they will continue to be so indefinitely. It is not just technology – some do not even understand the risks of continued use of paper statements sent by traditional services. The world around us is changing all the time, so unless attention is paid to upgrading the environment, updating tools and managing user behaviour, the family office operational platform will become even more vulnerable.

2.3 Expertise

Knowledgeable professionals and firms provide technology reviews and advice that can help one to understand the risks and how to address them. An independent review of an office's tech environment can provide valuable insights, including areas of concern, recommendations and best practices. Armed with this knowledge, those in charge can make informed decisions about

what needs to be done and can evaluate the costs and benefits of any changes that should be made.

Think about it. Do you remember when the latest products had names such as Netscape, WordPerfect and Lotus 1-2-3? How long ago was it that no one had ever heard of Facebook, Twitter, Instagram, WhatsApp, Tumblr and Pinterest? And how will the future be affected by Blockchain? How many fully understand the benefits and risks of using these technologies? Who has thought about the 'map' of a person's or family's life that is shared on social networks: friends, locations, hobbies, plans? Cybercriminals can target individuals and companies more easily when this kind of information is posted and shared. If you do not have the expertise to navigate these waters, hire someone who does.

How can one find the right expert? Ask a professional network. This includes other family office professionals, service providers and industry networking groups – all great resources to help find the right professional.

2.4 Education

Once people are old enough to use technology, they should start learning how to protect personal identity and private information. A family's business and its personal information are only as secure as the weakest link. And it is not just the young who need help; many older people are technology novices too.

Here is an example of a situation where proper planning and communication have worked: a father discussed technology risk with his children when they were young. Years later, when his daughter was in her teens, she raised concerns about a possible phishing situation when checking her email. (Phishing is the process of obtaining personal or sensitive information about a person by sending what looks like an official email from a financial or other institution. The email usually contains genuine logos and professional copy in an attempt to get the recipient to log in to a false web address in order to capture usernames, passwords and answers to security questions.) In this case, the daughter was concerned about the validity of the email and knew not to access any of the email's links. Instead, she decided to validate the details with the banking institution and found out it was a newly discovered phishing scam.

Educating family members on online protocols is now considered a must for the family office. Often, it is helpful to have some best practices to share with a family office's user community. Here are some to consider:

- There is 'no assumption of privacy' on the Internet.
- Password security – do not make it easy for hackers by using easy to guess or simple passwords (eg, 'password', 'qwerty'). At a minimum, passwords should be at least eight characters in length and include one capital letter, one number and one special character. Change them every 120 days.

- Password structure – find a method that works for you (eg, an unusual phrase that means something to you, with caps and with a number not tied to anything such as a close family member's birthday or year – 'FOReveryoung21!', 'goldenOldie55$').
- Keep your computer and smartphone security up to date.
- Set up distinct user IDs and do not use your email address as your user ID.
- Use your own phone's personal hotspot and not public free WiFi found in airport lounges or restaurants.
- Do not click through to online financial management accounts via emails sent to you. Instead, directly visit the financial institution's website.
- If available, opt for two-factor authentication – especially when accessing your financial institutions.
- Use browsers that limit the sharing of your site visits to outside parties.

2.5 Responsibility

Finally, everyone in the family office and every family member must accept personal responsibility for protecting information. Why? Because the entry point for hackers is often the online user – especially one who does not take basic steps to protect his online identity. Would a person speak in a crowded elevator about something personal or private? Or reveal his online banking password? Probably not. Educating your user community is important and it is a good start. But it must continue as part of your overall engagement with your extended user community. Risks and ways to mitigate such risks evolve. You must take the lead.

For example, using standard or free email services is akin to talking aloud where others can hear a private conversation.

There are email service providers that can encrypt email and attachments based on rules set by the user. For instance, if an email subject line contains a special keyword, or if the email body includes dates of birth, social security numbers, account numbers and so on, those emails and attachments could be automatically encrypted. Is there an out-of-pocket expense? Yes, but the cost of doing nothing could be much larger.

What about passwords? Does the family office have a policy to ensure that passwords have sufficient complexity to reduce the chance of discovering them using advanced techniques? Does the office require that passwords be changed on a periodic basis? Is there a requirement to verify compliance? Do policies extend to family members? Are their regular reviews of access privileges and controls by person and file?

3. The approach

With a goal of having an efficient, secure and effective technology platform for the family office, the manager may ask: "Should we build, buy and integrate multiple platforms or outsource our technology?" There is no one technology model, just as there is no one model for a family office.

Buy or build? With so much talent, innovation and growth within the tech sector, family offices should be careful before choosing the build option. The obstacles to success are many:

- hiring and retaining the right tech team;
- establishing an effective project manager;
- keeping up with externally driven compliance and privacy requirements;
- providing 24/7 support for far-flung families;
- taking on the risk that proprietary and custom technical solutions will isolate the environment; and
- managing 'scope creep' and the 'never-ending project'.

Family offices should first look to the outsourced model. Companies specialising in software know how to build quality teams comprised of project managers, analysts, designers, architects, developers, database administrators, data centre specialists and customer care representatives. They understand the technical minutiae and keep abreast of innovation within their areas of expertise. The best partners can hide complexity, provide reliable service, secure the information, respond to the outlined needs and help the user adapt to an ever-changing technology ecosystem.

3.1 Questions and answers

What are some of the factors that a professional should consider when evaluating solutions and potential partners? The matrix in Table 1 puts questions in a form that can be used to gauge risk in the areas most important to the organisation and how it operates.

Table 1. Some questions and comments to consider

Risk area	Questions	Comments
Operations	Does the solution lead to more efficient execution?	Make a list of the areas of chief concern: • wealth management and financial planning (eg, asset allocation model, what-if portfolio analysis, lifestyle planning); • investment management (eg, portfolio management, trade order management, rebalancing model portfolios, client reporting at the account and aggregate levels); • accounting (eg, tax-lot accounting, tax processing, cost basis reporting); • account reviews (eg, rules-based compliance, trust reviews, *ad hoc* queries); • performance reporting (eg, asset classification, internal rate of return or time-weighted returns, benchmarking); and • data aggregation.
	Does the team have the skills to help implement and administer the system?	Do not go it alone. The industry is littered with failed technology projects that were not delivered. The cost in wasted time and family capital can be huge.
	Are all the decision makers committed to the project? In the absence of sustained buy-in and leadership, most technology projects are doomed to failure. New technology can seem threatening when in most cases it provides opportunities for career advancement. When people feel uneasy, they will not be committed and may subconsciously sabotage the effort. Make sure that buy-in is based on understanding and supporting the anticipated benefits.	It happened: a family office was planning to implement an outsourced reporting package. In the middle of the project, the patriarch decided to fire the head of the family office. The new person in charge had not supported the project so within a few months it was killed.

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Risk area	Questions	Comments
Planning	Does the vendor's development roadmap make sense?	Look for vendors that actively seek input from their customers. Those roadmaps will reflect communication with real-life family offices that ring true. A multi-year roadmap will also signal the provider's intent to continue strategically investing in the solution. Do not be side-tracked by too many 'perfect system' discussions. An easy way to derail a tech project is for users to start asking for features that either are not available (eg, after tax performance reporting), are never used in the regular workflow (eg, "Wouldn't it be nice if X, Y, or Z were available?") or are well outside the identified scope. 'Feature creep' reduces the probability of success because it impacts on one or more of the three metrics that a family or family office needs to control: time, quality and cost. Set a target of core functionality that you are looking to achieve (eg, addressing your office's 'pain points'). And stick to it. Once you have implemented the system, you can work to broaden its scope.
Security	Were strong security and privacy added later, or were they part of the core architecture of the vendor's solution?	This will often determine how well family office and client information will be protected. Bolted-on security, by definition, is an afterthought. Modern systems should address security during the design phase and be fully integrated into the solution.
	Does the solution provide end-to-end encryption?	Sensitive information needs to be encrypted at the source, then stay encrypted during transmission and while being stored (ie, 'at rest' and 'in transit'). Private information should never be transmitted via 'clear text'.
	Are encryption standards – such as transport layer security (TLS), advanced encryption standard (AES) and triple data encryption standard (triple DES) – employed?	Encryption algorithms that have become standards are published for all to see. Seeing how they work does not jeopardise their effectiveness. Home-grown solutions do not have the strength of these industry standards and have not undergone the same level of scrutiny and testing.

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Risk area	Questions	Comments
Security *continued*	Does the solution provide two-factor authentication or restricted internet addressing during the log-in process?	Two-factor authentication, such as receiving an SMS/text message from the tech platform that one must enter before completing the log-in process, provides a critical secondary level of user validation. Restricting log-ins to known IP addresses can also enhance security.
Reporting	Is there a way to demonstrate that information being reported is correct? Ask about the vendor's testing and quality assurance process. Are there test cases that validate computations and detect errors in data?	Given today's investment mix, an investor may have holdings – hedge funds, private equity – with valuations that do not match the reporting period. Proper disclosures must be clear to ensure that the reader understands what is being reported, especially during times of market volatility or disruption. When launching a new system or introducing new reporting or interfaces, rigorous and detailed testing and validation of all connections must be completed.
	Do the graphs, charts and reporting make it easy to understand the information?	Reports are the front face of the system and it is important to ensure that graphs, charts and reports meet the needs of the office and family members.
Access	Can one obtain the information needed when it is required?	This implies that the system is running 24/7, and that it is accessible from anywhere on both mobile and desktop devices.
	Can the vendor enable customisable levels of access to users of the information?	How do users define what they need? Can systems administrators easily set and monitor access rights?
	What is the vendor's history with respect to system outages?	If one lives in a storm-prone area, what can be done to ensure that users can access critical information during an emergency?
Reputation	What is the impact on the family and the office if private information gets disclosed?	This is a major risk. Family offices rate reputation risk among the most critical of issues that family offices need to address. When personal information is disclosed, the expense and effort to reduce the impact are extensive. And once information is 'out on the Web', it is there forever. However, with proper planning, attention and foresight, you can significantly reduce these risks.

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Risk area	Questions	Comments
Compliance	The family office has various accounts and structures, such as trusts, that require compliance reporting. Does the vendor's solution support those activities?	Most family offices are resource constrained. Adding ongoing compliance compounds the challenges faced. Aligning internal review processes with corresponding regulations can be time consuming and costly. Thus, getting your tech vendor to provide automated solutions will reduce the risk of non-compliance and the associated penalties, embarrassment and other indirect costs.
Going concern	What level of due diligence is required to find a vendor that is stable and has the financial backing to continue operations?	Do not shy away from asking potentially difficult questions. If the evaluator is not satisfied with the responses, trust the instinct and challenge the firm. No organisation wants to go through the same effort in one or two years due to instability or change in its selected provider. It happened: an East Coast family office contracted with a technology firm that had generated a great deal of industry buzz. The firm claimed to have a robust offering that provided everything that the family office needed and more. The buzz had the effect of shortening the evaluation period and meant that a few critical issues were skimmed over. The family office also too readily accepted answers such as, "We can build that for you." After 18 months of effort, and at great expense, the family office was forced to terminate the relationship.

3.2 Next steps

What is next to consider, once a project manager has decided upon the strategy, approach and finalists? The informed person should take the following steps:

- Hire a technology expert with experience in the family office segment – the individual can be an outsourced chief technology officer or brought on board for specific projects. He will be the project manager and will be well positioned to work with existing service providers to obtain what the family office needs, make final recommendations, negotiate fees and manage implementations.
- Execute a mutual non-disclosure agreement – as a family office, there will be sharing of private details and the tech firm will be providing proprietary information about its platform; executing a non-disclosure agreement is in the best interests of both parties.
- Have the providers respond to a 'response for proposal' (a response for

proposal contains the questions of greatest interest to each project). If the reviewer is not sure what questions to submit, ask the tech firm to provide a sample response for proposal. Once received, it can then be assessed and reviewed to determine which questions are applicable to the overall analysis.

- Talk to existing clients – professionals managing the project will learn a great deal and, based on the answers received, will be better prepared should the organisation adopt that firm's technology. Questions to ask include those concerning time to implement, post-implementation support and the stability of the platform. Also, draw upon existing clients to help when you run into issues. This user community has been using the platform and you can draw upon its experiences to help you.
- Visit the tech firm's main offices, which will provide unique insights into its people and operations. Look at its offices (eg, are they modern and do they display an investment in technology, people and work environment?), sense the energy and look for happy, motivated employees who will actually deliver what your organisation needs.
- Try before you buy – ask for test accounts where users can enter their own data, see results and explore the solution outside the constraints of a sales demonstration. Who would buy a car without driving it? Without testing the technology, the family office and its broader community may not get what they think they are buying.
- Develop a few 'use cases' – real-life scenarios from your family office which relate to 'must-have' features and functionality. Ask how the provider will specifically address the information or communication needs.
- When comfortable with a particular vendor, ask whether it will help to build a high-level implementation plan that includes key milestones and costs. This will set expectations prior to signing an agreement and will facilitate the process of managing the project once it is underway. If the vendor baulks, consider paying for this work. It will be worth the investment.

4. The opportunity

For family offices and the families that they serve, the solution lies in simple, reliable systems and tools that navigate the challenges and opportunities inherent in the technology now at everyone's fingertips. With some planning and engagement of the right support, managers and their users will soon be supporting growth, improving communication and securing peace of mind for years to come.

Don't let a risk become a crisis

Clare Archer
Rebecca Goldring
Penningtons Manches

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1. Introduction

Chelsey Sullenberger III, known as 'Sully', was the US Airways captain who was piloting Flight 1549 on 15 January 2009 when the aircraft was hit by a flock of Canada geese shortly after take-off from New York's LaGuardia airport. It had not previously been anticipated that such a bird strike would be capable of taking out both engines, as happened to Flight 1549. Sullenberger had a mere 208 seconds between take-off and eventual landing on the Hudson River in which to assimilate the damage and calculate and execute an alternative course of action.

While one would hope to avoid crises and emergencies within families and family offices, some events are certain and should be planned for. Others arise out of the blue, when one might least expect them. The purpose of this chapter is to consider both the likely and the unlikely emergencies that may befall a family office and the steps that may be taken in advance to plan for a possible crisis.

As far as families and their family offices are concerned, there are many example of risks that can transform into crises, including:

- cybercrime;
- protection of digital currencies;
- reputational damage;
- potential for litigation;
- divorce and judicial separation; and
- death of a founder/key family member

2. Considering crisis

A crisis is an event where a series of problems or happenings may hit at once. Crises are often unexpected and arise within a very short timeframe, and one may lead to another. The nature of a crisis means that everyday operations are interrupted or even completely halted, and may not restart while the problem in hand is dealt with. As a result, they may have severe financial and operational consequences and, at their worst, result in reputational damage and injury.

In the case of family offices, there is scope for a degree of threats that may cause a crisis. Some are known and may be planned for; others are unknown and more difficult to plan for, but with contingencies in place the resulting destruction could be lessened. Adverse events will happen and a poor and slow response is likely to heighten the problem.

3. Cybercrime

One known problem which provides a limited timeframe for an effective response is cybercrime. There are multiple forms of cybercrime, including:

- the hacking of data or information from a device or network;
- identity theft, where personal details may be stolen to take control of finances and assets;
- ransomware attacks, aimed at blocking data permanently unless a price is paid; and
- at its most extreme, cyberstalking to blackmail or harass victims.

The emerging risks relating to cybersecurity are a particular challenge for a family office. With criminal hackers taking much more risk to gain reward, family offices could be considered real targets. With a single breach, a hacker could access multiple layers of information relating to corporates, trusts, underlying shareholders and beneficiaries, including their names and addresses, tax details and even bank accounts. Terrifying, but very real.

The WannaCry virus, one of the most widespread cyberattacks in history, caused crisis and chaos in the UK National Health Service (NHS). In mid-2017, hackers managed to gain access to the NHS computer system by delivering ransomware via email in the form of an attachment. As soon as the attachment was opened, the virus spread through the system, reportedly infecting as many as 300,000 computers. This particular hack resulted in files being locked up, with a demand for payment for their release.

Family offices need innovative answers and solutions and Wall Street and Silicon Valley in particular have responded to the risk with various products and 'smart' software that aim to disrupt and prevent cyberattacks. While family offices are investing in increasingly complex security systems to combat this growing threat, there are some simple tips which may assist, such as having an IT health check, updating operating systems, creating firewalls, backing up data to a secure and separate system, controlling physical access to data, making sure staff training is up to date, being careful what one downloads and having a contingency plan in place in case of an actual hit.

Family offices should be aware of this, as the potential fall-out from a breach can be severe in terms of reputational damage and interference with the operation of a business. How one reacts to cybercrime will depend on the circumstances, but what may start as a disaster will only get worse if effective

communication and procedures are not in place. This procedure must start with an understanding that the problem cannot be swept under the carpet. While reputation and privacy may be key to many family offices, it must be understood that certain steps must be followed:

- Understand the legislation in relation to breach or loss of data. It is likely that a report to the authorities will have to be made.
- Inform any customers or third parties affected by the breach.
- Comply with any regulatory bodies that govern any part of the operations of the family office.
- Prepare a written statement or notification so that queries from the press, authorities, family members or third parties can be dealt with promptly and by the correct person or persons.
- Have a person responsible for data and compliance within the family office who can manage the crisis.
- Have a response plan.
- Call in the experts to fully ascertain details of the breach.
- Act quickly.

4. Digital currencies

The face of risk has changed in the last couple of decades with the increase in mobile technology, the cloud, big data and digital currencies.

A simple but important concept, such as ensuring right of use through the safekeeping of passwords, could prevent access to assets being lost forever. The death of the founder and chief executive of QuadrigaCX, Gerald Cotton, while travelling in India, leaving his virtual company without access to $180 million in Bitcoin and other digital assets, recently caused chaos. It appears that Cotton was the only person with access to the digital keys containing the missing cryptocurrency. In the wake of the crisis, QuadrigaCX has filed for creditor protection, which effectively affords it time to meet its debt obligations. The company cannot access the cryptocurrency reserves required to satisfy customer cryptocurrency balances/withdrawal requests and as such has appointed Ernst and Young as an independent third party to monitor and oversee creditor protection. Although there has been widespread comment on this case – particularly as to whether QuadrigaCX actually owned the cryptocurrency in the first place – an overarching message still remains: ensuring that there is access to digital currencies is fundamental to prevent loss of funds.

5. Reputational risk

It is trite but true to say that it takes years to build a good reputation and only moments to lose it; whether for an individual, a company or a family office, reputation is crucial. In the case of family offices, family reputation is the key non-economic asset that a family business has. Whether one is considering a

single family office or a multi-family office, its success will depend on an ability to manage individuals across the generations and with different levels of connections within the organisation. As a result of the interconnectivity which, by its nature, is at the core of a family office, damage to reputation will have a resounding impact across the group and may tarnish all.

Risks to reputation are likely to come in the form of an unexpected event when the family office is taken by surprise and has to react quickly. Many choose to employ agencies to mine the Internet and media for mention of the family and business, to stay as far ahead as possible of any crisis. Planning in a crisis is key:

- Know who is the spokesperson for the family office. Direct any press or media enquiries to that person and do not be tempted to make an off-the-cuff response. Manage any mavericks.
- Be considered, serious, prepared and truthful. Show empathy.
- Do not dissemble or equivocate. Take responsibility where appropriate.
- Investigate the issues and do not jump to conclusions.
- Have a plan and listen to the team that is put in place.
- Seek professional advice – from the public relations (PR) agency, the lawyer, the forensic accountant and so on.
- Ensure that all members of the family are informed and kept up to speed. They will need to behave appropriately.
- Separate the crisis from the normal operational aspects of the business and the family.
- Plan to avoid this happening again. Learn from mistakes of others as well as your own.

The 2018 Benetton bridge tragedy, when an 80 metre section of a 1.2-kilometre-long traffic bridge in Genoa collapsed, killing at least 43 people, resulted in a backlash for the Benetton family, making it a political and public target. The Benetton family controls one of Italy's largest business groups, with interests spanning infrastructure, finance and telecoms, as well as the well-known clothing chain.

It was widely alleged in the Italian press at the time of the tragedy that the family had prioritised its profits over the safety of the public. Whether true or not, this caused outrage in Italy. Reputation-wise, the company did not help itself as particular anger was felt when many newspapers reported that just 24 hours after the tragedy, Benetton went ahead with a big party that had been planned for 90 people in Cortina. Understandably, this resulted in even wider and harsher press criticism.

The reputational damage that the family suffered in the wake of the bridge collapse could perhaps have been avoided with a little more consideration. The backlash not only caused a reputational issue, but also spread to parent

company Autostrade, which suffered a 22 per cent trading loss – resulting in not only an unhappy public, but unhappy investors too.

6. Resolving disputes

Family offices seldom choose to get involved in disputes, but inevitably things go wrong and a crisis occurs. Understanding and accepting responsibility when a problem arises as a result of an error made on the part of the family is key. Ensuring that there is openness in statements made to the media and transparency with staff will help to ride the wave.

The potential for disputes can arise both internally and externally – for example, in relation to:

- hiring, employment or dismissal of staff – for example, in the terms of contract, in particular with requests for confidentiality;
- outsourcing of contracts, appointment of agents or delegation of tasks;
- tax investigations; or
- contract litigation with suppliers or service providers.

As well as protecting against contractual and employment disputes, there is a need to ensure that protection is in place for individual family members in advance of any personal disputes that they may have.

7. Divorce and separation

Ensuring that key members of the family and their heirs have pre-nuptial agreements in place in advance of marriage ensures protection of personal assets. If a pre-nuptial agreement is not entered into prior to marriage, families have been known to consider limiting the transfer of assets within the family or to consider a post-nuptial agreement prior to doing so. In the event that there is a future marriage breakdown, putting steps in place through the nuptial agreement will help to minimise crisis on divorce and hopefully prevent the family wealth from being fragmented. Consider whether the requirement for a nuptial agreement should be included in the family charter or constitution.

The requirement for nuptial agreements should be discussed within the family so that it becomes familiar territory. Consideration should be given prior to a family member moving jurisdiction as to whether appropriate agreements are in place in his or her new choice of home, as enforceability can vary greatly across the globe – as can how courts treat the parties in the event of a divorce.

Importantly, when assessing family assets in the event of a divorce, consideration will be given to whether the parties to the marriage have benefited from corporates and trusts. Rigorous and proper management of these is crucial, so as to keep personal and business or trust assets separate and avoid them being 'nuptialised'. Paperwork must be in place so that trustees and directors can show how they have properly exercised the authority and

discretion given to them, and that they are not the willing puppet of a shareholder or beneficiary.

- Consider nuptial agreements in appropriate jurisdictions, bearing in mind that this is particularly important in the event of a change in residence.
- Engrain the need for nuptial agreements in a family's DNA.
- Consider including the requirement for a nuptial agreement in a charter.
- Nuptial agreements should have full disclosure. Avoid any type of duress.
- Nuptial agreements should be appropriate and fair. They should take into account changing circumstances, including the possibility of children.
- Both sides should take legal advice.
- Full disclosure of assets should be obtained.
- Where there have been payments or loans from a family trust, ensure that at all stages the trustees can be shown to have exercised their discretion.
- Remember to consider the full class of possible beneficiaries.
- Do not use trust assets within the marriage or allocate them into a separate structure to do so.

8. Generational planning and death

While death is certain, it is startling how many families fail to plan properly. Good planning will ensure that a personal tragedy does not turn in a business one – whether by ensuring that an up-to-date, tax-efficient will is in place to cover every jurisdiction where there are assets or by dealing with possible conflict in advance of a death. Consider Cotton, the apparent sole keeper of the Bitcoin password; or the musician Prince, who died in 2016 with an estimated $150 million-plus estate but no will. These examples illustrate that setting out details of assets – including digital passcodes – and providing for both administrators of the estate and chosen beneficiaries will save considerable time and expense down the line.

In 2018 CNBC reported that the baby boomer generation was preparing to transfer $30 trillion of wealth to their heirs. An orderly plan on how to do so during life or, failing this, on death is crucial not only to families and businesses, but also to the general economy. Family offices should pay particular attention to:

- education of the next generation within the family and the business;
- identification of the correct heirs and successors – the person who is best placed to take a business forward may not be the next in line;
- the gatekeepers – those professionals and trusted advisers who will enable succession to occur, and how they will work with the next generation;

- the plan and whether the family charter or constitution provides for change;
- how to reward those family members who are not in the business;
- how to reward members of the business who are not part of the family;
- internal family pressures and conflicts and how to mediate or prevent conflict in the family;
- the longevity of any structures;
- whether correct wills and powers of attorney in place, and where they are kept; and
- whether special considerations of, say, Sharia law or forced heirship apply.

Remember: no one is immortal.

9. Managing a crisis – crisis plan

The key to ensuring quick recovery in a crisis is having good communications and a risk management plan in place. There needs to be an adequate flow of information which will allow the crisis to be managed. Ensuring that the situation is under control and that there is a transparent flow of outward information, perhaps through PR support, will reassure the family, shareholders and customers and suppliers, where applicable. In the face of public questioning, it is imperative that there is a degree of transparency and openness.

Plans that families put into place must comprise the mechanics and the overarching principles for dealing with potential crisis. Regard must be had to such factors as:

- which members of the family need to be involved to deal with the crisis;
- who might be available to step in should specific persons be unavailable for whatever reason; and
- who are the key stakeholders who would appreciate being informed of the issue directly as opposed to hearing about it through the grapevine or via the media.

Not every risk can be planned for or avoided; but to recover from a crisis, it is better to be on the front foot. Show integrity and practise for the unexpected – and hope your crisis is not tantamount to landing an Airbus on the Hudson River.

Risk and insurance management

Linda Bourn
Crystal, Alliant Private Client

1. Introduction

The chapter on family office risk and insurance management in the first edition of this book introduced best practices when addressing the risks of the family office and family members through processes, policies and the purchase of insurance.

The current risk environment is that family offices have been experiencing a range of new risks associated with cybercrime and cyber regulation, and their family members are experiencing the impact of ongoing billion-dollar natural disasters worldwide where family holdings are within the impact zones.

With all of this in mind, this chapter is dedicated to outlining the steps that family office professionals can take towards building resilience for the private family offices they operate and for the family members they serve. The sections in this chapter include key questions to ask from the perspective of the family office and the family member when working together to address risks and planning needs.

2. Risk and insurance management for the family office

2.1 Building resilience

Resilience
re·sil·ience | \ri-ˈzil-yən(t)s
:an ability to recover from or adjust easily to misfortune or change[1]

Building resilience should be the prevailing risk management mindset of family office professionals. This is because it is not possible to make the family office operations or the families they serve risk proof. However, it is possible, through annual planning steps, to create a risk management plan tailored to the unique needs of each family office and family group.

There are four areas that family office professionals should explore when managing their current risk environment:

- the new reality of family office risks;

1 *Merriam-Webster Dictionary*, 2010 edition.

- risk management framework;
- holistic risk assessments; and
- the use of insurance as a tool.

These key areas can help to guide family office professionals when making informed decisions about managing risks to the office and family

(a) New reality of family office risks

A question that family office board members and trustees should ask annually is: "What are the new risks that we are facing that could have a substantial impact and how are we addressing them?"

Family offices are essentially small private companies, and they continually seek to protect the confidentiality of the information they centralise on behalf of their high-wealth family clients. An example of a new reality of risk for most family offices is cyber liability.

In a recent cybersecurity industry report for small and midmarket businesses,[2] a study was conducted on security capabilities and data was collected from 1,816 respondents across 26 countries.[3] The study included the experiences shared anecdotally by the majority of family offices and identified the three biggest security challenges that respondents were most concerned about:[4]

- targeted attacks against employees;
- advanced persistent threats; and
- ransomware (ie, malware that encrypts data until the affected user pays a ransom demand. Cisco experts suggest that cybercriminals are shifting their focus away from ransomware to illicit cryptocurrency mining through email spam campaigns or other means of access to small businesses' IT systems).

Social engineering fraud: Another cyber liability risk that family offices should be aware of is social engineering fraud. This is a term used to broadly frame ongoing methods that criminals use to deceive or manipulate victims into providing confidential information and funds. Family offices have experienced client email accounts being hacked and unfortunately have received messages from cybercriminals (that seemed to have been from a family client) claiming to need funds. Without strong processes (eg, call-back provisions, restrictions on authority to wire funds) in place, especially for the movement of cash, the family office becomes at risk to wire the funds thinking the instruction came from from their client.

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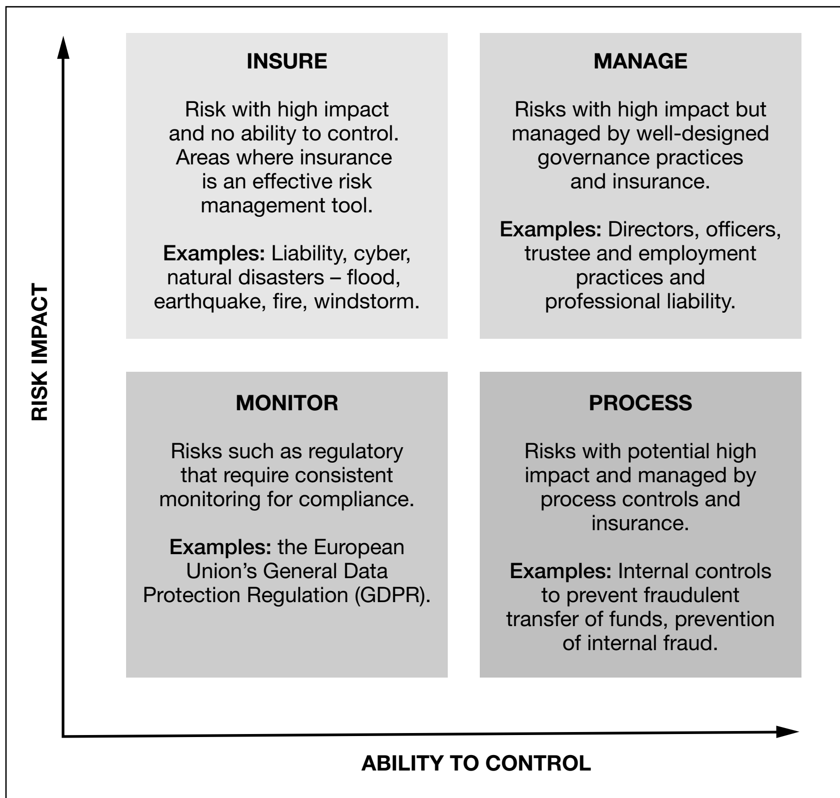
2 Cisco Cybersecurity Special Report for Small and Midmarket Businesses.
3 Cisco, 2018 Security Capabilities Benchmark Study.
4 Cisco, 2018 Annual Cybersecurity Report, "Insider threats: taking advantage of the cloud".

Cyber compliance: The EU General Data Protection Regulation (GDPR) took effect on 25 May 2018 to address the protection of personal data.[5] Some experts expect the GDPR to affect cyber liability insurance markets in the European Union and United States – specifically, that potential GDPR tailored coverage extensions will be sought.[6]

(b) Risk management framework

Family office professionals are often under expedited timelines when a decision needs to be made about a risk issue. Figure 1 provides a framework for how to begin thinking about risks and how to integrate insurance as a risk management tool across all areas.

Figure 1. Risk review framework chart



Source: 2015 Crystal & Company Family Enterprise Risk Index Study and Family Office Metrics risk review framework. Crystal, Alliant Private Client.

5 See the European Commission website for the GDPR – ec.europa.edu.

6 Stella Szangtova Giordano, "Insuring Against GDPR Liability", *Risk Management Magazine*, 1 October 2018.

(c) ***Holistic risk assessments***

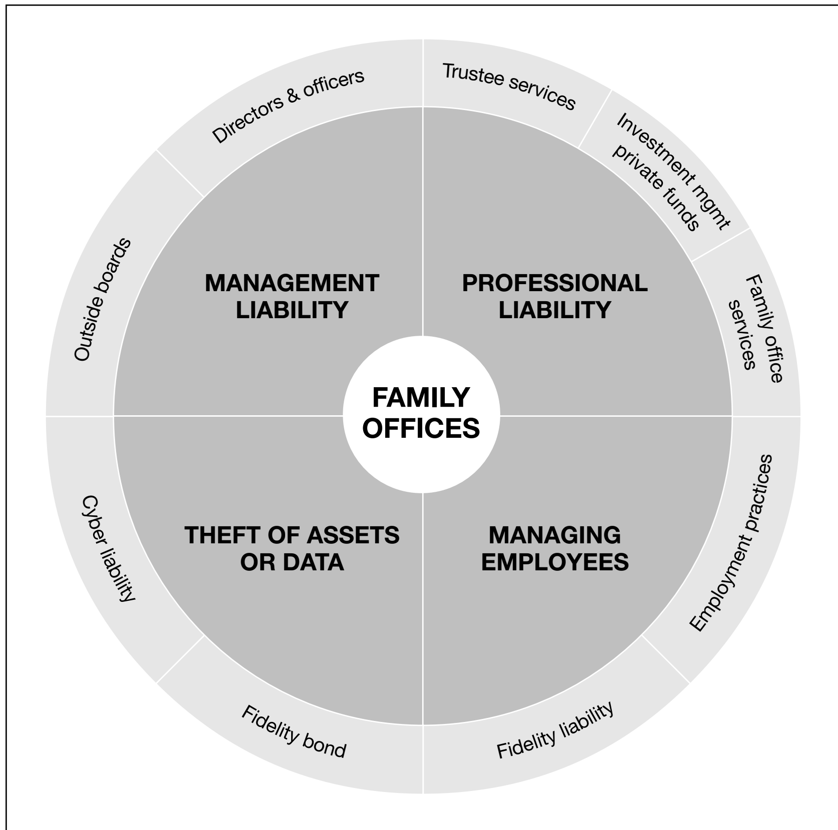
The goal of the family office should be to evaluate risk management exposures at an enterprise-wide level, and not limited by boundaries such as family office, department or family branch when determining priorities or processes.

Figure 2 illustrates the core areas that family office boards, directors and officers should assess as they evaluate their organisation annually.

The family office is responsible for defining the relationship that family members (as clients) have with the family office (as a service provider). This agreement can be a helpful risk management tool and should be updated annually to memorialise the tailored family office services provided to each family member.

A risk assessment should be multidisciplinary, with input across legal, accounting and insurance on the organisation and structure of entities.

Figure 2. Family office risk and insurance areas



Source: Crystal, Alliant Private Client.

(d) Family office insurance

Insurance companies perceive family offices as a niche market. It is vital for your insurance adviser to understand the complexity of your office and to be able to articulate your risk profile to insurance underwriters. If insurance policies are not tailored to specific needs of the family office, gaps in coverage will occur.

Typical family office management and professional liability insurance programmes for family offices generally include the following:

- directors' and officers' and private company liability;
- errors and omissions: family office services, trustees, investment management and private funds, including vicarious liability;
- employment practices liability;
- cyber liability;
- crime insurance or fidelity bond;
- social engineering liability;
- fiduciary liability; and
- property and casualty (business office insurance).

Key questions to consider annually in relation to insurance include the following:

- What are the new risks that we are facing that could have a substantial impact and how are we addressing them?
- What plan do we have in place to protect our family office against cybercrime?
- Do we have an annual review process to identify the risks to family members?
- Have we aligned our family office risk exposures with an insurance strategy?

2.2 Building resilience for the family

Because they serve the wealth management needs of the extended family group, family offices should help to build awareness of risk and utilise a process to evaluate and address the risk exposures of the family they serve. Jonathan HF Crystal, executive vice president and a third-generation family business executive, offers this thought: "In our family, we have learned that resilience is largely a question of managing risk over time and across generations."

The best trust and estate planning is inadequate if it does not address the potential financial impact of risks of the family owners. When helping family members to understand risk and resilience, consider a personal and educational approach:

- communication;
- new risks facing family members;

- holistic risk assessment; and
- personal insurance as a risk management tool.

(a) Communication

Today's risk headlines are a conversation starter, given the widespread impact of the risks. Headline examples include cybersecurity breaches such as the Facebook data breach, which exposed the account information of 50 million users;[7] and the Equifax 2017 data breach, which exposed the sensitive personal information of 143 million Americans.[8] Meanwhile, the Indonesian holiday island of Bali experienced a natural disaster in 2018 when volcano Mount Agung erupted, interrupting travel for thousands.[9]

With all the various risks today worldwide, family office professionals can start the risk discussion and provide general education as well as planning. The most common forums to begin this discussion are family meetings and family newsletters. You can also communicate through private and secure technology platforms built for family enterprises such as Trusted Family[10] or Summitas,[11] which enable secure, private and confidential communication. Family meetings can be effective when introducing the topic of risk as part of a formal agenda. It can be beneficial to have individual meetings with each family member to discuss annual investment, tax and estate planning reviews.

(b) New risks facing family members

Cyber risks: Similar to the family office, family members have become familiar with a large range of cyber risks, such as managing passwords, mobile networks, WiFi security, the Internet of Things and personal email. The headlines on data breaches have illustrated that vigilance can be the best defence against cybercrime. Most family offices hire security firms that specialise in cybersecurity to conduct a review and educate family members. These experts can teach family members about device privacy and security settings, management of reputational risk on social media, and how to lock down digital systems and devices across the family should a cybercriminal gain access.

Insurance carriers have begun offering cyber insurance coverage, with varying limits, as an extension of the homeowner's policy. Insurance carriers vary on coverage areas available, but some policies can include the coverage outlined in Table 1.

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7 Fortune.com.
8 Federal Trade Commission, www.ftc.gov/equifax-data-breach.
9 "Bali volcano erupts: Thousands of tourists stranded as ash closes air", *Telegraph*, 29 June 2018.
10 Trustfamily.net.
11 Summitas.com.

Table 1. Personal cyber insurance coverage overview

Limits available	• Insurers provide varying limits for cyber insurance areas listed below. As an example, on US-based cyber policies, limits vary from $50,000 to $250,000.
Data restoration	• Reimbursement for costs of data restoration after a cyber-attack to family personal computer systems, wireless and mobile devices.
Cyber extortion	• Reimbursement of money paid by a family member to terminate a cyber extortion threat against a family member.
Crisis management and reputation restoration	• Reimbursement of the cost of hiring a professional crisis management firm.
Cyber bullying expenses	• Reimbursement of costs related to expenses for victims of cyberbullying, including psychiatric services, professional digital forensic analysis to aid in prosecution, public relations fees and professional cybersecurity consultant services.

Natural disaster risk: Family holdings located in catastrophe-prone regions should be reviewed for risks and proper insurance coverage.

Insured losses from global natural disasters were the highest ever in 2017, at $144 billion. Flood events highlighted urban environments and ongoing susceptibility to heavy flooding.[12] Billion-dollar weather and climate disasters fell into the following categories:[13]

- wildfires;
- flooding;
- hurricanes;
- earthquakes;
- winter storms; and
- severe storms.

12 Swiss Re Institute No 1 2018 SIGMA, “Natural catastrophes and man-made disasters in 2017: a year of record-breaking losses”.
13 Weather, Climate & Catastrophe Insight, 2017 Annual Report, AON.

(c) Holistic family risk assessment

Given the new risks facing families with substantial assets, identifying family risk exposures should include a holistic approach across core areas. Some of the key areas to consider when thinking about the family structure and culture, and how they relate to risk, are illustrated in Figure 3. The framework can be helpful for aligning risk exposures with a corresponding insurance strategy.

Figure 3. Family risk review areas

ASSET PROFILE	OWNERSHIP ENTITIES
• Real estate • Private aviation, yachts • Collections • Family foundation • Ranch/farm/equine	• LLCs, trusts, GPs, LPs • How are entities reflected in insurance structure?
SOCIAL MEDIA	**INFORMATION SECURITY**
• Devices • Managing reputational and security risk	• Education on mitigating cyber risk • Locking down devices, accounts and outside access across family digital systems
ROLES	**EMPLOYEES**
• Board member • Trustee	• Family office/family foundation staff • Domestic staff/property manager • Specialists: aviation, yacht, curator
LOCATIONS	**TRAVEL PROFILE**
• Gulf/coastal/island area (wind and flood risks) • Wildfire areas • Earthquake regions	• Unforeseen terrorism and conflict zones, country specific threats – crowds/venues • Remote areas • Medical emergency response • Security/disaster response

Source: Crystal, Alliant Private Client.

(d) Personal insurance as a risk management tool

The four-box grid in Figure 4 can be helpful in illustrating insurance planning for natural disasters and overall risks to family members. Utilising your

insurance adviser as an advocate can help with interdisciplinary planning and structuring a preparedness plan for each family member.

Figure 4. Insurance planning areas

Source: Crystal, Alliant Private Client.

To help to understand insurance as a strategy, the following checklist illustrates common areas to consider across family insurance structures.

Sample insurance checklist

Check the following boxes for all items that have been addressed as part of your insurance planning process.

Planning and programme design

- ☐ Premiums are competitive and/or latest coverage enhancements are included
- ☐ Deductibles/retentions: deductibles reflect individual family members' risk tolerance
- ☐ Insurance specialist has been involved on the front end of significant purchases, home renovations, travel plans and social events
- ☐ Properties owned in the name of trusts, limited liability companies and family limited partnerships are named as such on individual policies

Coverage and unidentified risks

- ☐ Liability limits are sufficient
- ☐ Cyber liability and information security measure have been reviewed and addressed
- ☐ Workers' compensation and employment practices liability has been addressed for domestic employees
- ☐ Collections have been insured and values have been updated for fine art, jewellery or other collections
- ☐ Real estate in catastrophe-prone regions has been reviewed for proper coverage
- ☐ Flood coverage in non-catastrophe areas has been addressed
- ☐ Liability for contractors and other service providers has been addressed
- ☐ Liability coverage for those serving on for-profit and not-for-profit boards has been addressed

Policy and coverage coordination

- ☐ Policies and coverage for homes in multiple geographies (multiple states or international) are coordinated in a centralised manner
- ☐ Specialty insurance such as aircraft, yacht or equine insurance is coordinated with other policies to ensure seamless protection

Family changes

- ☐ Evolving lifestyles are addressed in a regular manner for current insurance programmes
- ☐ All coverage is relevant to current insurance needs

Overall, it is important to look at risk across the entirety of a multi-generational family's holdings. Utilising the risk management processes discussed can help to identify risks and align risks with an insurance strategy. The result is an integrated and practical approach to protecting family wealth.

The ‘prepared mind’ at a time of crisis

John Deverell
Deverell Associates

I ascribe the expression ‘the prepared mind’ to two people. The first is Louis Pasteur, who said: “Fortune favours the Prepared Mind.” The second is Ulf Henriksson, who took Invensys plc into the FTSE100 – and who headhunted me from the British army some 10 years ago to join his company. He used the expression to describe the state of mind required to deal with potential crises, of which we had several. It is achieved through forward thinking, training and teamwork.

Achieving the prepared mind is good guidance for all of us when we are faced with difficult situations. This applies to our own personal challenges and difficulties as well as problems faced by our families – or what we might have to handle on behalf of our clients, whether they be families or businesses. And yet a glance at the dramas in the news any day of the week shows that this guidance to be prepared is often disregarded.

But that is unwise, because we all face crises at one time or another. My business surveyed 800 companies from every sector. Many of these companies were, or had been, family run. One in three had experienced a business-breaking crisis in the previous five years.[1] And we all have friends and know families that have suffered major crises of a more personal nature.[2] So this is a matter of importance for families, their family offices, businesses and advisers – as well as being applicable to commercial companies.

As far as families and their family offices are concerned, examples of risks that can materialise and then develop into crises include the following:

- the challenges posed by global mobility and travel;
- health, wellbeing and relationship problems;
- digital, social and reputational pressures;
- emergencies, accidents and sudden succession;
- unreliability or untrustworthiness of associates, friends, employees, counterparties and business partners;

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1 See https://media.irmagazine.com/library/crisis_communications_report_june_2012.pdf.
2 For more examples of such crises, see IFOJ Vol 1 [2017]: “Should a family office have a crisis management plan and, if so, what might it look like?”

- financial dramas of all sorts;
- failure to identify the full range of adverse events that might afflict the family and its interests; and
- the lack of an endorsed and rehearsed plan to deal with them.

In essence, adverse events – whether incidents or less tangible issues – will happen. It is only their nature and timing that tend to be unforeseen. And a poor or slow response is likely to compound the situation and turn an adverse event into a crisis.

However, there is some good news. Most crises are preceded by some indications that they are coming. They might therefore be described as 'predictable surprises'.[3] It is possible to get on the front foot in dealing with them. Donald Rumsfeld was ridiculed for talking about 'known unknowns', but his expression captured the notion. And in his book *Black Swan*, Nassim Taleb describes the phenomenon of unlikely events that have an extreme impact. 'Black swans' will appear in our lives at some time or another. My title for this chapter, "The prepared mind in a time of crisis", suggests that we can prepare for them. We had better do so if we want to survive.

So I would like to suggest seven principles for ensuring that we have a prepared mind. I illustrate these with stories drawn widely from commercial life and beyond – not least because business is so replete with examples.

The first principle is that families and those representing their interests must have a plan for when things go wrong – and rehearse it.

- The plans that I write for businesses and family offices fit very well either as annexes to the family charter or as standalone documents in their own right. These plans comprise the mechanics and principles for dealing with potential crises. For example, who is needed around the table to handle the crisis – typically, the family office chief executive officer's (CEO) team from all relevant disciplines – and how they can be contacted on a Friday evening. Because that is when dramas unhelpfully tend to surface. And if any members of the team are not contactable, their deputies and how they in turn can be contacted 24/7. Also, key stakeholders – those connected with the family and its business in one way or another. All those who would expect to hear bad news directly from us, rather than picking it up in the media on Monday morning. And who holds the relationship with each of them. And guidance on responses to a wide range of potential dramas.
- The benefits of having a plan are both practical and psychological. Practical, because it provides time and space for those on the crisis team to think – to work as a team and concentrate on the issues quickly, rather

3 "Predictable surprises" is an expression attributed to Michael Watkins of Harvard Business School.

than on the mechanics which have already been put in place through the plan. Psychological, because it reduces the likelihood of 'brain freeze' and bestows mental agility. It also enables people to think further ahead. This is necessary in a crisis, when the natural tendency is for people to shorten their timeframes to concentrate 100% on the here and now. But there is usually a longer-term consequence to a crisis, a 'tail' – whether reputational, financial or legal – that is best thought about early.

- However, the plan is not designed to cover every contingency. If it were, it would be so full of detail that no one would read it. It is not a 'black book' that provides a list of everything to be done in every crisis. Herewith two examples of what I mean, taken from my own experience. First, in response to the occupation by our employees in one of our factories in China, who were dissatisfied with their severance pay, I flew out there, met our local lawyer and spent time with local authorities to work towards resolving the issue. We went to arbitration and resumed production after several months. In the meantime, we faced complaints from an angry wholesale customer which we were failing to supply. Counterintuitively, we decided to put the customer in contact with our main competitor. That was making a virtue out of necessity; we decided that the customer would probably contact our competitor in due course. After we had resolved the issue and resumed production, the wholesale customer came back to us out of gratitude – and over the following few months, we made up for the financial losses that we had suffered during the occupation of the factory. In the second example, we had to deal with the impact of the Arab Spring on our 600 software engineers based in Egypt. Everyone's top priority was rightly to keep people safe. Our competitors pulled their people out. But we found a way to ensure our people's safety and at the same time enable them to continue to work, whether from their homes or in safer offices nearby. And indeed, to ensure that they had the money to live, bearing in mind the closure for a time – we had no idea for how long – of ATM machines. We looked after their families and gave them an avenue to talk direct to us. We kept our people safe and we did not break our contracts with our clients. Subsequently, we took business off those competitors which had left. This illustrates that another benefit of the plan is to give people the time and space to think 'out of the box' in order to determine the best solution.
- But for the plan to work, it must be kept alive and in people's minds. The sort of scenario-based workshops that I provide are the best way of doing that. BP's Deepwater Horizon crisis is a well-known commercial example of where such workshops would have been extremely valuable. I was shown around BP's offices in St James's Square some time before the

crisis. BP had a crisis plan and a pre-prepared crisis room. It had four large white boards on the wall, placed according to the priorities for dealing with a crisis: people first; then environment; then reputation; and finally, business. This reflects our view that if you get the first three right, the fourth will follow. So why did BP's plan not work? Perhaps because it was disregarded on the day; perhaps because of personalities; perhaps because the knowledge that a plan existed – however unrehearsed – imbued decision makers with a complacency that was literally fatal. Occasional and short workshops with all relevant decision makers round the table looking at risks from a practical aspect, working very much as a team, would have overcome all these obstacles.

- The paradox is that people absolutely know that they should have a plan. According to the London Prepared initiative, 84% of managers agreed that having a business continuity plan helps to reduce business disruption. Yet only 27% had such a plan in place.[4] So, if people and businesses decide not to have a crisis preparedness plan, then at least they should – as a team or as a board – devote some time at frequent intervals to consider the 'what ifs'.
- The British army has such a system enshrined in its doctrine. Leaders at every level of command giving orders for an operation are obliged to include a section entitled 'Actions on'. This covers everything that might go wrong – loss of communications, ambush, wounded person, lost person and so on – and includes a solution for each eventuality. Those being briefed are expected, indeed obliged, to express their concerns immediately if they are not satisfied that the boss has covered all contingencies fully and feasibly. This runs contrary to the view held by many of those who have not served that the British army's leaders use highly directive systems for commanding. The reality is that the army's success on operations is dependent on communication being a two-way process and concerns being raised both honestly and in good time.

Linked with this, my second principle is simply: listen.

- We can be excellent CEOs, managers or advisers, and we can have the best-drilled crisis teams. But unless those at the coalface trust that we, their leaders and managers, will listen to their concerns and do something about them, they will not escalate issues upwards until it is too late. The plan and the team can then be rendered useless.
- Timely escalation is a function of building trust. This requires that our employees have confidence that we will bear them in mind at all times. Otherwise, the basis for the relationship between leaders and led is

4 See www.london.gov.uk/about-us/organisations-we-work/london-prepared/preparing-your-business.

purely transactional. In which case people are unlikely to do any more than what they are told and paid to do – and will not raise issues and concerns, especially about things outside their remit.

- The principles for building trust – whether in teams, companies or families – are universal. Trust will not build itself. Rather, it is the product of sincere interaction and respect for the views and concerns of the other.
- In this sense, a well-led military unit is also a family. Its members provide the support to each other that they as individuals might not have enjoyed elsewhere. And they listen to each other. I could not have passed the very demanding Special Forces selection process, or survived subsequently, if I had not listened to those around me. It would have been foolhardy not to heed their advice – a product of years of valuable experience on their part. In the army there is a well-known saying: "If soldiers stop complaining, that's when you really need to start worrying."
- In commercial companies where trust in management is lacking, the final resort is often a 'whistleblower' confidential channel. But the culture needs to be right for that to work. At one company where I worked, fewer than 10 confidential issues were raised in one year, for 20,000 employees. This suggested either that the company ran like clockwork and managers always listened to their employees and had their full trust; or that the culture was in some way not right for a confidential channel to work. Jes Staley, the CEO of Barclay's Bank, demonstrated how to dissuade employees from using the confidential channel by trying to unmask the identity of a whistleblower.[5] Many believe that he was lucky not to be sacked as a result.
- We also need to listen to those who are neither our employees nor family members. These include stakeholders who may not be directly connected to the business or to the family. They too may want to feel that their views will be considered when decisions are made – or at least will have the basis for those decisions explained to them. Private investors are an obvious example. It is important to map all such wider stakeholders in the plan, and to note who holds the relationship with each of them on behalf of the family or the business and how they can be contacted quickly, including out of hours when necessary. It is this respect for the other that makes any business truly a 'family' business.

My third principle is: get the right people together.

- Handling crises is a team effort. In the aftermath of Deepwater Horizon,

5 See www.telegraph.co.uk/business/2018/04/20/barclays-boss-jes-staley-fined-city-watchdogs-whistleblowing/.

BP CEO Tony Hayward upset US Congress by saying very little in response to their questions. It is plausible that his lawyers had told him to do just that, in order to avoid any imputation of blameworthiness. But if he had got the right people together from time to time to discuss the 'what ifs', his lawyers would have agreed with his PR people in advance that much more could and should have been said when facing the public – and found a formula for doing so with which the lawyers were happy.

Which brings me to my fourth principle: be open and transparent.

- Long gone are the days when "No comment" was an acceptable response in the face of public questioning. Today, there is a very reasonable expectation of transparency and openness. We therefore advise companies to ask themselves "What must we hold back?", rather than "What must we tell?" Be open whenever possible. This applies to family businesses as well as more widely.
- To illustrate the point, a good news story (for a change!): Total plc had what might have transpired to be its own mini-version of Deepwater Horizon a few years ago: a dangerous leak of gas from the Elgin platform off the Scottish coast. Total quickly and efficiently evacuated its people. Nevertheless, after the first day of the potential crisis, it suffered a 6% share price hit. But it got senior people in front of the microphones to explain what had happened and what the company was doing about it – avoiding speculation and sticking to the facts. Total already had a social media community and it proactively reached out to audiences on social media, again to explain what had happened and what it was doing about it. It also used its website for the same purpose. After a week, its share price hit was reduced to 1% of value. It had got onto the front foot at an early stage and trust had been quickly restored and maintained.

My fifth principle: act early, act decisively.

- In the Korean War, US pilots almost always won their dogfights against North Korean enemy pilots. They were more agile, mentally and physically. They had an effective doctrine that enabled this, summarised by the acronym OODA: observe; orientate; decide; act. By thinking and acting quickly to suit each situation, they got inside the enemy fighters' 'OODA loop' – their decision-action cycle. Rather unfairly, the acronym has since been adopted by others and re-translated as 'obfuscate; over-react; deny; apportion blame'! But it still holds good.
- As a test case, I sometime ask junior managers in big companies what they would do if, for example, they heard during the weekend that one of their people had been killed in a car crash. Telephone the CEO straight away? Wait until Monday morning? Or not tell the CEO at all, because

it is a minor detail? In my view, far better to tell the CEO immediately than for the CEO to hear about the fatality from a non-company source – for example, on the local news. After all, we all like to think that we work for, or run, family-orientated companies. If you wake up the CEO with the news, he or she can always go back to sleep afterwards. Leaders need to make it clear that they would prefer to be bothered by potential dramas than not. It should be the same for families. It is easier to de-escalate than to escalate too late because of a delay in being informed.

- One of the challenges in the face of acting early and decisively is that inevitably, a full hand of information only becomes available over time. That is where judgement and good leadership are so important: having the experience and the courage to speak – publicly, if need be – and to take decisions before knowing every single fact. Especially when early actions can save lives.

My sixth principle is: don't forget discoverability.

- In the event that things go wrong, there may be an inquiry, hearing or court case that will scour in minute detail every email sent and action taken. Understand what legal privilege – what Americans call client-attorney privilege – covers and does not cover. Do not delay reporting or acting. Because if you do, it will be found out.
- A friend who works in a well-known company told me that the company's top management had been concerned for some months about possible connivance in corruption at managing director level in one of their business divisions. Nothing was done about it. But then these concerns were expressed in an email. I told my friend that it was now essential to tell the company's senior management that they needed to act without delay. I suggested that, worst case, the company should consider closing down the division. No amount of investment in time, energy or money is so great that it cannot be sacrificed in the interests of doing the right thing.

My final principle is: fulfil the requirements of good leadership and accountability.

- With legislation such as the Senior Managers' and Certification Regime in place since 2017, British banks and some other sectors are now obliged to catch up to where, for example, the British army has been for years. To illustrate this: I was president of an Iraqi-abuse court martial in the aftermath of the second Gulf War. I believe that it was the only court martial which 'sent down' all of the soldiers who were the defendants, dismissing them from the service and sending them to prison. It was clear from the statements made by their officers in the witness box that

the soldiers had been let down: no leadership, no guidance from the officers, who all gave excuses as to why they were not with their soldiers and not taking an active interest in what they were doing. I therefore wrote to the head of the army after the court martial, recommending that the officers be held accountable for what the soldiers had done. As a result, the officers were subjected to an administrative process and had their promotion stopped. A number then left the army. As bosses, they were made accountable.

- On a more minor level, as a commanding officer, I was questioned under oath by a member of the Special Investigation Branch about the theft of money from my battalion by a regimental accountant who – it transpired – was addicted to gambling. Had I been unable to prove that I had put in place the procedures and the training to minimise the likelihood of this occurring, my career would have been dead in the water. And rightly so.
- In essence, we as leaders in all sectors need to be – and be seen to be – accountable to those to whom we delegate responsibility. That means that we must:
  - select carefully those to whom we delegate responsibility;
  - train, resource and support them sufficiently to enable them to fulfil the responsibilities that we give them;
  - be clear to them about the parameters within which they can act; and
  - trust[6] and empower them to take decisions without referring back to us – unless the situation is novel or contentious.
- We can thus have confidence that those who work for us will be thoughtful about their actions and the implications, will do the right thing and will trust us, knowing that they have our full support to put things right in the event of a potential crisis; and that if whatever goes wrong becomes public, we will willingly accept accountability – and be seen to do so.

These are my principles for achieving 'the prepared mind' at a time of crisis.

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6 Well put by Sir John Harvey-Jones, former chairman of ICI, who wrote publicly as follows that he had given up on most of his beliefs, "Except my basic belief in people, in treating them right and giving them the right incentives. And those incentives are bugger all to do with money, they are almost all to do with recognition and trust."

Family values, mission and vision and the family office

Kirby Rosplock
Tamarind Partners Inc

The process of defining the shared values, mission and vision of the family office is an exercise often overlooked or underappreciated by family owners, advisers and operators. Some feel that their family business mission should suffice, while others think that the sum of the parts of their estate plan should be interpreted as such. This chapter explains the importance of defining values, understanding why the family's shared values around its wealth may depart from the source of the wealth and understanding why the family's values may morph over generations. Next, the chapter reveals how values underpin a family's mission and vision for the way in which its wealth will be managed by the family office, and discusses the development of values statements. Finally, the chapter shares the Sample family case study and the family's experience of engaging in a family visioning retreat.

1. Introduction to values

Values are what many of us take for granted. They are innate and reflect our innermost principles and beliefs, providing behavioural guidelines that inform how we behave and what we do. Values shape and are shaped by significant moments in our lives, and help us to discern our priorities consistently over time.[1] Brian Hall, a values expert, explains that there is a hierarchy to our values based on how we prioritise them. In a way, values are the 'soft side' aspects that mould our belief systems and help us to understand what a treasured and significant experience is, as opposed to an everyday experience. As a result, our individual values inform our choices and decisions on a regular and often unconscious basis. Formative values – those that we develop early in our lives (around the childhood to young adult timeframe) – tend to be the foundational values that we hold dear for our entire lives. However, a shift in wealth and status can influence and affect how we perceive those core values. As a result, children growing up in an environment of affluence can mistakenly place more importance on materialism, status and luxury than on their self-worth (how

1 Brian P Hall, *Values Shift: A Guide to Personal and Organizational Transformation* (Twin Lights Publishers, Rockport, MA, 1994), p21.

they perceive their own value). They define who they are by what they have or were born into, not who they are at their core. But wealth and material goods are devoid of value and empty when it comes to significance; thus, assigning a base of positive values to how to perceive wealth and relationships is key. Values are the constants in our lives and no amount of financial wealth can buy values; they are simply part of our DNA as we grow and evolve. Jaffe and Grubman (2007) explore the differing values lens that acquirers of wealth have compared to those who inherit, which over time can divide generational views when it comes to a shared vision and mission around a family's wealth.[2]

However, the experience of more deeply understanding and identifying shared family values is powerful – far more complex a narrative to undertake than most families want to admit. Providing a chance to reflect on the significance and meaning of those values in conjunction with wealth, business, family and relationships may illuminate new, unfamiliar and sometimes unexpected realities of our behaviours and lives. And for many, embarking on a journey to explore the 'soft stuff' may be far more daunting than figuring out the technical nuances and structures of their wealth and enterprise.

One family wealth expert who has done significant work in the arena of family wealth and values is Ellen Miley Perry. Author of the book *A Wealth of Possibilities*, Perry clarifies the need for family members to have these important conversations to build trust and connections with one another. In her book, Perry explains: "To earn trust, one must be vulnerable. It is the only path to real intimacy."[3] However, the challenge with values is that most people operate unconsciously of them, and the experience of talking about values may be off-putting or make individuals feel vulnerable. But for those families which endeavour to go down this path, there is a chance to break down old mental models, dated constructs and negative behaviours that may have damaged relationships or jeopardised a family bond. A simple conversation around values can bridge many communication divides and encourage togetherness in a family.

2. Sharing family values

Although there is virtually no wrong way to have a values discussion, there are better ways than others to foster the dialogue. My experience guiding these conversations has taught me that most families would rather get to their values 'through the back door'. In other words, some families are immediately turned off or even will say 'no' if you present them with the notion of a 'values discussion'. Rather, for those which may be more intent on strategy, succession

2 Dennis Jaffe and James Grubman, *Acquirers' and Inheritors' Dilemma: Discovering Life Purpose and Building Personal Identity in the Presence of Wealth*.

3 Ellen M Perry, *A Wealth of Possibilities: Navigating Family, Money, and Legacy* (Egremont Press, 2012).

and technical planning, bring in the rubric of the logical planning discussions as a way to highlight some of the core underpinnings of their belief system. (This is the back door to values for those families that resist the more 'touchy-feely' conversations.)

Some families are comfortable discussing their values openly and informally; however, most prefer to work with a third-party adviser or facilitator to guide them through the process. Inviting family members to associate personal experiences through stories with various values helps families to link their core shared values and create an open dialogue on what those values mean to the family. For families with a wide age range, stories become a powerful means to link generations to a core thread of values that may affect their family office, their lifestyle, their giving and their impact in the community. Dennis Jaffe, an adviser who helps to facilitate these types of conversations, indicates that developing a shared purpose around values motivates the next generation to stay together. By working together on family values, they can combine the legacy of the founding generation and what it stands for with the concerns and ideas of the newer generations.[4]

Gunther Weil is a leading organisational consultant, coach and educator and founded ValueMentors LLC, which helps individuals, families and organisations to discover their values. Weil describes how values provide a deep sense of inner meaning and establish a sense of actionable priorities. Utilising a values inventory, Weil has worked with several families and individuals, helping them to appreciate their personal and collective values. This more academic, researched-based approach is based on more than three decades of academic research and studies of thousands of people from around the world. It is not just an inventory of values that his method provides, but also the bespoke insights from the ValueMentors coaches who interpret the survey results. Not all families will want to take this approach, so the question becomes: how can families explore their values on their own? First, consider your type of family. If your family embraces discussing its values, then lean in and designate a family lead to form a taskforce or committee to draft an agenda for a family meeting. Make a point of surfacing key stories about the family and its heritage that have shaped the family's defining values. During the meeting, ask family members to ponder what values are most important to them and why. Make the experience fun and interactive by asking them to share an experience or memory where that personal value was demonstrated or tested. If you have a very large family, consider breaking into pairs or small groups and have family members share the greatest lesson learned from their experience or memory and why it is important to them today. This exercise may give you a head start to understanding the family's shared values.

4 Interview with Dennis Jaffe, 2012.

If yours happens to be a family where having the values discussion is less appealing, this is when bringing in a facilitator or consultant to assess and advise on the viability is recommended. Further, if your family members are less open to having this conversation, and less willing to value this conversation because they do not see its absolute necessity to the overall functioning of the family office (thinking that a strategic plan coupled with a succession plan will do just fine), developing a mission may be a losing proposition.

3. The purpose of a values statement

Once a family identifies its family values, their core principles can be memorialised in a values statement. A values statement is simply a short summary of the central values, ethics or standards that matter the most to the family. These values anchor the family's belief system and ultimately guide its behaviours. Having the family reach a consensus on the values that should be a part of its values statement is an important element of the process. Only the shared values that the family believes are important to its identity and culture should be included. The values statement is often the preamble to the family's mission statement. Figure 1 presents an example of a family values statement.

Figure 1. Masterson's family values statement[5]

We hold dear the family's shared values and recognise that these values guide our family's actions and behaviours and reflect our heritage and legacy. They are the guideposts for our future generations to honour, uphold and cherish. Those values include:

- Truth and honesty: Integrity, trustworthiness and transparency are pivotal values for each family member to uphold. The family values behaving in a manner that lives up to its honour, character and esteem.
- Caring, nurturing and kindness: The family is encouraged to be modest and humble, both with the family wealth and with individual successes. Duty, appreciation and sensitivity are enduring qualities of the Masterson family.
- Ethics and responsibility: The Masterson family values being accountable and responsible. Having a strong moral code and compass helps to guide the family's enduring ethics.
- Family unity: The Masterson family revels in family togetherness and cohesion. We encourage a culture of inclusivity and believe that our greatest family capital is our combined knowledge and wisdom from our family's ancestors.

5 The following is a fictionalised representation of a family office's actual values statement. The name of the family has been changed to protect the privacy of the family on which it is based.

4. The role of a mission statement

Once the shared family values have been identified, the mission statement shares the family's goals, objectives and intentions to keep the family connected with its wealth and/or enterprise. A family's mission answers two important questions:

- Why are we together?
- What are we going to achieve as a family?

The mission grounds the family with the governing principles (or values statement) by which family members will abide. Therefore, the family's values statement is positioned just before the mission statement in most cases. So how is the mission statement crafted?

Just as there is no one way to explore a family's values, there is no one way to create a mission statement. Some families employ a facilitator on staff who can advise on the values and mission process; others look to a consultant or a multi-family office that has these types of capabilities. If outsourcing this exercise is the path chosen, then involving the family office leadership and advisers to the family can be very insightful for all parties. The purpose of developing a values and mission statement is to articulate the principles that will inform the leadership, operations and advice given by the family office to the family. The experience and timing with regard to creating the shared values and a mission will vary, from several weeks to several months. There is no prize for finishing these statements the fastest; rather, it is about the experience of co-creating them with your fellow family members.

Once the values and mission statement are completed, sharing them with your advisers and any family members involved in creating them and those who may have missed the process is important, to reinforce and reiterate the prominence of these statements. Furthermore, these statements will help to validate the behaviours of those family office executives and set a high bar for the behaviour of the rising generation of family members. Several family offices have indicated that they routinely read and revisit the family values and mission statements at off-sites, family meetings and retreats.

5. The importance of a vision statement

Developing a family's vision statement helps to bridge any divide between the current family reality and the preferred future state. Although no one has a crystal ball that can discern what the future will bring, a family may set its intentions, desires and dreams for what the future may hold for it as a whole. This notion encapsulates the vision concept. By imagining where it might be 10, 20, 50, even 200 years into the future, the family begins to consider questions such as the following:

- What would life be like for the family in this perfect future world?

- How do family members work with one another?
- What is the family culture like and what are its enduring values?
- How does the family stay connected and establish a sense of togetherness?
- What is the state of health and wellbeing of each individual family member and of the family collectively?
- If you were to walk into the family office of the future, what would it be like?
- What has stayed the same for the family and family office, and what elements have changed?

These questions are at the heart of the visioning process, which is designed to inspire the preferred future for the family and the family office. The process of developing a family vision and a family office vision is an exciting journey; nevertheless, some families may think that it is not all that important or does not apply to them.

If the family pushes back with the idea that a vision does not apply to it, consider the outperformance by visionary firms from their counterparts with similar attributes in the same industries, but without a vision.[6] In his paper "Demystifying the Development of Organizational Vision", Mark Lipton found that visionary companies with an established mission statement outperformed their contemporaries by more than 15 times since 1926. In another research study, a long-term vision was identified as an important criterion by shareholders when selecting companies in which to invest.[7] Simply put, vision and mission matter to shareholders and appear to have a direct benefit on a firm's long-term performance. Therefore, applying these principles to family offices is only logical.

As with the values and mission development process, there is a wonderful opportunity for families that engage family members in the visioning exercise. What are the critical components that enhance a family's ability to follow through on its vision? The following three tenets enhance a family's success rate when crafting a vision:

- strong family engagement and commitment to the clan – in other words, getting family members around the table to create an atmosphere of inclusivity where all voices are heard;
- a strong sense of stewardship and fostering an ethic of responsibility and accountability around the wealth, which helps the family to consider the needs of future generations in addition to those of the current generation; and

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6 Collins and Porras, as cited in Mark Lipton, "Demystifying the Development of an Organizational Vision", *Sloan Management Review* Volume 37, Number 4 (1994), pp83–92.

7 *Ibid.*

- 'hastening slowly' – going more slowly at first in order to move more quickly later on and taking the time to consider systematically the consequences of each decision, which allows the process to move faster in the long run.

6. Sample family case study: building a family office vision

The Sample family was in transition.[8] Unsure whether it would continue the family office for a third generation, it had reached a major inflection point. Several dramatic changes had occurred over the last decade that forced family members to re-examine their commitment and desire to perpetuate the family office. First, a core legacy business that had been a centrepiece of the family's financial holdings was sold. With the sale of the business, increased liquidity for the family members presented each of them with more options for wealth advisory and investment services, coupled with growing autonomy. Second, one of the key family members, who had retired as chairman to the family office just the year before, unexpectedly passed away. His death signalled a sea change in the generational leadership of the family office, with the remaining senior leaders being non-family key executives. Finally, the third generation, whose ages ranged from teenagers to adults in their 40s, was increasingly expressing a desire to be heard. Despite having several governance forums, such as a board, family council, shareholder assembly and semi-regular family meetings, many in the third generation were asking why they should hold fast and dear to the family office construct.

As a result, several members wrote letters to the family council expressing a desire to meet and discuss the future of the family office. Knowing that this was a daunting request, the family council set to work to identify a series of consultants to interview who might be able to lead the family through this process. Facilitating a discussion of the vision of the family office was not something that the non-family CEO felt that he could undertake, as he aptly noted: "I am biased. I have my ideas of where this family office could go, but it is not up to me. I am merely the conduit, the implementer of the strategic plan. It's really up to the family." Therefore, the family council identified a list of its top three candidates and had each family branch identify one family member to interview and assess all three candidates. The votes from the family council coupled with the outside family members helped them to decide on their choice of consultant, whom we will call Sally.

Sally met with the family council to hear as a collective the core issues that were at the top of the agenda for the family and the family office. She

8 The following is a fictionalised case study built on a family office's experience in defining its vision. The names and identifying information have been changed to protect the privacy of the families on which it is based.

considered a range of issues, from how the family office was operating to what was happening on an individual level with family members and with the family as a collective. With a fairly comprehensive picture of the family and the family office, Sally met with key family members from various branches and generations in order to garner a broader perspective, but also to create a sense of buy-in, trust and belief in her abilities to facilitate a visioning experience.

Next, Sally outlined a process whereby some of the family council and those members who interviewed her became her visioning sub-committee. She explained her approach, the logistics and each detail of the proposed process to ensure that the committee was comfortable with the idea and accepted it. At times, family members would push back and Sally would challenge them to consider the consequences of their suggestions. For example, one family committee member indicated that he did not think it was right that the family office should pay for the travel expenses of family members to participate. Rather, they should pay to get to the retreat on their own. Sally directed the sub-committee to the established values and mission statement that identified inclusivity and supporting the family collectively, asking whether this suggestion was aligned with that value in the values statement. The other family members on the committee outvoted him and it was determined that in order to secure the greatest participation, the family office would cover travel expenses for the two-day retreat.

The sub-committee drafted a communication that was reviewed and approved by the family elders and disseminated to all 50-plus family members in 12 states. The retreat was positioned as an opportunity to discuss the future of the family office and its vision. The letter discussed the importance of the collective involvement of family and paraphrased a statement from leading organisational development thinker Peter Drucker: "If you want to know what the future is, be part of its development."[9]

Giving family members nearly one year's notice and a commitment to accommodate and cover travel expenses, the response was positive. Promoting the retreat as a mechanism to harness the collective wisdom of all generations, the sub-committee garnered the commitment from the majority of family members to attend and to give the requested feedback, ideas and suggestions to personalise and bring a sense of family community to the two-day event. The family office executives were also prepared to present operational and performance data, and to participate in parts of the vision-building process. If the family office is the metaphorical bridge that helps to link one generation to the next, then involvement from the family office executives in developing the vision for the future of the family office is instrumental in crafting the ideal future. However, it became evident from the initial feedback from family

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9 "Inspirational Quotations", Appreciative Inquiry Commons, www.appreciative inquiry.case.edu.

members that not all family members were exactly clear on the roles, responsibilities and actions of the family office. Therefore, Sally and her sub-committee focused the first half-day on educating family members on the roles of key family office executives, the organisation of the family office, the services offered and the expectations that the family office had of family members. They labelled this exercise 'know your family office'.[10]

Next, the family recognised the importance of building family cohesiveness among branches of family which may not have regular contact with one another. Accordingly, over lunch, the family assembled tables of different family members of different ages and from different branches, who had to discover the unique stories, experiences and talents of each family member at their table through a modified scavenger hunt list of characteristics, values, experiences and talents.

The following afternoon the family members broke into a series of education forums led by different family office executives and family members on aspects of the family office's investment approach, the accounting and aggregated reporting functions, and the wealth advisory services, including 'refreshing your financial plan' and discussing wealth transfer, gifting and philanthropic goals. These working sessions were designed to inform the following day's sessions, which were all about the vision of the family office. But first, that evening, a special dinner was hosted by the widow of the deceased chairman of the family office, who engaged a lauded author and inspirational speaker to discuss the importance of finding meaning and passion in one's life. This lifted the family's spirits and set the tone for the importance of finding meaning and passion in each family member's life. Following dinner, the family met under the stars to release paper lanterns into the sky to honour and remember their loved ones who had passed, before retiring for the evening.

The next morning, Sally and the sub-committee welcomed the family members into a room with several tables which were surrounded by flipcharts. For the first couple of hours, the family focused on what they had learned from the family office executives the day before and identified those aspects of the family office that were working well and the opportunities for change. Each table had a different family office focus and one family member facilitated the discussion for each topic, in which different groups of family members mixed and matched with other family members, before addressing all the various table topics. This data was then reviewed as a family group before the family broke for a casual, informal lunch.

Meanwhile, the consultant and the committee members reviewed the headline findings and reframed some of the aspects of the family office that

10 This is a riff on 'know your client', which is commonly used in the financial industry, typically from a risk and compliance standpoint.

they wanted to stay the same and the areas for change. The afternoon session focused on the family office vision, with family members asked to reflect on the feedback from the morning and what it meant for the future vision of the family office. Small group discussions ensued on several key questions:

- What are the collective objectives for the family wealth?
- How will they enhance the responsibility of each family wealth owner?
- Which roles and responsibilities belong to the owners and which to the family office executives?
- How will family governance evolve with the family office?
- What are the core services that the family office should provide and what will they be in the future?
- How will the success of the office be measured? How will the family office be kept accountable?

At the end of the small group discussion, Sally facilitated a group dialogue on the various responses and a debrief on the questions. Capturing the feedback on flipcharts which were then posted around the room, Sally condensed the collective thoughts at this stage. Following an hour-long discussion, family members were asked to walk around the room and place a star next to the points on the flipcharts that they believed were most important to the vision of the family office. The family's hard work of the morning and afternoon was rewarded with a friendly family competition in the form of tennis, lawn bowling and volleyball. That evening, there was a closing ceremony to review the work that had been accomplished and to commit to the work ahead. Sally had each of the family office executives internalise the visionary elements of the different areas of the family office and provide his or her commitment to figure out an action plan that incorporated the family's feedback. Finally, Sally had the family commit to establishing a post-vision retreat committee to articulate several of the ideas expressed in the form of a draft vision statement that could be shared with all family members before it was ratified at the following year's family meeting. Concurrently, the family office executives realigned the strategic plan for the family office to reflect the core tenets in the family's vision statement. The retreat was just the beginning of a new chapter for the family and its family office.

7. Conclusion

Shared values, mission and vision provide the foundation that guides the family and the family office, both day to day and for the long term. Without defining these elements, a family may have greater difficulty inspiring commitment, creating continuity and building cohesion across different branches and generations. For most family offices to succeed, a family must articulate its preferred future, being clear on who it is, what the purpose of staying together

is and why having a family office is important. If the family is not clear on its shared values and mission, assigning a vision to the family office becomes less effective. In closing, the process of aligning the family's vision with that of the family office is empowering, liberating and may provide inspiration that will guide the family for generations to come.

Culture, communication and conflict

Ian A Marsh

1. Introduction

In *Preparing Heirs*,[1] Williams and Preisser report on research which suggests that, of the 70% of wealth transition plans that fail (you may want to rewind and read that statistic again if you are unfamiliar with it), 60% of those failures are due to a breakdown of trust and communication within the family, and a further 25% to a failure to prepare the next generation for what is to come – itself, I would suggest, a symptom of failed communication.

A number of studies confirm that one of the keys to the successful management of family wealth across generations is to "communicate, communicate, communicate";[2] and some suggest that without good communication, governance structures can provide a false sense of security, with predictable results.[3]

I would add that in my experience, the difference between conflict managed constructively (which can be a powerful agent for invention and innovation) and conflict managed destructively (which is utterly corrosive) is the effectiveness of the communication between those involved.

This chapter examines why we find effective communication so difficult and considers what we might do to improve the situation.

2. We are family[4]

In her book *Engaged Ownership*,[5] Amelia Renkert-Thomas describes the "natural governance" that families evolve to keep them and their enterprises functioning as "how we do things around here". That strikes a chord with me because Joanna Kalowski,[6] who first taught me intercultural mediation, uses exactly the same

1 Roy Williams and Vic Preisser, *Preparing Heirs: Five Steps to a Successful Transition of Family Wealth and Values* (Robert D Reed, 2003).

2 See, for example, JP Morgan, *Effective governance: The eight proactive practices of successful families* (2004); Coutts *2005 Family Business Survey*; G Gordon, "It's Good to Talk", *Families in Business*, Sept/Oct 2005; S Barimo, K Rosplock and J Shipley, *The 25 Best Practices of Multi-Generational Families* (GenSpring Family Offices, 2007); and, most recently, D Jaffe with J Flanagan, *Three Pathways to Evolutionary Survival: Best Practices of Successful, Global, Multi-Generational Family Enterprises* (www.dennisjaffe.com, 2012).

3 SandAire Ltd, *Family Wealth*, Issue 3, Spring 2005.

4 Lyrics by Jordan Pruitt, recorded by Sister Sledge, the Pointer Sisters and, no doubt, others.

5 A Renkert-Thomas, *Engaged Ownership: A Guide for Owners of Family Businesses* (Wiley 2015).

6 Mediator, judicial trainer and cross-cultural communications expert; www.jok.com.au.

phrase to define 'culture', and I have long believed that every family has its own (micro) culture. If you don't believe me, think about the first time you celebrated a significant festival with another family (I suspect that of a first serious girlfriend or boyfriend); didn't they do everything wrong? Sorry… Differently?

So, if 'we' are those who do things in a particular way, how do we define our family 'in-group'? Who is family?

For some, it is the nuclear family (parents and children) that is most important. For others, it is the extended family – and that can extend a very long way indeed, perhaps taking in all blood relatives, however remote. I almost used the term 'me and mine' in relation to the nuclear family, but that would be wrong; to those whose concept of family is extended, 'mine' inevitably includes all of those relations. Indeed, some ethnic West African languages (and perhaps others) have no words for 'auntie', 'uncle' or 'cousin', using 'mother', 'father', 'brother' and 'sister' instead.[7]

What of marriage? In some cultures it is a joining of families so that, where extended family is the norm, each marriage may increase family size by an order of magnitude. Elsewhere, marriage means a change of family – generally for the bride, who may leave her parents' family (physically and economically, if not emotionally) and join her husband's, likely taking on the care of her in-laws in place of her parents.[8] For others, bloodline is all and in-laws are not really regarded as family proper.

Religion may also play a part, with conversion, apostasy or 'marrying out' potentially having an impact on family membership – as witnessed, for example, in the UK Act of Settlement 1701 (an early family constitution?), which provided that the English throne would pass to the Electress Sophia of Hanover and her Protestant descendants, provided they did not marry a Roman Catholic; any candidate who did was immediately disqualified from succession.

All of which is to say nothing of the interesting consequences of coupling and decoupling (whether or not in the context of formal marriage or civil partnership) and the complex relationships that can arise therefrom; of same-sex, let alone gender-fluid, relationships; and of the impact of adoption – not least the Japanese practice of adult adoption, which is sometimes credited for the longevity of Japanese family businesses.[9]

The point is that there is no one fixed meaning of 'family' – no Platonic ideal form, of which the families we deal with are mere shadows. Each family defines its own in-group, its own 'way of doing'; and those of us who work with them must take care not to assume that our clients share our sense of family or to project on to them the expressed norms of the broader society in which we live.

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7 Personal correspondence with Adjoa Tamakloe, mediator and founder of CLASS™ Resolutions.

8 Thanks to Dr Xiaohui Yuan of the University of Birmingham for this, illustrated by the Chinese proverb: "When a daughter is married, she is like the water poured out of the door."

9 Freakonomics.com.

3. Who's there?[10]

We are each the product of our genes, our environment, our experience and, seemingly, an element of randomness.[11] Does nature or nurture predominate? Perhaps inevitably, it is not that simple.

Our genes, our DNA sequence, is fixed; but how certain genes express themselves – whether they are switched on or not – turns out to depend on our experience[12] and, in no small part, on our interactions with one another (particularly those with our primary carers during our formative years, typically up to the age of seven), and that state of expression can be passed on to our children. As the neuroscientist Richard Davidson puts it, "Genes load the gun, environment pulls the trigger."[13]

Research by Nisbett and Miyamoto[14] suggests that we acquire our initial attentional patterns – the way we see the world – through those early socialisation processes, which both reflect the norms of the culture in which we grow up and, in turn, contribute to the 'default' neural firing patterns that are characteristic of that culture; a positive feedback loop.

Those patterns reflect in our personality traits. Siegel and colleagues[15] suggest that each of us tends to focus predominantly on one of the following aspects of new situations and relationships:

- right versus wrong, errors and mistakes;
- other peoples' needs and desires;
- tasks, goals and achievements;
- that which is missing or longed for;
- potential intrusion by, and demands of, others, especially regarding time, space and knowledge;
- potential hazards and worst-case scenarios and how to deal with them;
- positive or pleasurable options and opportunities, with a general emphasis on planning;
- injustices and the need for control or assertiveness; or
- maintaining harmony with one's physical and social environment.

Those traits, in turn, are reflected in our learning preferences (eg, do we tend to ask why? How? What? Or what if?);[16] in our communication styles (are we high or low context communicators, literal or metaphorical; are we visual, aural

10 Shakespeare, *Hamlet*, Act 1, Scene 1.
11 For example, the genetic mutations that occur when the body copies our DNA from one cell to another.
12 The process of epigenesis: D Siegel, *The Developing Mind: How Relationships and the Brain Interact and Shape Who We Are*, second edition (The Guilford Press, 2012).
13 RJ Davidson and S Begley, *The Emotional Life of Your Brain: How Its Unique Patterns Affect the Way You Think, Feel and Live – and How You Can Change Them* (Hodder & Stoughton, 2012).
14 R Nisbett and Y Miyamoto, "The influence of culture: holistic versus analytic perception", *TRENDS in Cognitive Sciences*, Volume 9 Number 10, October 2005.
15 As reported in D Siegel, *The Mindful Therapist*, first edition (WW Norton & Co, 2010).
16 B McCarthy, *About Learning*, first edition (About Learning Inc, 2000).

or kinaesthetic?); in our approach to conflict (do we tend to compete, appease, walk away or mediate?); in our priorities when faced with conflict (substance, process, relationships or identity/face?);[17] and so on.

Moreover, our attentional patterns appear to determine not just how we perceive the world, but also what we perceive. Nisbett and Miyamato note, among other things, that:

> *People in Western culture have been found to organise objects by emphasizing rules and categories and to focus on salient objects independent from the context, whereas people in East Asian cultures are more inclined to attend to the context and to the relationship between objects and the context … [Research] suggests that participating in particular social practices leads to chronic differences in perceptual processes*.[18]

How we perceive the world also determines how we describe it to others as witness – for example, the West African use of the word for 'mother' to refer to a biological aunt, referred to above, and the fact that "Russians find it odd that an Englishman uses the same basic term for light blue (Russian: *golubuy*) and dark blue (*siniy*)".[19]

Having said all that, it is also now clear that our brains retain their plasticity and continue to be rewired by our subsequent experiences throughout our lives;[20] and it appears that individual attentional patterns may be temporarily affected by "priming with different cultural cues",[21] such as by living, studying or working abroad.

Since no two of us have identical life experiences (even identical twins are treated differently by their parents), it would seem to follow that no two of us see or describe the world the same way – which might at least begin to explain why we sometimes find it difficult to communicate as well as we would like.

4. Life itself is the most wonderful fairytale of all[22]

If we are all so different, how does a family (or any group, for that matter) become a cohesive whole?

To borrow from Iain McGilchrist,[23] families are not utilitarian relationships, but are "based on felt connection and cultural continuity". According to Geert and Gert Jan Hofstede,[24] culture manifests itself in shared symbols (words, gestures, pictures or objects that carry a particular meaning only recognised as

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17 W Wilmot and J Hocker, *Interpersonal Conflict*, seventh edition (McGraw Hill, 2007).
18 Nisbett and Miyamoto, *op cit*.
19 P Ball, "Riddled with irregularity: why are languages so different – and disorderly", *Prospect*, September 2012.
20 N Doidge, *The Brain that Changes Itself*, first edition (GB) (Penguin Books, 2007).
21 Nisbett and Miyamato, *op cit*.
22 Hans Christian Andersen.
23 I McGilchrist, *The Master and his Emissary: The Divided Brain and the Making of the Western World*, first edition (Yale University Press, 2009).
24 G Hofstede and GJ Hofstede, *Culture and Organisations: Software of the Mind*, second edition (McGraw Hill, 2005).

such by those who share the culture – here family members); heroes (whether living or dead, real or imaginary, who possess characteristics prized in the culture and so serve as role models); rituals (collective activities which are superfluous to reaching desired ends, but which the family regards as socially essential); and, at its core, values (broad tendencies to prefer certain states of affairs over others).

Peter Leach[25] says that: "Families learn to build a shared vision by aligning individual and family values and goals, and that vision becomes a guide for planning and action… Values are what a family and its business stand for; vision is a shared sense of where each is heading."

Jay Hughes[26] uses the term 'family of affinity' to refer to a family that sees itself as linked by affinity and a common mission rather than simply by genetic lineage, and which he sees as: "A family system that declares that anyone who loves its stories and embraces its value system is welcome to join."

Storytelling, it seems to me, is key to all this, for it is primarily through the rituals of storytelling that we share our symbols, heroes and values. Indeed, neuroscientist Antonio Damasio[27] suggests that storytelling evolved from the inner storytelling that we all do to create our sense of self as a means of making our shared cultural norms "understandable, transmissible, persuasive and enforceable"; in other words, to give culture its continuity.

McGilchrist[28] goes further and suggests that language itself may have evolved, not merely to allow us to communicate (which, he argues powerfully, we are well able to do without language), but to allow us to memorialise our experience of the world, to give it fixity – in effect, to create stories – to enable us to collaborate more effectively in solving mutual problems.

Fivush and Nelson[29] also conclude that: "Through the creation of a shared past, individuals gain a sense of who they are in relation to others, both locally within their family and community and more generally within their culture. They also attain a shared perspective on how to interpret and evaluate experience, which leads to a shared moral perspective."

I learned the practical power of storytelling in my own mediation practice and soon began, wherever possible, to structure mediations to ensure that all parties had the space to tell their own stories, in their own words and in their own time – if only to me.[30] I now adopt a similar approach in all my work with families, whether they are in conflict or not. It is amazing just how many people

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25 P Leach, *Family Businesses: The Essentials*, first edition (BDO Stoy Hayward LLP, 2007).

26 J Hughes Jr, *Family: The Compact Among Generations*, first edition (Bloomberg Press, 2007).

27 A Damasio, *When Self Comes to Mind: Constructing the Conscious Brain*, first edition (William Heinemann, 2010).

28 McGilchrist, *op cit*.

29 R Fivush and K Nelson, "Culture and Language in the Emergence of Autobiographical Memory", *Psychological Science*, Volume 15 – Number 9, 573-577 (American Psychological Society, 2004).

30 I Marsh, "Mediating Families at War", *Asian Dispute Review*, January 2011, 24–27; www.familydr.co.uk/articles/6.

tell me that it is the first time anyone has really listened to them. And, feeling heard, they become much more open to hearing what others have to say and, through that, to finding common cause with them.

What fascinates me more, though, is the extent to which, in the course of telling their stories, people become aware of what is most important to them and why. It is almost as if they are listening to their own story themselves for the very first time; perhaps they are.

Storytelling, however, is not just a unilateral act of the speaker. Walter Benjamin[31] described it as "the ability to exchange experiences". More recently, Siegel[32] put it this way:

> *The storytelling and story listening process often involves the essential features of social interaction and discourse. The teller produces verbal and nonverbal signals that are received by the listener, and then similar forms of communication are sent back to the teller. This intricate dance requires both persons to have the complex capacity to read social signals, to share a subjective experience of mind, and to agree to participate in culturally accepted rules of discourse.* Stories are thus socially co-constructed. [Emphasis added]

5. The best mirror is an old friend[33]

Those non-verbal social signals involve posture, gesture, eye contact, facial expression, prosody (the rhythm, stress and intonation of speech), and the timing and intensity of response. Reading those signals appears to involve specialised brain cells, mirror neurons, which, working with other structures in the brain, seem to enable (to cause?) us to mimic one another; which seems in turn to allow us to understand the actions, intentions and emotions – if not the words – of another.[34] Try it yourself: mimic the body language, and particularly facial expressions, of someone else (a consenting adult, in private, is probably best!) as closely as you can, and then see how you both feel. Try doing it again, this time with a pencil between your teeth.[35]

One of the things I sometimes do in mediation is to ask people to reframe their grievance in the form: "When you did…, I felt…, because…" I started doing this largely for pragmatic reasons: it is not accusatory, so it is less likely to put the listener in defensive mode and is more likely therefore to be the beginning of a dialogue; and it cannot be denied, so the easiest of parries is

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31 W Benjamin, *The Storyteller: Reflections on the Works of Nikolai Leskov* (1936); http://slought.org/files/downloads/events/SF_1331-Benjamin.pdf.

32 D Siegel, *The Developing Mind*, *op cit*.

33 Peter Nivio Zarlenger.

34 M Iacoboni, *Mirroring People: The Science of Empathy and How we Connect with Others*, first edition (Picador, 2008); G Rizolatti and C Sinigaglia, *Mirrors in the Brain: How Our Minds Share Actions and Emotions*, first English edition (Oxford University Press, 2008). Other views are inevitably available, as to which see G Hickok, *The Myth of Mirror Neurons: The Real Science of Cognition and Communication* (WW Norton & Co, 2014).

35 The pencil stops the micro-muscles in your face from mimicking the other's, which is probably the biggest tell.

barred. (Some might respond "Well, you shouldn't", but that has never seemed very strong to me.) In the event, most acknowledge the emotion – and are often shocked to find themselves the cause of it. (Interestingly, research shows that just naming an emotion tends to reduce it,[36] which itself can be helpful. Again, try it with yourself sometime.)

But there is much more to it than that. When Mary told her son, David, that she felt ashamed and humiliated when David suggested to his siblings that it was time they took over looking after the family wealth from their parents, because such behaviour was clear proof that she was an appalling mother (in Mary's world view, no well-brought-up child would have suggested such a thing, so she had clearly failed to teach him right from wrong), David could, and did, try to argue with the words; but her body language was unmistakable to everyone, including him, as was his to her (one of the reasons I try to avoid having desks or tables in such meetings is to ensure that all body language is fully on display) – whatever David said, Mary knew that he knew. If feeling heard is powerful, feeling felt is positively profound and in that case, as in so many others, it provided a breakthrough.

Done as a regular part of family life, it need not (always) be quite so dramatic. Indeed, I believe that regular storytelling within the family is one of the best ways to breathe real life into "regular extended family gatherings and interaction"; to build "a climate of family openness, trust and communication"; and to develop "sharing and respect for family history and legacy" – three of the five practices identified by Dennis Jaffe in "Three Pathways to Evolutionary Survival".[37] It is also one of the best ways of creating "binding social ties", securing the "emotional attachment of family members" and the "renewal of family bonds" – three of the five dimensions of socioemotional wealth described by Pascual Barrone and colleagues.[38]

6. A tribe of one?[39]

Telling and listening to stories. That shouldn't be so difficult, should it? So why is it?

Walter Benjamin[40] suggested that the art of storytelling was coming to an end, not least because "experience [had] fallen in value"; he felt that the rate of change in life had become so fast that experience of the past was no longer useful in

36 D Creswell, B Way, N Eisenberger and M Lieberman, "Neural Correlates of Dispositional Mindfulness During Affect Labelling", *Psychosomatic Medicine* 69: 560–565 (2007), confirming what had previously been intuited by the proponents of non-violent communication (M Rosenberg, *Nonviolent Communication: A Language of Life*, second edition, Rosenberg, 2003).

37 D Jaffe with J Flanagan, *Three Pathways to Evolutionary Survival*, *op cit Note 2*.

38 P Barrone, C Cruz and L Gomez-Mejia, "Socioemotional Wealth in Family Firms: Theoretical Dimensions, Assessment Approaches, and Agenda for Future Research", *Family Business Review* 25(3), 258-279 (2012).

39 S Turkle, *The Flight From Conversation* (2012); www.nytimes.com/2012/04/22/opinion/Sunday/the-flight-from-conversation.html.

40 W Benjamin, *The Storyteller: Reflections on the Works of Nikolai Leskov*, *op cit.*

trying to deal with the future – and that was in 1936! But if families are to achieve the cultural continuity that they seek over generations, they must find ways to ensure that their stories, their myths and legends, their symbols and heroes, their rituals and their values will always have relevance to the rising generations.

Benjamin felt that true storytellers pass their wisdom "from mouth to mouth". Stephen Porges[41] suggests that "To develop a social bond, individuals have to be in close proximity". Yet in the West at least, we seem to spend less and less time together as families. That may be because our families are spread around the country, or around the world. Or it may be that we have, as Sherry Turkle[42] puts it, "sacrificed conversation for mere connection", preferring text messages, email and social media to conversation, even when we are physically gathered together – something which Turkle says has accustomed us to the idea of "being a tribe of one, loyal to our own party"; the antithesis of the cultural continuity that families need to succeed.

7. People hear only what they understand[43]

But if storytelling has become harder, listening is harder still.

At one level, there are many obstacles to effective listening, born of our individual temperaments and the various cultures to which we all belong (family, of course; but also ethnic, gender, faith, workplace and so on). In the short term, these can be bridged with the help of a skilled facilitator, but that is like using an interpreter and, however good the interpreter, it is never as good as knowing the language; which means looking deeper.

It turns out that we have the means to engage in collaborative, empathic, contingent communication, curious as to why the other experiences the world differently from us, open to whatever may come out of our dialogue, accepting of whoever the other turns out to be and compassionate towards the other. That is indeed the way to truly listen: to make the speaker feel both heard and felt. Sadly, this is much easier said than done.

First, we must do battle with the oldest part of our brain: the brainstem (inherited from our reptilian ancestors), which manages what Porges has called our "mobilisation system".[44] It is quite crude, but very fast (waiting for a reasoned analysis of whether that is a fallen tree branch or a poisonous snake would likely not enhance your chances of surviving and breeding, which is the primary driver in all of this). If the brainstem perceives a threat, it may get you

41 S W Porges, "Social Engagement and Attachment: A Phylogenetic Perspective", Ann NY Acad Sci 1008: 31-47 (2003); www.somaticpractice.net/trainings/touch_skills/resources/articles/polyvagal/Porges-2003-Social_Engagement_and_Attachment.pdf.

42 S Turkle, *The Flight From Conversation*, *op cit*.

43 Johann Wolfgang von Goethe. For a more detailed exploration of the science touched on here, see I A Marsh, *If it is so Good to Talk, Why is it so Hard: Rediscovering the Power of Conversation* (Matador, 2018).

44 S W Porges, *The Polyvagal Theory: Neurophysiological Foundations of Attachment, Communication and Self-regulation* (WW Norton & Co, 2011).

ready to fight or to run away: your pulse and blood pressure increase; you start to sweat; your libido disappears; and you may feel a strong urge to go to the toilet. If the threat is existential, it may go further and immobilise you – the freeze or faint response – causing a complete shutdown; though whether that is a defence mechanism or to make for a cleaner, quicker kill is unclear. Either way, it is not setting you up to ask your brother (with curiosity, openness, acceptance and compassion) to tell you more about the nervous breakdown he has just told you your mother had shortly after you were born, and of which you were previously unaware.

Then there is the brainstem's mammalian upgrade (a bolt-on, rather than a replacement version): the limbic system, which works with and in parallel to the brainstem, deciding what we should pay attention to, deciding whether it is good or bad, and driving us towards pleasure and away from pain. Of course, we may not always experience it so: how often do we try to avoid difficult conversations, telling ourselves that we are doing so to avoid causing pain to the other (so giving ourselves pleasure), when it is really our own pain we fear?[45]

Indeed, you may get both signals at the same time when, say, your father, who provides for you materially and whom you love dearly, denigrates everything you do (perhaps by comparison to your sister's near perfection). The effect is a bit like getting into a Ferrari and stamping hard on the brake and the accelerator at the same time – very uncomfortable, and something expensive is likely to get broken!

The good news is that the middle pre-frontal cortex has direct connections with both the limbic area and the brainstem, and can modulate their effects, giving us (among other things) what Siegel[46] calls "response flexibility" and what Puddicombe[47] calls "headspace" – that is, the ability to take a mental step back, pause and consider the available options before acting.

The bad news is that excessive states of arousal appear to shut down this process and in this situation: "People don't think; they feel something intensely and act impulsively."[48] So fear, anger or other strong emotion may leave you at the mercy of impulse. Excessive heat or cold, hunger, thirst and fatigue can have the same effect; alcohol and narcotics too.

Even if we can keep these higher brain functions online, that is not the end of our challenges. Our brains are highly adaptive. We use our previous experience to predict the future and act accordingly. Great music, and comedy, tend to play on that: creating expectation and then teasing us by sometimes fulfilling it and sometimes not. But our experience often gets the better of us. It

45 What Brooks calls "the dishonesty of niceness": D Brooks, *The Social Animal: A Story of How Success Happens*, second edition (Short Books, 2011).
46 D Siegel, *The Mindful Brain: Reflection and Attunement in the Cultivation of Well-Being*, first edition (WW Norton & Company, 2007).
47 A Puddicombe, *Get Some Headspace*, first paperback edition (Hodder & Stoughton Ltd, 2011).
48 D Siegel, *The Developing Mind*, *op cit*.

becomes assumption, pre-judgement or prejudice, and we act on it regardless of what our bodily senses are telling us – our gut reaction. We may rationalise this as "not letting our hearts rule our heads".

When we pre-judge a conversation, we need no input from the other, so we stop listening and spend our time rehearsing our own speeches in the privacy of our own minds. When we feel hurt, we jump to conclusions: "You spoke; I hurt; therefore, you intended to hurt me." And so on.

On the other hand, when we are too much 'in the moment' – whether it is a musical reverie, the sight of a gorgeous boy or girl walking down the street, or just our own mental chatter – we may find ourselves hitting the wall of the garage we have driven into without incident thousands of times before.

8. Remembrance of things past

A word or two about memory is appropriate here.

As Proust surmised, "remembrance of things past is not necessarily the remembrance of things as they were."[49] First, it appears that what you remember depends (in part at least) upon why you are trying to remember it (not good if you are preparing a witness statement in a dispute over the family trust), and that your recollection of any event may change with each remembrance.[50] This is not recalling a read-only file from a hard disk. It is perhaps more like selecting a paper file from the drawer, taking out the bits that do not meet your present needs and then putting back the reordered file.

Second, only things that we focus on get incorporated in our autobiographical – explicit – memory, which is all that we can consciously recall. Ever worry about whether you turned the gas off, put out that last cigarette or locked the door when you left home? They are things you do so often that you no longer pay attention to them, so they never get stored in explicit memory. Here again, intense emotion, alcohol and narcotics can also rob us of the ability to process memories in this way; the route back from last night's party may be something you know well, but the walk home may not be!

But the overwhelming preponderance of our experience[51] goes into what is called implicit memory. Inaccessible to conscious recollection, implicit memory accounts for our mental chatter – for those inexplicable changes in mood that come when (consciously or not) we hear a tune, or smell a scent, with some strong emotional tag that never made it into explicit memory; and through which our immediate sensory experience is filtered even when our so-called higher functions are online.[52]

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49 Marcel Proust, *À la recherche du temps perdu*.

50 D Schacter, *Searching for Memory: The Brain, the Mind and the Past*, first edition (Basic Books, 1996).

51 It is estimated that we take in around 11 million bits of data per second, but can only process consciously around 15 bits per second: T Nørretranders, *The User Illusion: Cutting Consciousness Down to Size*, first English edition (Penguin Books, 1998).

52 D Siegel, *The Mindful Brain*, *op cit*.

And when there is a gap in our explicit memory, we generate a script that suits – typically one that fits well with our worldview, that tends to make us feel better. It then becomes part of our reality – a process that psychologists call 'confabulation'.

9. The story so far ...

To recap: we each experience the world differently. How we experience it plays a key part in who we become as individuals, but most of that is not accessible to us in memory. We tend to react, rather than respond – not only to events around us, but also to our own thoughts and emotions (a double whammy: you get upset, then you get upset that you are upset!). When there is a hole in our personal story, we make it up and believe that is the unalloyed truth. Blessed with affluence and technology, we choose to live apart from one another (whether physically or mentally), losing both proximity and shared experience; we have come to prefer connection to conversation, the exchange of information to communication… And we wonder why we do not always communicate well!

10. The mindful brain[53]

Fortunately, we can learn to listen deeply, empathically, to what others have to say. We can learn to be open to whatever we hear and accepting of others whoever, or whatever, they turn out to be. We can learn how to make others feel both heard and felt. We can learn not to react, but to respond to events appropriately and proportionately.

Our ability to attune to others, to balance our emotions, to be flexible in our responses, to soothe our fears, to create insight (my sense of me), empathy (my sense of you), moral awareness (my sense of we), and intuition, are all key to this learning; and all appear to be mediated by the middle pre-frontal cortex of the brain.[54] Research shows both that the practice of mindful awarenesss (paying conscious attention to our inner sensations, images, feelings and thoughts) tends to increase neuronal growth and speed of function in that area of the brain, and that more mindful people show less reactivity when presented with threatening emotional stimuli.[55]

Those practices have their origins in religious observance,[56] and for many the element of faith is important, but it is not necessary to achieve the results we seek here. *Tai chi chuan*, *chi kung*, yoga and a variety of mindfulness meditation techniques have all been shown to be equally effective.[57]

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53 D Siegel.

54 D Siegel, *The Mindful Brain*, *op cit*.

55 D Creswell, B Way, N Eisenberger and M Lieberman, "Neural Correlates of Dispositional Mindfulness During Affect Labelling", *Psychosomatic Medicine* 69: 560–565 (2007); and see also Mental Health Foundation, *Mindfulness Report* (2010), www.livingmindfully.co.uk/downloads/Mindfulness_Report.pdf.

56 Notably in the Buddhist tradition, but similar practices are also found in contemplative Christianity, Judaism and Islam.

57 D Siegel, *The Mindful Brain*, *op cit*; A Puddicombe, *Get Some Headspace*, *op cit*; Mental Health Foundation, *Mindfulness Report*, *op cit*.

A number of these techniques are based on simple breath awareness. We breathe continuously, but are rarely aware of it. Mindfulness practice trains us to be conscious of our breath for minutes at a time. We also learn to notice when we are distracted from that and, when we are, simply to bring our focus back to the breath. This seemingly pointless exercise trains the mind to be more generally aware, increasing our awareness of our thoughts, feelings, emotions and bodily sensations; and it empowers us to choose whether to act on them or just let them go.

As long ago as 1891, William James, the father of American psychology, said that an education which would improve "the faculty of voluntarily bringing back a wandering attention, over and over again…would be the education *par excellence*".[58]

Further description of such techniques is beyond the scope of this chapter, but guides can readily be found online.[59]

As we become more mindful and learn to listen (both to ourselves and to others) with curiosity, openness, acceptance and compassion, we can become more adept co-constructors of our family stories and, through that process, cement the connections and cultural continuity that I believe are key to cohesive multi-generational family prosperity.

11. Great stories happen to those who can tell them[60]

Of course, how and when we do our storytelling will vary from family to family. It generally begins as we reminisce to our infants and young children. Fivush and Nelson[61] suggest that the more elaborative that reminiscing is, the more effectively past events are set in time and place and in emotional and personally meaningful contexts; and the more the child too is encouraged to talk about his experiences – both as they occur and in reminiscence – the more coherent and evaluative the child's own narrative will become.

Our symbols, heroes, rituals and values are all passed on through these exchanges and reinforced over time through the sharing of nursery rhymes, fairy stories, folk tales, songs and so on.

For some, their family stories will be factual, full of historicity. For others, they will be more mythic, full of metaphor. Neither is right or wrong, but simply reflects the family's cultural and communication norms.

For some families – particularly those which remain geographically close – this process develops naturally through daily interaction, birthday and other celebrations; a regular round of breaking bread together. In some faiths and

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58 W James, *Psychology: Briefer Course* (Harper Torchbooks, 1961).

59 See, for example, drdansiegel.com/resources/everyday_mindsight_tools/; www.getsomeheadspace.com/. See also I A Marsh, *If it is so Good to Talk, Why is it so Hard, op cit.*

60 Ira Glass.

61 R Fivush and K Nelson, "Culture and Language in the Emergence of Autobiographical Memory", *op cit.*

cultures the regular cycle of feasts and festivals provides a natural framework for this.

Others, for whatever reason, never develop that way of doing. For those families, a facilitated discussion of "Who are we as a family?", "Where do we come from?" and "Why do we choose to manage our capital collectively?" may provide a useful starting point. A genealogical exercise may be an interesting project for the younger generations. Which branches they choose to research and the individuals they most connect with – let alone the discovery of how 'we' used to live in different social, political and economic times – can be a great springboard for further conversation.

It is important that our shared stories look forwards, as well as backwards. Our dreams and aspirations – our memories of the future, if you will – are just as much a part of our personal and family narratives as how we come to be where we are; a shared sense of where we are heading is just as important to our sense of continuity.

Nor should we expect them to be fixed, constant. All culture is dynamic and families are no exception. People come (birth, marriage) and go (death, divorce); levels of affluence wax and wane;[62] we change with experience (physiologically, as we have learned), and so on. The value of our stories is that they memorialise our symbols, heroes, rituals and values. They will inevitably change over time, and our stories must change too. That is not to say that we should consciously edit them, but nor should we be overly resistant to their evolution over time; a changing story may be a clue that other things too are changing.

While the power of the story may be, as Damasio[63] suggested, to make our chosen values "persuasive and enforceable", we should not be too dogmatic about that. The aim is cohesion, not homogeneity. To quote Siegel again: "[It] is more like making a fruit salad than a smoothie: it requires that the elements retain their individual uniqueness while simultaneously linking to other components of [the] system."[64]

To paraphrase McGilchrist,[65] without difference there can be neither harmony nor counterpoint.

Technology has a great role to play in all this, not least in memorialising the family story: creating a dynamic, living and interactive archive, including music, pictures and videos, particularly of family members telling their personal stories while they are still around to do that. Technology allows us to keep in touch in circumstances where we never could before; but being in touch is no substitute for touching, for physical and mental presence – which, as we have seen, is crucial to building and maintaining the bonds between us.

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62 See, for example, Hofstede and Hofstede (*op cit*) for the impact of changes in affluence and other factors on various cultural metrics.

63 A Damasio, *When Self Comes to Mind: Constructing the Conscious Brain*, *op cit*.

64 D Siegel, *The Developing Mind*, *op cit*.

65 I McGilchrist, *The Master and his Emissary*, *op cit*.

Of course, that technology has its dark side too – not least that it distracts us from those we are with; inhibits our ability to self-edit when online; offers no substitute for the depth of connection we can achieve when we are face to face;[66] and indeed tends to be addictive – but it is for us to master our tools rather than allowing them to master us.

12. Conclusion

To conclude, my proposals may be summarised as follows:

- The biggest threat to a family's capital (be it financial, human, intellectual, social or spiritual) is a breakdown of trust and communication within the family.
- To minimise the risk of such a breakdown, families need to pay attention to the glue that holds them together, to their connections and cultural continuity.
- To do that, we need to spend time together creating, nurturing and recording our evolving family story, through which we pass on our shared symbols, heroes, rituals and values and win the commitment of the group to them.
- The listener is as important to that process as the teller, and we each need to learn to listen deeply to the other with curiosity, openness, acceptance and compassion.
- We each need to learn to assess, not assume; to respond, not react.
- Ancient tradition, the recorded experience of many and modern neuroscience all tell us that the practice of mindful awareness improves our facility to do all of these things.

There is, of course, much else that any family must do if it is to succeed in developing its capital (in all of its forms) harmoniously and cohesively over generations, and about which others have written in this book. This, however, I believe offers a sound foundation to all of that.

66 See further I A Marsh "The dark side of the screen", *The International Family Offices Journal,* Volume 1, Issue 3, pp45–49 (March 2017).

What next? Governing a family office through leadership succession

Amelia Renkert-Thomas
Renkert Thomas Consulting LLC

For a single family office led by its founder, succession planning is often the last thing on the founder's mind. But failure to plan for the office's scope and services after the founder's demise can leave the family and the family office staff alike in an impossible situation and put at risk the wealth that the founder worked so hard to create.

1. The founder's family office: hub and spoke

A family office created by a wealth creator is an enterprise built around a centralised vision. The founder sits at the centre of the office's decision making. He may delegate some decision making to staff and perhaps ask for the family's input on various matters, but in the end his decisions rule. Investment partners, advisers, service providers, staff – all know that any change to 'the way we do things around here' needs the consent of the founder.

This kind of hub-and-spoke system is extremely common as a structure for family enterprise governance because it arises naturally as the founder builds the enterprise. A hub-and-spoke system is resilient, and can be nimble and efficient – provided that the founder's vision and expectations are clear. There is little bureaucracy and decisions are generally made quickly (unless the founder prefers to avoid the subject, in which case the decision may languish in limbo indefinitely). The founder at the hub makes the decisions – or, on occasion, delegates them to trusted individuals on the spokes – and those who operate on the spokes carry them out. As long as the founder is capable of making decisions, the system works.

A hub-and-spoke decision-making system can be stable for long periods, but it can also be prone to abrupt failure if an accident, illness or sudden death strikes the founder (or sometimes it may become mired in long and slow deterioration if the founder's attention turns away from the office).

This is because the system depends on the acquiescence of everyone on the spokes to the founder's decision making at the hub: no action will be taken without approval from the top. If the founder is absent, decision making grinds to a halt.

A founder may find himself or herself too busy with day-to-day responsibilities to spend much time thinking about the future of the family office after he or she is gone. But effective strategic planning includes succession planning, and a founder who fails to develop a succession plan puts the wealth managed by the family office – and the wellbeing of the family – at risk.

2. After the founder: greater complexity, high emotion

Typically, the founder's estate plan will create an entirely new constellation of clients for the family office: individuals, trusts, partnerships, foundations. While many of these may have existed during the founder's tenure, they likely remained under his or her oversight and guidance (even if only informally). Now, the office staff must deal individually with these clients, which all have their own leadership, purpose, vision and investment objectives.

Family members, whose involvement with the office was mediated by the founder, will now deal with the office directly. Family members will typically see the office as the founder's stand-in when it comes to financial matters, and will bring requests for money and financial problems directly to the staff. The departure of the founder may trigger a wave of requests for substantial distributions as estate matters arise or as needs or desires that were denied during the founder's era come to the surface. Furthermore, requests that the founder once dealt with in private – allowances, impulse purchases – suddenly become the business of the family office. This may put the staff in the uncomfortable position of controlling the family purse strings.

The loss of the founder creates turmoil in the family's decision-making system in the same way that it creates turmoil in the family office. Without the founder making decisions, family members may come to the family office to mediate disputes – or to try to get the office to take their side. In addition, one or more family members may see themselves as the founder's natural successor and attempt to step in to lead the family office staff, further complicating matters.

This broader constellation of clients can raise uncomfortable questions about the purpose and scope of the family office – questions that the office staff do not have the perspective or authority to answer. What if a family member declares himself or herself to be in charge of the office? What is an appropriate spending rate? What if a family member wants to sell an asset that was beloved by the founder – a piece of art or a vacation property – and the office knows that the founder would have disapproved of the transaction? What if the foundation proposes a major one-off contribution that would deplete foundation assets? What if family members will not speak to each other, but instead try to get the staff to mediate or intervene on their behalf? Or what if family members challenge the authority of staff and go around them to achieve their personal objectives?

3. Succession planning: before the storm

Founders who foresee the potential challenges that their offices will face in their absence will recognise the value of developing a governance and succession plan well in advance of their departure.

The process of succession planning requires a blend of vision and practicality. What will the future look like? What responsibilities will be borne by the family office? How can the office manage its responsibilities most effectively? And perhaps most important: how must the office be restructured to ensure that it will be viable?

A robust succession planning process will require the participation of both the founder and the staff, key clients (eg, independent trustees of client trusts) and trusted advisers. Participants should expect that it will take time – upwards of a year – to gather the necessary data, debate the options and document the outcome. A 'quarterback' – either an experienced and trusted member of the team, or an outside consultant with experience in succession planning for family offices – will be invaluable.

3.1 Why does the office exist? What is the purpose of the office?

The first question for the succession team is: "Why should this family office continue to exist beyond the founder?"

Note that the first question is not "Who will run the office?" The succession team will want to start with purpose and vision, rather than tactics and talent. The question of who will run the office is certainly important, but the group must decide why the office exists and what it will do before it can determine who is appropriate to run it. Above all, the team must avoid the temptation to choose a leader as a way of putting off the tough decision making – naming a successor and saying "He can figure it out" is equivalent to setting the successor and the office up to fail.

The question "Why does this family office exist?" is intended to generate a statement of purpose for the office that articulates the unique roles that the office serves for its clients. In turn, it will be used to define the scope of services and responsibilities of the office following the founder's departure.

The purpose might include one or more of the following:

- to manage financial assets for the benefit of the founder's family;
- to oversee real property and operating businesses;
- to provide tax, administrative and compliance services for wealth-holding structures such as trusts, partnerships and foundations;
- to serve as a central record-keeping vault;
- to provide education and mentoring on financial matters for next-generation family members; and
- to serve as a convening hub for an expanding family.

It may also be helpful to articulate elements that the succession team agrees should not be included in the shared purpose, such as:

- mediating family disputes;
- determining amounts of allowances and distributions (other than providing information to a decision maker, such as prior spending rates); and
- taking on projects or providing services outside the defined scope of the single family office's services.

Once the purpose of the office has been defined, the succession team can consider whom the office will serve and what assets it will be responsible for overseeing.

3.2 Who will be the clients of the office and what assets will be managed?

The second and third questions for the succession team are "Who will be the clients of the family office?" and "What assets will be managed?" The objective of this part of the process is to develop a complete inventory of the clients of the office – their identities; the assets they own; the approximate value of those assets; and, in the case of entities, who controls them – all based on the founder's family, its collective existing assets and the founder's estate plan.

The succession team may be tempted to answer the "Who…?" question with "The family." But doing so could result in a flawed plan – one that does not anticipate all the complexity that the office will face. That is because a founder's estate plan will often result in assets being held in trust that were previously owned outright. When assets are held in trust rather than outright, administrative and compliance requirements increase substantially. The same is true when assets are held in limited liability company or partnership form.

By way of example, a complete asset and client inventory for a single family office serving a single family branch is set out in Table 1.

This client inventory makes clear that, following the founder's death, the family office will be tasked with managing or overseeing a wide range of assets: the founder's operating business; his or her art collection; commercial and residential real estate; and a portfolio of hedge fund and private equity investments. These assets will be held in a variety of structures, including layers of trusts and partnerships, many of which were designed to achieve specific tax or asset protection goals. Furthermore, the clients will include individuals and fiduciary decision makers with varying (and likely conflicting) interests. Quite a different state of affairs from the hub-and-spoke system under the founder.

3.3 What services and responsibilities will be borne by the office?

A family office can resemble an octopus, with eight arms involved in separate activities. For planning purposes, it is important to specify what services will be necessary and whether the office will be charged with handling them.

Table 1. Asset and client inventory for a single office family

Client	Assets	Value	Control
Charitable foundation	Publicly traded securities, fine art collection	$100 million	Board of trustees: spouse, children, independent trustee A
Marital trust for benefit of founder's second spouse	Publicly traded securities, 45% interest in operating business	$500 million	Independent trustee A
Second spouse	Cash, three residences	$30 million	Spouse
Family trust for benefit of founder's children	45% interest in operating business; 2% general partner interest in family limited partnership holding hedge fund and private equity investments	$420 million	Independent trustee B; board of directors
Daughter (first family)	49% limited partner interest in family limited partnership	$333 million	Daughter
Son (second family)	49% limited partner interest in family limited partnership	$333 million	Son
Generation-skipping transfer tax exempt grandchildren's trust	Commercial real estate (currently houses operating business's offices) and cash	$50 million	Independent trustee B
Trust for benefit of first spouse	10% interest in operating business	$33 million	Independent trustee B

It can be helpful to consider three categories of functions that family offices typically serve: investments, administration and convening. Every family office is unique; the task for the succession team is to think through the clients and the assets of the specific office to determine what must be done to ensure that assets are managed properly. The following is a necessarily incomplete list of questions that the succession team will want to ask:

- Investing: Will the office be responsible for investing assets? For overseeing those who do? For all or some of the assets? (For example, will the office be responsible for serving on the boards of operating businesses? For coordinating with hedge fund and private equity managers? For trading securities?) If the founder performed some or all of these functions himself or herself, which can be absorbed by the office staff, which should be outsourced and which should be discontinued?
- Administration: Will the office manage administrative recordkeeping? Performance reporting? Tax compliance and reporting? Risk management? Trust administration? For all assets or only some of them? Given the increase in the number and complexity of clients being served, how much will the volume and scope of administrative services increase, and what staffing changes or outsourcing may be necessary to accommodate the increase?
- Convening: Will the office take over convening responsibilities – planning family get-togethers, serving as administrator and secretariat for common entities such as foundations or family assemblies – that might previously have been handled by the founder or his or her spouse? Will the office be responsible for financial education and counselling for younger family members, or financial management for ageing and perhaps disabled family members?

3.4 What do we need to do to prepare for the future?

Once the succession team is comfortable that it has defined the shared purpose of the office, inventoried the clients and assets, and determined what responsibilities and services will be borne by the office following the founder's departure, it needs to stop and ask: "How must the office be configured, staffed and funded to deliver these services and manage these responsibilities?" A family office built to suit the circumstances and personality of the founder will often need substantial restructuring if it is to serve the new clients effectively after the founder's exit.

It is also important to stop and ask whether the resulting office will be cost effective. For example, the cost of an office to manage the assets of an individual with $500 million in net worth will generally be lower than the cost to manage those same assets once the individual's estate plan has gone into effect and the assets are owned by 10 or more different individuals and entities. It is possible

that an alternative service model, such as a multi-family office or a virtual family office run by a very small staff that outsources most functions, will make more sense following the founder's departure.

Ultimately, the succession team will want to memorialise its conclusions in the form of a transition plan that spells out the steps that will need to be taken to accommodate the anticipated changes that will result from the founder's departure. Major change is never easy; the transition should take place over three to six months or more, to ensure that transfers of responsibility among staff members or to third-party outsourced providers are handled carefully and are fully documented. The succession team will want to oversee the transition and keep the clients informed as to the plan and progress in its implementation.

As the succession team develops the transition plan, the following topics deserve thoughtful consideration.

(a) Governance

It is important to recognise that a family office is primarily a management and service entity, not a governance entity. Each entity to which the single family office provides services – partnerships, corporations, foundations, trusts – will have its own governance. The office can serve important roles in a governance structure – for example, as administrator and secretariat for a family assembly – but it is not in and of itself a governance vehicle and should not be tasked with overall decision making for the family and its assets. The succession team will want to ask how the constellation of clients will be governed and how they will formally relate to each other, given that their participants and assets will be related to and intertwined with each other. The succession team may also want to recommend that the founder initiate governance work with family, trustees, trusted advisers and family office staff to develop a more formal governance structure to deal with the increased complexity that will inevitably result from his or her departure.

The family office will also need its own basic governance, to ensure proper oversight and accountability. One option is a board of directors responsible for oversight and single family office strategy. Membership might include representative clients, senior staff and outside advisers.

(b) Staffing

If the new office will need to be structured differently after the founder's departure to manage its clients and their assets, it is likely that staffing will need to change. Family offices tend to reward loyalty, with the result that staffing tends to remain constant over long periods. However, a succession transition demands that staffing and leadership both be reconsidered in light of changes in responsibilities and services. It is important for any changes to be handled with transparency, legal propriety and grace, given the sensitivity of the matters

handled by the office. It may also be wise for the succession team to implement or update employment agreements with staff while the founder is living, to clarify non-disclosure and non-solicitation policies as well as procedures for termination, resignation and retirement.

(c) ***Funding***

Many founder-led family offices are funded directly by the founder from his personal assets (or, in the case of a family office that serves the owner of a substantial operating business, by the business); other entities, such as the family foundation or a previously established trust, may get a free ride, expense-wise. However, after the founder's departure, every client will stand on its own from a financial perspective, and careful thought will need to be given to how costs will be borne. Cost allocation for a family office is tricky – for example, should costs be allocated based on assets under management or on staff time spent? Should older generations pay for younger generations? What if a client feels that a service is not valuable or too expensive? When a younger family member wants help dealing with a service provider or starting a business, should he or she receive a bill? Family office clients may be shocked to find out the true cost of operating the office when they are responsible for paying for it. If cost allocation is handled with transparency and care, it can become an important step in developing effective client-office relations; if mishandled, it can lead to failure of the office.

(d) ***Bricks and mortar versus outsourcing***

If the family office has handled most responsibilities in-house under the founder, it is worth asking whether some or even all of the services might be handled more efficiently or cost effectively on an outsourced basis. Services can be outsourced to different specialist providers in a virtual family office model or overall management can be outsourced under a multi-family office model.

Another option is to consider developing joint ventures with other family offices to leverage specific capabilities and economies of scale, or even to seek out other families or investors with the goal of forming a non-public multi-family office.

(e) ***Communications***

During preparation for and following the departure of the founder, effective communication with staff, clients and family members about the purpose, services and activities of the office will be essential to achieve smooth succession. Establishing a primary point of contact in the single family office for clients and family members will ease the transition and reduce the risk of crossed wires and mixed messages.

(f) *Exit options*

Some founders envision the family office as a kind of glue to keep family members together. However, family members may not be as enthused by the notion of forced togetherness with their fellow family members and may prefer to manage their own assets or seek their own service providers. Family offices that encourage clients to be knowledgeable consumers and to seek the best option to meet their own needs are more likely to succeed in the transition process.

4. Emergency succession planning

What if the founder departs unexpectedly, before any succession planning has been undertaken? While it may be tempting for the office to put aside formal planning to deal with the chaos of the transition, doing so may put clients, assets and the office itself at risk. In the absence of the founder, the family office leadership will want to assemble the succession team and undertake a streamlined, yet thorough, version of the planning process outlined above. In particular, developing a detailed understanding of each of the clients and the assets that they hold will enable the team to identify service gaps; these should be given priority. Once gaps are filled and short-term emergencies have been dealt with, the succession team will want to shift quickly to the process of developing a comprehensive transition plan.

5. Conclusion

A founder's family office is a unique entity, embodying the vision and priorities of the founder. Succession planning is rarely a primary concern, but a family office that will serve the founder's family and manage his assets following his departure will need to redesign its scope and services to deal with the new circumstances it will face. A succession planning team that considers the clients and assets that will remain after the founder's departure and defines its purpose and services to meet their needs effectively will be able to prepare the office to deal successfully with the changes that lie ahead.

An earlier version of this piece was published in conjunction with Angelo Robles of the Family Office Association.

The five challenges for wealth inheritors to develop a positive wealth identity

Dennis T Jaffe
Wise Counsel Research

Inheriting wealth is supposed to be a wonderful and stress-free life opportunity. However, as financial professionals, we experience many short-sighted or self-defeating ways that our clients who have or expect to inherit substantial wealth respond to their fortunes. Inheriting wealth can be a source of conflict or difficulty. How can this be? What can we do to be helpful since we are often in the middle – between generations – and involved in planning for the transmission of wealth? In this chapter, I discuss the ways that inheritors can be prepared to receive wealth by developing what is defined as a positive wealth identity, which is the foundation for a young person to develop the internal capability to make optimal use of their gift.

Growing up in a wealthy household, the trappings of wealth are omnipresent. This reinforces a sense in inheritors that they are 'special' in undefined ways, affecting expectations, questions and concerns about their future. This upbringing also provides inheritors with an unusual amount of freedom to define themselves. But this same freedom and privilege also offer challenges for how to make good choices and feel good about their fortune in a world where people with inherited wealth may feel devalued by others who have less and resent them. The way a young inheritor integrates the presence of money and wealth into his or her work, personal relationships and life choices creates his or her 'wealth identity'.

How inheritors relate to money is a distinctive part of their personality that expresses deep anxieties, aspirations, choices and values. While every person can develop a positive self-identity in their lives, this chapter focuses on the special challenges facing the inheritor of significant family wealth. Some of the questions family wealth can pose include:

- Does the person see money as a path to fulfilment, a burden or something of an embarrassment?
- Is money the most significant thing in their lives or a minor aspect of their character?
- Does money lead to tension or conflicts in relationships?
- Do inheritors fear or avoid learning about and keeping up on what is happening to their money?

Most of the wealth amassed by global families is new, first generation wealth. Wealth creators are aware that such wealth rarely survives the second generation. They want to be among those who pass their wealth successfully to their children, but they also are deeply concerned that their heirs use the money intelligently and compassionately. Rather than bringing fulfilment, this gift can bring unexpected complexity or even distress to life. Money comes with tremendous potential, and the choices inheritors can make about how to use it are unlimited. But sometimes these choices can be surprisingly difficult, particularly if they are uncertain about, or lack the foundation of, the awareness, values and skills that can enable them to choose wisely.

Several challenges exist for the next generation: knowing they are wealthy and do not have to work, how to motivate themselves and what to do with their lives. They often live in the outsize shadows of their parents, and wonder what they can do that will be significant and important. The opportunities of wealth can be lost if spent on meaningless, self-defeating or destructive pursuits. It can be a source of confusion if inheritors are not sure what it means to them, what they want to do with it, or how it fits into their lives.

For many clients, money alone is not the issue. It is also the status and recognition that comes with wealth, leading to feelings of power and entitlement but also feelings of entrapment and isolation. It changes their lives. We now recognise that having and inheriting money has a marked impact on one's core identity – on the beliefs and values that map how we see ourselves as people as well as how others see us. Inheritors can experience guilt about what they inherit, or a feeling that they do not deserve these gifts, which complicates their ability to move forward in their lives with a positive relationship to their wealth.

At its best, understanding the place of money in one's life can represent a positive, mature life stage, offering many choices but still posing issues of meaning, personal empowerment and social responsibility. After sifting through what money means to them – its effect on their sense of self-esteem, personal relationships, work and community – inheritors of wealth will be better able to embark on new ventures with an invigorated set of priorities.

Inheritors must overcome five key life challenges to generate a sense of life purpose, meaning and positive and facilitative emotional connection to their money. Each challenge describes an important aspect of the psychological relationship to the saving, spending and sharing of wealth. To develop a positive wealth identity, heirs must resolve conflicts and overcome their vulnerabilities in each area. Advisers to a wealthy family will be called upon to help inheritors with these issues. As advisers become aware of the elements of wealth identity, and how they are formed by overcoming specific life dilemmas, they will seek opportunities to address these areas with their young clients. If they appear to be disabling or difficult, advisers may help them find coaching to develop themselves within each area.

1. Challenge I: financial awareness – what does the wealth I have inherited consist of?

Many inheritors avoid the issue of their wealth by using it unconsciously, without knowing anything about it. This challenge indicates the degree to which a person has actively become aware of money matters: how much they have, how it is invested, and how it is spent and shared. Not knowing about money is a way of denying it, or not being responsible for taking care of it. Just as a person must learn to take care of a prized possession, so people should take care of their money, to insure their future. Success in this area indicates a solid hold on one's finances characterised by the feeling of truly 'owning your money'.

Lack of financial awareness is seen in people who have difficulty claiming ownership of their wealth, or at worst avoid or deny responsibility for it. They may behave as if the wealth is really not their own, or believe that it is magically taken care of by others, and that it is infinite and always present. Such wealthy people are prey to all sorts of schemes that lose their money.

Many heirs and people who achieve sudden success are not really prepared to handle their money. It comes to them without preparation, sometimes seemingly out of the blue. The existence of trusts and family financial advisers designated to make decisions for them leaves them feeling like dependent children, reinforcing a childlike lack of awareness and empowerment. This dependency often leaves them feeling incomplete, undeveloped and vulnerable. To avoid entitling their children, many wealth creators do not speak about money or inheritance, leaving their children to cope with the effects of wealth on their own. But to develop a positive wealth identity, inheritors need to inform themselves and begin a learning process.

Sometimes, after a setback or huge loss, they finally take the reins. At other times they struggle to take control of their money against well-meaning but misguided financial advisers, behaviour they are told is foolish or selfish on their part. But taking control does not mean making all choices on their own or rejecting professional advice. It means being informed about what is happening and participating in or being aware of major financial decisions. This is part of being a mature adult. Many heirs feel like their inheritance is designed to keep them from experiencing any sort of personal maturity in relation to their money. They feel that they will never be trusted to take care of themselves.

Inheritors often suffer from difficulties with money awareness. Heirs are given money without necessarily being given the skills to manage it. Some heirs feel disconnected from their money, as if it still belongs to the family member who made the distribution. One variation on this theme are so-called 'trust babies', whose inheritance becomes an obstacle to growing up. Yet others feel guilty or ashamed about their bloodline's good fortune, hiding their wealth from others as well as themselves.

Success in this area comes when an heir develops a solid hold on finances characterised by the feeling of truly owning their money. While details of wealth management may be delegated to a team of professionals, the wealth-holder is keenly aware and in charge of saving, spending and sharing of money. They must develop special financial skills and capabilities that are not taught in college. Wealth advisers can steer young heirs to courses, workshops and programmes to help them in this area, but only after they understand the need and reasons for developing them.

2. Challenge II: lifestyle management – how shall I live with the wealth I now have?

This element points to how people get pleasure from using their money: their spending habits and the nature of their life. Positive identity is seen in those who feel genuine pleasure and satisfaction from spending their money, who spend in ways that are not ultimately compulsive or self-destructive. They buy things that have meaning and they buy things for fun. However, they also practise a values-based spending, balancing saving and sharing of money with spending. They enjoy spending without excessive shame or guilt, living according to an overall life plan.

The presence of money can be a resource, or a temptation to addiction and compulsive spending. Consider stories of people winning the lottery, or inheriting, and quickly spending it away. One might expect that they were not truly in control of their wealth and in the end it did not add to their lives. They buy lots of things that do not continue to bring them the pleasure that is expected.

People can feel out of control in spending along two extremes: they either over-spend and spend impulsively, resulting in a short-lasting pleasure, a sense of waste and potential negative financial consequences. Or on the other side of the spectrum: those who radically under-spend feel inhibited by a sense of non-entitlement and feelings of shame and guilt. They are afraid to get pleasure in their wealth, perhaps because they feel they do not deserve it, or it is not really theirs.

The challenge in developing this aspect of wealth identity is to get the inheritors of wealth to define their lifestyle within a set of life goals based on values about the use of their wealth, and how they fit with the kind of life they want to live. After they are aware of the extent of their wealth, their challenge is to define their values and what they want in life, and then to define a spending plan that will sustain their wealth and allow them to live with genuine pleasure.

3. Challenge III: stewardship – how do I use my wealth productively to make a difference in the world?

It is not enough for a person with wealth to just look to their own personal satisfaction. Having wealth means the opportunity to influence and help

others, and studies show that the greatest pleasure and life satisfaction comes when one gives both to oneself and to others. A steward views wealth as a multidimensional resource that is preserved and shared for the benefit of both current and future generations. A healthy person will want to look around, and consider what can be done for other people and for the future.

The presence of significant money should lead a person to explore issues beyond their individual self. An heir may want to consider how his wealth can impact his heirs and community. An individual cannot possess a great deal of money and not listen to the needs that lie around him. A person who has acquired guilt about being wealthy can build a sense of self by defining a positive life mission beyond individual comfort, about what to do with his wealth. By having this broader purpose, wealthy individuals set themselves to live a life where they have a positive role in using their wealth for broader purposes.

People who view their wealth as primarily for their own use, who do not want or have a legacy plan, and who are not concerned about the future use of their money distributions are living in denial of the world beyond their personal sphere. They live in a bubble. Wealth is seen as a private resource for personal use and enjoyment. They feel no further responsibility. Wealth does not, and should not, make someone a saint; spending is not a sin. However, the presence of significant money should lead people to consider issues beyond themselves, how it can impact on heirs and on the community.

If one's life is no longer defined by having to make money, then the question will arise, what will one do to define who one is and what one stands for? Defining one's legacy and the meaning of one's wealth is a key step toward a full definition as a person of wealth. When heirs find a life purpose that involves doing something for the community or the future, and live in line with their values, they feel enabled to derive personal satisfaction from moderate use of their wealth.

Some wealth creators see their legacy as primarily to society, and foresee a more limited role for their children. Financier Warren Buffett famously has made it clear that he will leave his children enough to be comfortable, but that most of his wealth will go to a foundation. A common pattern is for the next generation to inherit some money, but more importantly to learn that their self-worth and life's work lies in philanthropy. The Rockefeller family, after the founding fortune accumulated by John D Rockefeller, has carefully cultivated careers of philanthropy and social activism in several generations of heirs. Newer families such as the US Gates, Moore, Hewlett and Packard families have defined their legacies along similar pathways. Families of more modest means set up a family foundation, and achieve purpose and meaning in their lives by using their time and energy in making a difference in society. This outward and expansive life focus can help heirs overcome conflict or ambivalence they may experience about coming into money.

Stewardship refers to the degree to which one's financial decision-making is based upon a family mission and set of values. Wealth is viewed as a multi-dimensional resource that is preserved and shared for the benefit of both current and future generations. While it is his or hers, a healthy person will want to look around, and consider what can be done for other people, and for the future.

Strength in this factor is reflected in people who have a 'future sense' in their money decisions, who desire to leave a meaningful legacy and who are thoughtful about the impact of distributions to future generations. They plan for how wealth can make a difference both in their own lives and in the larger community. Success in this element indicates a person with a plan for the utilisation of their wealth, who wants to leave a values-based legacy for future generations.

Vulnerability in this factor is seen in people who view their wealth as primarily for their own use, who do not want or do not have a legacy plan, and who are not very concerned about the future use of their money distributions. They see their wealth as only a private resource for personal use and enjoyment.

4. Challenge IV: self-esteem/personal Security – how can I feel good about myself and the good fortune I have received?

Money by itself does not make people feel personally secure or good about themselves. In fact, its presence may lead a client to feel an increase of anxiety. The element of self-esteem refers to how much an heir's sense of personal value, self-respect and personal identity is founded on wealth. How comfortable and secure do they feel in their own skin, which includes their inheritance and the role that it defines for their lives? Unless clients have a strong sense of personal identity, the fear of losing money may lead them to feel continually vulnerable. Strength in this element means an individual has a solid and coherent foundation of self-esteem and personal security that is not primarily reliant on net worth. They feel in charge of their lives, enjoying the advantages of money without feeling that it makes them a better or more worthwhile person, or an evil one.

Positive self-esteem comprises a multitude of factors, including the capacity to love and be loved, to be recognised and connected to family and community, and to be successful and productive. Certainly achieving financial independence, a symbol of success in our society, can enhance self-esteem. But what if one did not earn the money, but received it from one's parents? The impact of wealth on self-esteem can be even more problematic for inheritors than it is for earned wealth-holders. Inheritors may feel unworthy of their gifts and may suffer from doubt and guilt regarding their wealth.

Inheritors may suffer far more from shame, doubt and guilt than their earned-wealth counterparts. The luck of their bloodline does not automatically

make for an increase in self-esteem or self-worth. The struggle to develop a sense of self-esteem for wealthy heirs is recounted in scores of moralistic life stories. Heirs can experience a difficult and multi-year struggle that lasts well into adulthood, as they seek to find a sense of purpose and vitality in their lives, and to overcome feelings of guilt, worthlessness and depression.

Achieving self-esteem is a task beyond defining a life purpose, in that the person has to take active steps to live within their values. This often means going on a life journey where they discover their own capabilities by living on their own, with no or minimal support, earning a living and doing something that is remunerative and useful. Sometimes this does not happen until the person has some sort of personal crisis, caused by self-destructive or self-defeating behaviour, which their money or their connections cannot solve for them. By resolving a life crisis on their own, they develop the strength of character that is the foundation for positive self-esteem. The family often inadvertently uses inheritance to keep their children from taking this life journey and developing themselves.

5. Challenge V: trust in relationships – how can I trust and build lasting relationships with others who may not have the advantages that I have?

A person's willingness to trust others in a personal relationship is affected by wealth. The presence of money can make it hard to trust others even as it attracts them. A wealthy person must learn how to select and trust special other people, or he will always feel that money undermines the nature of relationships. People can always wonder if someone likes them for their money, or for who they are. A mature person finds ways to find the personal friends who are genuine. When a person finds their personal comfort zone in handling the impact of money on personal relationships, he is able to trust other people and deal with money issues without poisoning or undermining his relationships. Vulnerability arises when intimacy, trust and stability are over-determined or undermined by money matters. Conflicts over money can contaminate relationships with loved ones, causing money-driven hardships and heartaches.

Vulnerability is seen in heirs who develop exaggerated fears about being taken advantage of by others. They are asked for money or loans and then feel the awkwardness of not being repaid. Some people develop irrational fears of contact with others of differing economic classes. Fears about how others may respond to money issues can result in secrecy or at its extreme, the 'Howard Hughes syndrome' of privacy with a paranoid edge.

Money must be managed in relationships. It is hard to overcome starting from a sense of distrust and vulnerability. But uncritical acceptance of others can also lead to being taken advantage of. Clients must accept that money will

get in the way of relationships, and use personal skills to break through to resolve these issues in their most important relationships

Strength in this capacity indicates a person who has found his or her personal comfort zone in handling the impact of money on personal relationships. A person must learn to say 'no' to others, and to not feel guilty at having more than others. He is able to trust other people and feels both confident and trusting in handling the impact of money on relationships.

The value of self in a relationship is not determined by the size of one's bank account. Strength on this factor does not mean that the interaction of money and relationships is without difficulties, but it indicates that challenges can be handled without significant pressure on self-esteem or on the stability and involvement with important others. For example, in many close relationships, we see people grappling with differences between savers and spenders. Strength in this factor indicates the capacity to communicate in constructive ways in resolving or reconciling differences.

6. Helping clients: counselling and consultation

There are several avenues that inheritors pursue to progress in their own development. First, and probably most easily available, there are workshops, groups and support networks that are sponsored by investment banks, financial service groups and philanthropy networks where people can combine discovering what to do to preserve their money and what to do with it. They offer several things. First, they offer the support of people who are struggling with similar issues, together with safe and confidential environment to explore issues. They also offer clear outlets where heirs can learn about issues from money management to philanthropy without feeling burdened by the pain and difficult choices that are put upon them by those in need.

Secondly, various types of personal and family counselling and coaching can help one discover a basis for making choices, develop understanding of one's mixed feelings and chart a course for the future. Family members have a chance to stop the action of daily life, truly take stock of where they are today and create values-based lifestyle action plans.

A third option is to meet as a family. Increasingly, families get together to explore the issues of wealth in their lives, and explore the choices facing their children and heirs. The family can gather informally, at the family home or at a meal, or they can have a more formal gathering, where they talk about specific approaches to money, whether investing, spending or giving. Meeting as a family, to discuss values, how money will be shared and used, and what is important to each member, is a key activity for coming to terms with wealth.

Using the "Wealth Identity and Preferences Inventory" (available online at no cost) can help clients assess the level of difficulty they have in each of these areas, and help them set personal priorities for their own development. By

looking at the key areas of vulnerability identified in the inventory, a wealth heir can identify which of these challenges is a starting point for their journey to self-development.

This chapter has presented the most common challenges faced by young heirs as they grow up to be ready, willing and able to receive and use an inheritance in a personally and socially useful manner. As an adviser, one should be aware of these challenges, and alert to helping one's clients to face them and to take steps to support their own personal development.

This chapter appears as published in the first edition of this book. The model and concepts in this chapter are derived from work in collaboration with Steve Goldbart and Joan DiFuria of Money Meaning and Choices Institute. The "Money Identity and Preferences Inventory" self-assessment tool that can be used to explore these five challenges is available without cost at our websites: dennisjaffe.com, and mmcinstitute.com. A guide to holding family meetings about wealth is available on the website dennisjaffe.com, and many other resources are available on both websites.

The golden rucksack – insights from qualitative research among wealthy heirs

Raimund Kamp
Marijke Kuijpers
Guidato

1. Introduction

In this chapter we present the main insights of our qualitative research on wealth transfer in the Netherlands and how wealthy parents and their (family office) advisers can help wealthy children to reach their full potential.

The existence of family wealth does not guarantee its perpetuation. This is consistent with the popular Dutch proverb *"Verwerven, vererven en verderven in drie generaties"* ("Acquisition, inheritance and destruction in three generations"). This famous saying illustrates how family wealth often dwindles over time. Every country has similar sayings, such as the American "From shirtsleeves to shirtsleeves in three generations" or the old British "There's nobbut three generations between clog and clog". We have researched the upbringing of heirs in wealthy Dutch families, how they are prepared for the inheritance of family capital and their experiences with inherited wealth. Besides our professional experience that many heirs experience obstacles with their inheritance, we were also intrigued by this phenomenon: why do some families retain their wealth for longer than three generations and what do they do differently? What factors make family wealth resilient to the passage of generations? How do wealthy families prevent their capital from waning? Undoubtedly, Dutch family culture has an impact on the way that wealthy Dutch parents transfer family capital to their children, but many principles are universal and therefore relevant for non-Dutch wealthy families and their advisers.

In this chapter, we first discuss the how and what of our research. The third section focuses on the poor preparation of most heirs. We continue in section 4 with a look at the 'head in the sand' approach to upbringing. Section 5 deals with the expectations of future heirs. Next, we discuss the pitfall of boundless opportunities (section 6) and look at the question "To work or not to work?" (section 7). Section 8 focuses on wealth education: what every wealthy child ultimately should know and learn. We describe the objectives of family wealth in Section 9 and finish with how a (family office) adviser can facilitate wealthy parents and their children (section 10).

2. Our research on wealth transfer in the Netherlands

As advisers, we were curious about the success factors involved in preparing heirs. To that end, we conducted a qualitative study of 18 wealthy Dutch heirs, starting in December 2009 and running until April 2011. As far as we are aware, this type of research had never before been conducted in Europe. Our research aimed to gain insight into the issues and dynamics of capital transfer by inventorying and analysing these heirs' experiences.

The 18 wealthy heirs were from the second up to and including the ninth generation. This sample consisted of seven female and 11 male heirs, with ages at the time of our interviews between 40 and 70 years old. All respondents had been multi-millionaires for at least 10 years, so they were able to reflect on their experiences as wealthy heirs. In order to get a better understanding of the family dynamics, we interviewed brothers and sisters within one family. All 18 respondents had children, so our interviews partly focused on their preparation of their offspring.

All sorts of goods are transferred from one generation to another: (family) businesses, estates, investment portfolios, real estate (companies), cash, paintings and so on. We recorded all the interviews and ended up with 600 pages of information that needed further analysis. Professor Ad Kil PhD of Nyenrode Business University assisted us with the analysis and theoretical building blocks to clarify the results.

Capital transfers can take place either through a gift while the donor is still alive or through an inheritance after his or her death. In our research we took both forms into account. We focused on the personal experiences of heirs who grew up in wealthy families and received (a part of) the family's wealth. Our approach places subjects such as upbringing, personal development and family relationships centre stage. The theory we present foregrounds the fields of pedagogy and psychology. The results of our study were published in December 2013 in the Dutch book *De gouden rugzak – Handboek voor vermogende families* (in English, *The Golden Rucksack – Handbook for Wealthy Families*). The research and book do not address the legal and fiscal aspects of capital transfer, or any of the associated tactics used to pay as little tax as possible.

The book title, *The Golden Rucksack*, was inspired by a childhood experience of an heiress:

"Hey! Don't you have a golden rucksack?" said some middle school students in a teasing tone. I didn't know them, but apparently their parents worked at my grandfather's company. Riding my bike on my way home, I was quite sad about the things they had said to me.

It shows that more often than not, the outside world has a pre-judgement of wealthy people, independently of their age. As we mentioned earlier, wealth can be as much of a burden as an opportunity, which in our opinion fits in perfectly with the image of a golden rucksack.

This is our contribution to a new world. In the old world, the sole focus of wealthy families and their advisers revolved around financial and estate planning, where fiscal and legal technicalities took centre stage during the transfer of estates. This was all to ensure that heirs would pay as little tax as possible, while creating as many opportunities for them as possible. In the new world, an additional element comes into play: how to prepare the next generation in the best possible way for the responsibilities that come hand in hand with wealth.

Not all aspects associated with the inheritance of substantial wealth are positive. The challenges can be diverse. Many heirs do not openly speak of problems and disadvantages of their inheritance, not even within their own social circles. To bystanders, it may sound rather ungrateful that the recipient of a large amount of capital has nothing but complaints about it. Who wouldn't swap roles with a wealthy heir? Why else do so many people play the lottery? The dream, of course, is to win the millions that would solve all one's problems at once. However, this is without a doubt a simplistic view of things. We would therefore like to examine how wealthy parents can ensure that their future heirs perceive their inheritance as more of an opportunity than a burden.

3. Poor preparation of most heirs

To our surprise, only two of the 18 heirs in our study were properly prepared for the responsibilities of their inheritance. Inheriting a fortune did not change their lives very much. They were old-money heirs, which we define as fourth-generation landed wealth. This means that 16 heirs were not properly prepared, or were even ill-prepared, and encountered obstacles, both financial and emotional.

For most of the ill-prepared heirs, it was very hard to deal with the financial management of their wealth, speaking with different experts and advisers and making the right decisions. A second-generation heiress from an industrial family received a legacy together with her sisters and their experience with advisers is illustrative:

> *We understood that we had to make decisions within two years for tax legislation reasons. We used this entire period, because they gave us useless advice. They think you know what you want, but we did not know ourselves. We received a recital of tax advantages: you could do this or that, and that depended on this and that. We really had no idea! We might as well have gone "Eeny meeny miney mo!" Our notary did not ask many questions either. The accountant only had explanations of how to minimise tax. We asked him: "How did we get here?" And "What would you do if you were me?" It just was impossible for us to make decisions.*

A second obstacle related to the emotional ramifications of the inheritance. Some of the heirs were even ashamed of their own wealth: "Why did I receive this inheritance? What will others think of me now that I'm so rich?" Many experienced issues in their relationships with their partners and friends, and

had feelings of inferiority, guilt and low self-esteem. Finally, a number of heirs were confronted with philosophical questions about the sense of their own lives: "I don't work because I'm rich, but what am I going to do instead?" One heir was also delicately confronted with his empty existence by his wife:

I really have money in the bank, debts repaid. This situation feels good. However, our children must go to school in the morning and my wife says: "You were never home, and now you are and what are you going to do today? Go to your mother? You were already at your mother's place the day before yesterday." And she opens the door to go to her work and then you're home alone again.

We conclude that, even in old money families, a proper proactive, well-defined process to prepare the next generation is often lacking. As we see later in this chapter, the desire to sustain family wealth for these respondents can be traced back to implicit messages from (grand)parents to their (grand)children. Unfortunately, very little practical guidance is given, which frustrates many heirs who wish to adhere to the family objective of multi-generational wealth.

3.1 Fears and concerns as underlying cause of poor preparation

Just like all parents, wealthy parents have fears and concerns for their children. A number of these fears and concerns are directly linked to the unique financial situation of a wealthy family. One heiress summed it up concisely:

It is terribly difficult for parents to let their children go in general, and in particular with wealth.

Three fears and concerns of parents came up during our research: relationships, initiative and materialism.

Wealthy parents' first and most frequently cited fear concerned the child's relationships, in general and specifically with their future (marriage) partner. The following quote from one heiress is representative of the situation of many females:

My father was always terrified that we would come home with a partner who was in it for the money, so to speak. That was on his mind a lot. The fear here is that wealth attracts the wrong kind of people: people who are not as interested in the individual as in the wealth behind that individual.

The second fear is that wealth may limit or destroy the child's initiative. The child can come to think that the family fortune is a great base to live off. The child fails to feel the need to give some substance to his or her life with a (professional) career. This train of thought can lead to low educational ambitions and little interest in ever becoming independent. One heir explained how in his father's generation, knowing about the wealth of the family completely destroyed their initiative:

They did that really badly in my father's generation. Those expectations about the family wealth: my grandpa was not able to subdue them. The pride, the arrogance; they all have it in them. You couldn't have done it any worse.

The third fear is that the children will become materialistic. Wealthy families often enjoy a luxurious lifestyle, from which children could possibly conclude that material things are of utmost importance in life. One heiress found it crucial to show her children that even though money provides opportunities, wealth is not unlimited:

As a child, you live in a well-to-do environment, but that is different from living off your wealth.

Heirs mentioned this fear about their own children more often than they thought their parents had this same fear about them. This is undoubtedly linked to a societal change whereby consumption is now being given more thought than previously.

How do parents go about addressing their fears and concerns? When it comes to the fear of relationships, parents warn their children explicitly. These warnings can go to the point that the heir subsequently finds that his or her parents succeeded in their effort. One heir said:

It was those two things in my childhood: the words 'jealousy' and 'profiting'. Those two words. The thought that I would get friends who wanted to take advantage of it. They were a bit uptight about that.

Heirs who are warned like this by their parents find that having a general distrust of everyone outside their family can have very negative effects.

To continue in the context of fears and concerns about relationships, a number of parents went one step further. Some went so far as to have their child's partner investigated by a detective agency. One heiress had nothing but understanding for it:

My parents had someone investigate my former boyfriend, through an agency. I only heard about it a couple of years later, but I get it. I would do the same myself if I were in a similar situation. The classic example: wealthy parents and a wealthy daughter.

It appears to be common practice for parents not always to tell their children (mostly women, in our research) that detective services have been hired. This can come to light years later by sheer coincidence, as seen from our interviews with two other heirs.

4. Upbringing: the 'head in the sand' strategy

Parents who are fearful of the negative influence of family wealth on, for example, the child's initiative use the 'head in the sand' strategy. The assumption here is: what they don't know won't hurt them. Parents are often anxious about their children's questions about the family capital. The common reaction is to give no answer or to talk around the subject.

What do parents want to achieve with these messages? By telling their children that they need to get going by themselves and not just wait for their share of the capital, parents try to have a positive impact on their children's lives. One heir explained how this worked in his family:

We were brought up with the idea that we should be happy if there was anything left at the end. Until then, we could make use of it, through loans. You have to do it yourself. So that you are not watching the figures thinking, "Oh, this much will be left over when my father passes away."

Toning down expectations and restricting financial expenditure were recurring themes for a number of families in our study. By not making too many financial resources available to children, parents put their money where their mouth is, so that children learn to cope by themselves financially. A number of heirs also saw this happen to the generations before them. One heir saw this restriction of the wealth as a sign of Calvinism:

My grandfather had a Calvinist slant. Above all, he made sure his children wouldn't get the feeling that there was a lot of money. So my father did receive money, but he was always relatively tight-fisted.

Parents see nothing but advantages in not talking about wealth and dampening their children's expectations of inheriting: the financial situation of the family remains unclear to the children for a period and does not have an adverse impact on their behaviour. However, this lack of communication and/or lowering of expectations can in fact have negative effects on the heirs. The first negative consequence affects the mutual trust between parents and children. If it later turns out that the wealth of the family was far greater than the child believed or than the parents hinted at, the heir can come to believe that his or her parents did not trust him with that information. Another negative consequence is that parents fail to nurture their children's interest in financial affairs and thus fail to prepare the next generation in the best way possible for their future responsibilities with the family wealth.

4.1 The paradox of the 'normal' upbringing

'Being normal' and giving children a normal upbringing are values that wealthy families want for themselves and aspire to. Many wealthy parents try their best to give their children as normal an upbringing as possible, concealing material manifestations of wealth – in certain situations – so that their children are not troubled by them.

The 'normal upbringing' paradox comes into play in families that continually behave as if they are not wealthy. Children are almost always aware of their family's wealth because of material symbols (houses, cars, boats, holidays), and might even be held accountable for these by the outside world ("Hey! Don't you have a golden rucksack?"). Parents often tell them not to talk about the family's wealth and even to put special effort into concealing it from the outside world. In short, they are told to keep their wealth a secret. Children who grow up in these circumstances can feel guilty or ashamed of their parents' wealth. If these feelings grow in intensity and frequency, they can have an impact on the development of the children's identity. They are faced with a

challenging paradox: how to live and act normally when the specific circumstances of their upbringing are very unusual. If they become the target of attacks because of their parents' wealth, children can come to believe that they are flawed and become anxious that their secret might be discovered. Despite this, the parents act as if the family is as normal as any other average family.

The idea that wealthy families which want to hide their wealth can give their children a normal upbringing is a myth, an impossibility. If the financial situation of the family is extraordinary, there is no more to it; it is extraordinary. Denial of the actual situation does not change anything. The myth of the normal upbringing leads to complicated paradoxes that often burden children with choices, expectations and secrets that are hard for them to bear.

Families that are open about their wealth are not as confronted by the normal upbringing paradox. Parents inform their children about the wealth of the family; they let them experience and get acquainted with that wealth, and give them financial responsibilities. In short, the parents themselves realise that their family is not normal in its financial aspects and take that into account during their children's upbringing.

In both our study and our work, we have seen more secretive than open wealthy families. This explains why most wealthy families might have trouble preparing heirs for their future finances and wealth. Unfortunately, this can lead to problems during the later stages of an heir's life.

5. Expectations of future heirs

Our research shows that the group of interviewees' parents had a mixture of high, low and unclear expectations of their children. Naturally, this had a varied effect on the children, which in some cases might even have affected them in their adult lives.

Parents with high expectations nullified their children's initiative. Fear of failure prevented the heirs from taking on certain tasks to avoid disappointing their parents. One heiress described how her sister dealt with her parents' high expectations:

My sister thought: "I won't start this. I won't even try it once, in case I make a mistake." We used to call our sister 'Switzerland': always neutral. A bit of this, a bit of that.

These high expectations could also function as source of motivation to perform better in some cases, even to this day. The personality of each individual heir plays a crucial role here. One heiress is very demanding with herself because her father emphasised that nobody should ever choose the path of least resistance:

If I don't immediately get how to do it, I hate myself.

We noticed that a number of heirs' parents had remarkably low expectations. Our interviews showed that the intention behind these low expectations was to protect the children from disappointment.

Besides high and low expectations, we talked to heirs who had parents with unclear expectations. When children have no idea what their parents expect, but feel that they are not meeting these expectations, they carry a mental burden. One heiress said:

I have a very strong feeling that I have to accomplish something, but I cannot describe what it is. But I am not accomplishing it. And my sister feels it even more strongly; and she carries the mental burden that she is not quite meeting the standards.

5.1 Areas of expectations

We have seen three distinct areas of expectations that apply to the personal, the social and the professional areas. In addition, there is a general expectation in wealthy families that wealth will be sustained and increased. We focus on wealth expectations in section 9.

Table 1. Areas of expectation

Personal	Social	Professional
• Tapping into talents	• Etiquette • Future (marriage) partner	• Studies and academic performance • Career and work

(a) Personal expectations: tapping into talents

The parents of a number of heirs want them to harness their talents. They expect children to do their best to get the most out of their own capabilities. These capabilities are intelligence, talents and skills. One of the greatest fears of wealthy parents is that their children will use the wealth of the family as a safety net, no longer putting any effort into doing things for themselves. Parents believe that harnessing their children's talents will contribute to their self-esteem and help them live happy lives. One heiress worded her wishes for her son in a way we often encountered during the course of this study:

What we really want is for our son to use his talents, so that he becomes proud of who he is and goes on to do whatever makes him feel good for himself. I would really like that. For him to believe in himself; I find that to be the basis of everything.

(b) Social expectations

Etiquette: Expectations about etiquette have to do with the behaviour expected of wealthy people, and in particular how they spend their free time and how

discreet they are with their money. In new-money families, there tend to be more expectations about leisure activities. Parents make sure their children practise certain sports – such as horseback riding, tennis or hockey – or take music lessons. The goal of the etiquette expectations of new-money families is to find a connection to the higher social classes. The set of norms and standards of the higher classes is passed on by newly rich parents to their children. This will enable the children to find a connection to the higher social classes more easily when they are adults.

In old-money families, it is important to teach the next generations anew the standards that will make them be considered good people. Etiquette expectations in these families tend to deal with discretion, in particular not speaking about money and wealth. An heiress from an old-money family mentioned that to her family, etiquette meant dressing neatly, having good table manners and writing thank-you notes, among other things.

The future (marriage) partner: Not a single male heir indicated that there was any kind of expectation regarding his marriage partner. In our study, the most commonly cited expectation regarding daughters' spouses is that they needed to be brainy and well educated. These very features were behind the decision of some daughters to study, as it was an excellent chance to meet a fitting partner, as one of the heiresses said:

> *We didn't have to get PhDs per se, but it was better to do so because that put us in a whole different category when it came to life partners. If at least the husband was it, you wouldn't see that the partner wasn't it.*

The intention of parents, and especially of fathers, is for a daughter to find a good candidate. To these parents, 'good' often means with as high as possible a level of education. The higher the level of education of the partner, the higher his potential to be financially successful. If a man makes good money himself, there is less risk of an unequal relationship between the wealthy heiress and her husband. Another definition of a 'good' candidate seems to be that of a man who comes from an old-money family. When a wealthy heiress marries into such a family, her social status rises.

(d) Professional expectations

Studies and academic performance: The differences in expectations regarding studies and academic performance were staggering among the families in our research. Some parents had planned well-defined schooling or study trajectories for their children, going far beyond school performance alone. This was why some girls were made to follow a particular programme or sent to boarding school – so that they could later get the right life partner to bite the hook, so to speak. In some families the standard was to reach a university level of

education, even if the child struggled to achieve that level. One interviewee put it in a way that was representative:

It was a given that I would study. My brother and I both did. I think that if you assume that your children will go to university, you are setting the bar rather high.

A small number of heirs found their parents' academic expectations to be too low. If the child struggled with certain subjects, he or she would immediately get private tutoring or perhaps be transferred to private school. In retrospect, these heirs believe that their parents could have put more pressure on them to do better instead of simply arranging for private lessons or private schooling. Low academic expectations motivated some heirs to go the extra mile to prove that they could achieve more than was believed of them.

Career and work: The parents of our interviewees had remarkably few specific expectations regarding the careers and work of their children. Children could follow their own passion. Where there were certain expectations about career and work, these mostly related to the family business and entrepreneurship. If a family owns a company, there is a big chance that this will affect the children's career choices to a certain degree. Our interviews indicated that expectations for an heir to go into the family business tend to grow gradually. Both the parents and the child grow into the idea.

But there were also families with family businesses which did not expect their children to take on the weight of the company. These parents encouraged their children to choose their own path when it came to work, outside the company. One interviewee said:

It was my father's business and not a family business. He also never brought it up at the time: "If you drop out of school, you'll have to come and work with me…" On the contrary, I was to go and find my own path.

In addition to expectations regarding the family business, expectations of entrepreneurship were mentioned during the course of this study. In certain families of successful entrepreneurs the younger generations were bottle-fed entrepreneurship from birth. Some (grand)parents would go as far as to tell their children that any career path other than entrepreneurship fell nothing short of disqualification. One heir was strongly influenced by his grandfather's ideas:

On my father's side we come from a lineage of entrepreneurs and on my mother's side from an intellectual family. The atmosphere, especially around my grandfather, was that only independent people are successful and the rest are just those who work for others. That was more or less the norm. My father and his generation really took to it as they grew up and they also passed it on to us. So that set the tone and determined to a large extent the choices that we made.

The drawback to parental expectations of entrepreneurship is that not everyone has the talent to become an entrepreneur. For heirs who lack this talent, or who have it in lesser measure, it becomes difficult to accomplish what

is expected of them. Career choices are not determined by considerations of what family members may be good at or what their real passions are. As one heir aptly remarked:

In such an environment, you are driven to make certain choices that aren't always the choices you would have made from the standpoint of who you are, what you know and what you are good at.

Our conclusion is that most parents want their children to focus on making their own life and career choices, without letting these be determined by the wealth of the family. Where there is a family business, the family's wealth plays a less obtrusive role in the choice of work and career. Expectations regarding entrepreneurship are much more difficult for heirs to fulfil because talent and passion determine the outcome to a much greater extent.

6. The pitfall of boundless opportunities

Some parents set no boundaries to the opportunities of wealth. Their motivation for giving their children all types of possibilities in terms of studies, career or hobbies can stem from the fact that they had little or no access to these themselves, or simply because it is customary that family culture not get in the way of children.

Our interviews reveal that unlimited opportunities can have a negative impact on children. This is especially the case when problems are solved with money – for instance, paying for further tuition when a child has already dropped out of school. By solving problems with money and continuously saving the child, wealth becomes a safety net of sorts. One heir talks about the effects of the all-solving wealth of his parents:

My parents should have just told me: "You get an education, and for the rest – go figure it out yourself. Then you can go work at the grocery store." I will say that to my child. Tally-ho. I didn't become happy from it. If I dropped out, they would just give me money and I would go on.

The safety net of wealth means that the financial need to make money and build a career is missing. Of course, this is a potential blow to any sense of initiative. This safety net effect is more likely for unprepared heirs who have access to large sums of money. Some participants in the study had postponed crucial choices in life on study and work. There was family wealth and therefore it was not necessary to graduate and to seek a job. One heir described wrestling with this issue very clearly:

During my whole study time, I seriously wondered why I would actually have to go to work. I have postponed my graduation as long as possible.

Another heir said that he had trouble with his motivation to work when it became apparent that investing earned him so much money (on paper):

I remember that I had a spreadsheet with my investments and at the end of the day I had earned twice my annual salary. As I look back now, I think, for your own ambition, to make something of your career, it is very destructive.

Postponing choices sometimes evolves into avoidance: postpone plans in life as long as possible and concentrate on side issues instead of things that really matter. This phenomenon was described by one heiress:

My sister has a kind of avoidance urge. She is always busy with side issues. Shoes to the shoemaker, a massage, et cetera. For years, she has been trying to set up an art studio. I think: "Is it still not ready?" She defers everything that she actually wants to be doing.

7. To work or not to work?

This research shows that there is a clear link between having a positive role model in the parents and the work ethic and self-esteem in the next generation. The heirs who had worked in only a limited way, or who had sustained a setback in their career, had in all cases not been encouraged by their parents to work. Their family often lacked a role model in the field of work. There was no expectation for the next generation to go to work.

In our society, our profession and those with whom we interact determine an important part of our identity. For the outside world, a successful job and career ensure status. If someone is not working, or only volunteering, outsiders find this a strange situation and difficult to understand. "How does he pay the bills?" is a possible thought of someone who does not know the heir personally. Many respondents said that they suffer from the judgements of the outside world and lower self-esteem. One respondent indicated:

A question like: "What do you do?" Well, you cannot get more annoying to me. I think that is terrible. What should I say I do? Yes, you can say very faintly: "I manage my own wealth." "Oh, you still have to work then?" But of course, I don't say that. Everyone is saying: "I work there and there" and then they are held in high regard.

One heir had not only suffered from prejudice from the outside world; even within his own family, the unhealthy work ethic with which he grew up attracted disapproval. He said:

In the family my little brother and I had a huge image problem because my father did not work. One of the few who did not work. And apparently we were also not very ambitious, so we were very quickly dismissed as losers.

The interviewees indicated that they were happier if they worked. It is good for self-confidence to earn money, regardless of the amount. The heir who has done nothing for his inherited wealth finds that a self-earned euro feels different. Work provides structure in life, offers a possibility of personal growth and spiritual meaning. We call this the extra dimension of work. Unfortunately, this important aspect was not mentioned by the respondents themselves, and the possibility exists that wealthy parents and their children may completely overlook this extra dimension.

8. Wealth education: what every wealthy child ultimately should know and learn

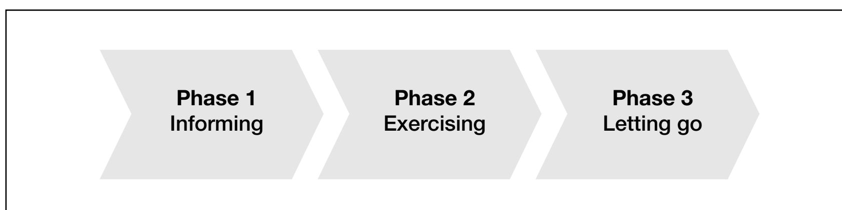
Every child needs to acquire the financial knowledge and skills that lead to making sound financial decisions. Financial self-reliance is the goal of financial education, with an emphasis on learning to handle money matters. A wealthy child needs to learn to make good decisions relating to the family wealth. The offspring will inherit the family fortune, and additional financial knowledge and skills are required to manage this fortune properly.

Becoming responsible for the future inheritance requires more than just knowledge and skills. Learning to talk about money and wealth and the ability to make decisions are skills that future heirs incrementally make their own, with help from their parents. We call this process wealth education. The ultimate goal of wealth education is that every wealthy child becomes self-reliant in handling his or her (future) wealth.

8.1 Three phases of wealth education

Wealth education starts with informing children about the origin, objectives and composition of the family wealth: "What have we built, and what can and should you do with the accumulated capital?" The second phase focuses on practice and practical experience. The final phase is about (learning) to let go by the parents. It involves both letting go of the emotional grip and transferring the financial baton to the next generation.

Figure 1. Guidato wealth education model



(a) Phase 1: informing and a broader perspective of wealth

In the first phase, information about the family wealth plays a central role. Wealthy parents provide information about the origin and objectives of wealth: "Where does it come from and what can you do or what are you allowed to do with it?" Wealth is placed in a broader perspective. Subsequently, the parents provide financial information: "What do we have as a family?"

Each family's wealth has an origin. The stories and events that are typical of the family and the assets acquired are important to transfer. This will show what sacrifices have been made, what risks (grand)parents took and what luck factors have played a role. Current and future generations will receive a good perspective

on the source of the wealth through this history. Our research showed that most of the heirs knew their family history and the origin of the family wealth well. A certain pride about what has been built in the past cannot be denied.

During their upbringing, parents do not want their children to embrace the family wealth and, in some families, even the family name. To feel superior – marked by one heir as "rich-kid behaviour" – because the family is wealthy, or because of a particular family name, did not score points with their parents.

(b) Phase 2: practice, practice, practice

Wealth management is a skill, and skills are developed by practice. Inheriting wealth does not automatically mean that an heir is interested in financial affairs. Indeed, we have found both in our research and in practice that many millionaires have little enthusiasm for wealth management. It is a mandatory task, almost like going to the dentist. The opportunity to practise in a family context, in order to become skilled at wealth management, is therefore not a general habit in most families we spoke with. Nevertheless, based on our interviews, we concluded that parents undertook five actions to prepare their children for their future inheritance:

- donations;
- investments with family members;
- attendance at meetings with advisers;
- family meetings; and
- participation in family wealth matters.

Donations: All families in this study gave cash or shares to their (grand)children during the donor's lifetime. In old-money families, this was done from birth. What is striking is that the learning effect of these donations (in terms of financial education) was very limited for most heirs. One heiress had only one insight from her experience with lifetime cash gifts:

I have learned nothing from the gifts. Well, only the feeling that you have much more than you can spend.

Parents often do not tell the children that they have made a gift. This sometimes leads to comical situations, as illustrated by the following anecdote:

Because we were so badly brought up with money and we were all very bad with financial management, my sisters and I found out that my father had given us a sum. He once said: "You still have not thanked me." "Thanked you?" I asked him. "Yes, for the gift."

In addition to poor communication about gifts, parents rarely explained what the children could do with them. Because most parents did not inform their children how they might use the gifts, children found it very difficult to make decisions. This created insecurity rather than comfort:

If I had made a trip around the world and it was gone, what would have happened?

I did not ask, and my father did not say, but I'm not sure what would have happened.

It is therefore not uncommon for heirs to end up doing nothing with the money. It sits in a bank account and the heir barely looks at the bank statements:

Actually, I've never done anything special. I knew it was there, but I did not know exactly how much.

Many interviewees themselves gave sums to their children. Their experience was that their children did not ask questions about these gifts and had little need to become responsible for the transferred assets. At one point, an heir deliberately handed over the reins to his children:

When my children were 24 or 25 years, after they graduated and really could stand on their own feet, I said, "Guys, I am no longer interested in the financial management, so go ahead."

After the transfer, his children handled their portfolios very differently:

One child still has the total amount and the other spent it all.

According to this heir, his children had to learn how to manage their wealth at some point. It is a learning process.

Investments with family members: These are investments in the broadest sense of the word, ranging from a simple joint bank account to the establishment of legal structures, investments in private equity or real estate. By investing jointly with the family, children will practise under the supervision (or with the cooperation) of their parents. One heir enthusiastically explained how his family and the next generation dealt with their investments:

The investments give the next generation the opportunity to work together. They do not have to make many decisions yet. They are in the process of learning how the roles of shareholder, executive board and management operate. And they find it quite all right. They are all very different characters, but they get along pretty well with each other. And they have to do it themselves. I'm busy enough.

In our research, very few families used this method to educate their children.

Attendance at meetings with advisers: Some parents invited their offspring to meetings with advisers on investments or other areas relating to their capital. At the start, the children were not involved in serious discussions, as one heir said:

I was in high school and joined my dad to visit our private bank to get acquainted with some people. That was about it, you know. It was just shaking hands and getting some insight in my investment portfolio.

In certain situations, heirs were more actively involved in the meetings with advisers because they had a direct interest. For instance, an heiress visited a lawyer with her father:

We consulted a lawyer to find out what it would mean financially if I got married

to my foreign national partner – my rights and obligations if I should emigrate and vice versa for my partner coming over.

Through conversations with advisers, children gradually become familiar with the professionals who have a role in the family's wealth and the content of these technical conversations. It is great when the child makes a little progress at each meeting. In the end, learning is a process that takes place step by step.

Family meetings: Some families organised family gatherings on a regular basis around the topic of their family business or estate. These family meetings were held separately from corporate obligations such as shareholder meetings. The reason for the family to get together can be very practical, in that something is going on, as one heir reported:

Recently I had a meeting with the next generation, led by a consultant, and that was about (the differences in) ownership and the transfer of the estate.

Our research shows that a family meeting in many cases will be held only in emergency situations, such as illness or after the death of a (grand)parent. The purpose of these meetings is very clear: informing all family members. One heiress who had a sick father at the time said:

At one point my father wanted to involve us more actively, because eventually we would inherit his estate. From that moment, several family meetings were scheduled to inform us.

Participation in family wealth matters: Some heirs had been asked by their parent(s) to manage investments. In all cases, these children had an interest in and talent for financial matters. The reason behind such requests was usually that one parent (often the father) had passed away and the child was asked by the surviving parent to help with the financial management of the estate.

Many heirs received shares or certificates in a family business during the donor's lifetime or inherited them from their (grand)parents. The study showed that teenagers gained their first experiences as shareholders in shareholder meetings. The guidance that heirs experienced as young shareholders was very poor. One heir had to find out the mechanics of being a shareholder himself:

At the age of 16, I went twice a year to a shareholder meeting. But what was the very purpose of this meeting? I had no idea. For example, I did not like the experience that other people voted against me. Maybe these other people did not understand me. At one point, my sisters and I got the broader picture, but ultimately we did not talk to my parents about it.

Wealth education and philanthropy: The interviews showed that philanthropy was used in only a very limited way to prepare children for their future responsibilities. Some interviewees were actively involved in

philanthropy, but they did not involve their children in their philanthropic activities. One possible reason is that parents just like to establish a charitable foundation or carry out a project without their children. Alternatively, parents may not sufficiently realise that family philanthropy is an opportunity to get their kids involved. Finally, it is possible that parents do not want to reveal how much money they donate to charitable causes. Were the parents to disclose the amount given to charity, children might unintentionally get an indication of the magnitude of the family capital. This might be a step too far for many parents.

We can conclude that the use of practice as a way to acquire wealth management skills is below par in most families. If Phase 1 – informing their children about the family's wealth – is for many wealthy parents already a step too far, the chances of them giving their children time to practise handling wealth are also limited. Where opportunities were given, these were often too generic to help future heirs to develop their skills.

(c) Phase 3: letting go

The third phase of wealth education is about the parents learning to let go. At a certain point in time, parents find that their children are responsible for (part of) the wealth themselves. They transfer the financial baton to the next generation because they have faith that the children are ready for it. However, some parents have become so intertwined with the assets that they have trouble letting go, regardless of how much confidence they have in their own children. This is an obstacle that the parent(s) must overcome in order to transfer a substantial part of the assets.

Transfer of responsibility: A dominant fear of some parents is that wealth can ruin their children: in short, that they may become arrogant and lazy, with the wrong friends. Parents with such worries and concerns about their children will not be able to let go and transfer the family wealth. First, they must have sufficient confidence that their children are capable of dealing with the family fortune in a responsible manner.

Several heirs informed us that they managed the financial affairs of their children for a long period – sometimes until they were in their 40s. One heir was keen to give his children the responsibility, but they batted back the ball:

> *I'd like our children to be more involved in certain financial and wealth educational topics, and we are doing something in this respect, but to be honest it is all very marginal. The reaction of my own children is: "Dad, can you please keep on managing our affairs?"*

Only in the situation where financial responsibility is effectively transferred to the next generation will the children have the opportunity to develop the relevant financial skills. Otherwise, it will always just be 'dry swimming'.

Parents' identity issues: Some parents feel a great emotional attachment to the family fortune, which thus defines their identity. This sometimes makes it difficult for these wealthy parents to transfer responsibility to the next generation.

As we have previously described, quite a few families transfer wealth to their offspring during the parents' lifetime. If this is limited to annual tax-free gifts or to relatively small amounts compared to the family wealth, the question arises as to whether parents actually let go. What is the impact on their identity when a substantial part is eventually passed on to the children? And how do they feel when their wealth drops below a certain magic threshold? These feelings are often unconscious and form a barrier to success in the final phase of the wealth education process: the emotional release and consequent effective transfer of the family fortune to the next generation.

For parents, looking in the mirror and reflecting on their own experiences can be a starting point for the required emotional release. One heiress reflected on her role and connection to the family business in this way:

> *I am now 50 years old and I find that I cannot easily say, given what has happened, I am quitting my job as executive in our family business. At the same time, I realise: if I want to quit, can I leave it to another person? That is letting go, according to my understanding. Can I transfer it to another individual? Or am I in the end so intertwined with the business, even though I always cried out that I would never work in our family business?*

9. Objectives of family wealth

What can you do and what are you allowed to do with your inheritance? The interviewees' parents had all kinds of expectations for their offspring, as we discussed in section 5. We have not yet described their expectations regarding the family wealth and how the heirs have dealt with this. The big question is what role the family fortune will play in the lives of the next generation. The respondents cited three objectives governing the use of their capital:

- preserving the family wealth;
- facilitating their own lives; and
- sharing and giving back (philanthropy).

9.1 Preserving the family wealth

Almost all parents find it important that their children preserve the accumulated family wealth. The question is how they communicate this message. Our research revealed significant differences between families. In most cases, parents told their children almost nothing and the desire to preserve the capital was communicated implicitly during the children's upbringing. The message that children especially remembered was to not use the wealth for consumption. This is perfectly illustrated by the following quote:

I've always felt that we were not allowed to 'consume' the wealth.

During the children's upbringing, some parents explicitly explained to them about the meaning and goals of the family's wealth. One heir said about the objective of wealth management:

It's a challenge if you get an inheritance. The purpose is to preserve this and pass it on. This is closely related to the way one has been brought up. I also inherited the wealth and try to pass it on in a responsible manner to the next generation. When they use their inheritance for an education, illness, care and better living, then it is not an issue, if done in a responsible manner. Like a good steward, ensure that the wealth is managed in a good way.

'Preservation' and the famous 'stewardship' clearly stand out in his words.

When a family business is involved, the message of preservation is a top priority and is always communicated explicitly. In a family business it is not so much about the value of the company, but rather its history and aspirations for the future. Because of the employees attached to the company, it is a logical idea to pursue preservation. In short, the continuity of the business is paramount and the individual wishes of the heir are of secondary importance. This is summarised in the following excerpt from our interviews:

I am damn sure that this business is something that should continue in the family, that I am just an administrator for a certain period. Yes, I'm a steward of the heritage.

The wish to preserve wealth for future generations is an almost crippling goal for heirs with limited financial knowledge and experience. As they have absolutely no idea how to achieve this important family goal, some of them just ignore their financial matters and hope for the best. During and after the financial crisis of 2008, a few of them became suddenly aware that their lax attitude needed to change. One heiress said:

It always went well, so I thought it would be good forever. Only in the last few years with the crisis have I had a little more contact with the bank. Everyone does.

We have seen in some families that a financially talented family member may pick up the ball and look after the affairs of the untalented relatives. In some cases, these financial high fliers can not only maintain the inherited family wealth, but also increase it substantially. This sounds like a perfect model to sustain wealth, but the drawback is the immense responsibility these financially savvy heirs feel for their untalented relatives. At the same time, some untalented heirs may be unhappy with their overdependence on their sibling.

9.2 Facilitating the heir's own life

Heirs of old-money families are often used to a certain lifestyle. Parents strive to ensure that the next generation can maintain this level. The inherited assets may support their children's goals. It is implicitly or explicitly made clear that there is a difference between expenses associated with sustainable expenditure,

such as on houses, and consumptive expenditure. For the purchase of a house, the family fortune should support the next generation (unconditionally). With respect to consumer spending, there are limits determined by family rules: there are expectations that family members will live within their means, and that expenditures must be necessary.

In addition to purchasing a house, parents facilitate special life events that have a major impact, such as education and starting a business. Children regularly get the opportunity to purchase an enterprise through a friendly loan from their parents. The wealth may also be used to change jobs or to work less.

It takes many heirs a lot of effort to spend (a part of) their inheritance, because emotionally they feel that the wealth is not theirs yet, even when it is in their own name. One heiress had to get used to the idea too:

It took a while before I could enjoy it. I had a wish list and I could have done things earlier, but one way or another I did not.

9.3 Giving back and sharing

The third and final objective in respect of the family wealth is about sharing it with other people and/or feeling a responsibility to contribute to society. Some families have been active with charities for decades, often through their own family foundations. The next generation is familiar with this and aware that this is one of the objectives of the family fortune. If parents are not role models in giving back and sharing, it is more difficult for heirs to pursue this objective at a later stage.

The conclusion is that too often, parents communicate the three objectives for the management of the family wealth only implicitly to their children, which leads to confusion and ambiguity in the next generation.

10. Ideas for (family office) advisers

Most of us have an expert adviser role and focus on technical questions (tax, legal or financial) in our relationships with high-net-worth individuals and their families. A possible challenge for advisers might be how to deal with questions that relate to relationships, family dynamics and personal or group development in the context of a wealthy (business) family. A next-gen might ask you: “How can I deal with the success of my father?” This type of question cannot be answered by giving expert technical advice. This is a coaching question and could best be addressed within a coach-coachee mandate. Needless to say, this requires an additional skillset from the adviser or a willingness to refer the next-generation family member to another person with the required coaching skills.

Intergenerational wealth transfer and the transfer of leadership of a business are emotional topics for most clients. Successfully guiding both parents and children through a process of wealth transfer or leadership change in the family

business is not based on specific legal, tax or financial expertise. It is a 'wicked problem', where families need a skilled facilitator to guide all family members through a process of joint decision making. It cannot be solved by expert advice or a mandate as a coach. The client of the process is a group of people or family members. This is different when you give expert advice: where an individual or legal entity is the client. The facilitator guides and enhances the effectivity of the group. The result of this facilitated process may be a family charter, a (revised) shareholder agreement or a personal development project. The biggest challenge as an adviser acting as facilitator during a multi-generational wealth transfer process is not to come up with a solution for your clients; the solution needs to come from your client(s) and all you need to focus on is the guidance of a dialogue in a group (a family).

An adviser should ideally be competent to use all different mandates: expert adviser, coach and facilitator. Based on the various types of questions, a family office adviser can guide the wealthy parents and the upcoming generation through various stages in their lives and/or business.

The resilient single family office: a developmental perspective

James Grubman
Family Wealth Consulting
Dennis T Jaffe
Wise Counsel Research

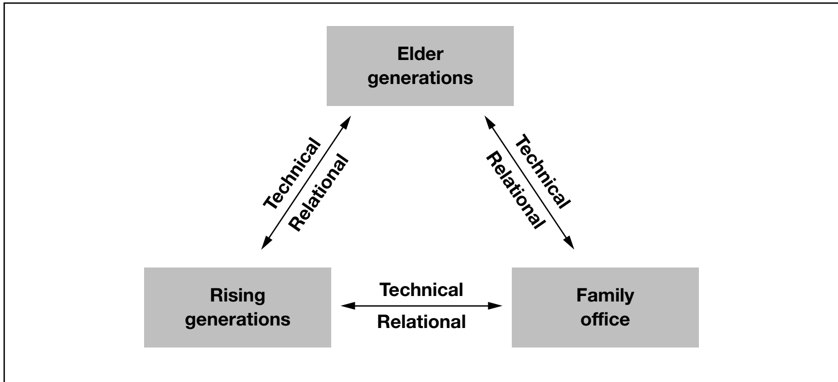
1. Introduction

A cliché in the wealth advisory industry observes, "If you've seen one single family office, you've seen one single family office." The implication is that single family offices, or simply family offices, come in all shapes and sizes with few possible generalisations. Yet family offices are a bit like people – although each is an individual, they all start young, mature over time and respond to ever-changing conditions around and within them. Family offices may vary, but one characteristic is clear: they must constantly adapt alongside their client family across generations.

This adaptation has something in common with a different observation about long marriages: long-term spouses do not have one marriage; they have many marriages strung together in sequence. There are the initial honeymoon years, followed perhaps by the birth of the first child, the addition of more children to the family, major moves or career changes, the death of each spouse's parents and perhaps a major illness that strikes one partner. Making it through each developmental transition takes the skill of resilience – the ability to anticipate and recover from unexpected change and adversity. Some marriages founder on the rocks of early crises. Others make it through multiple stages until they finally encounter a transition they cannot navigate. It takes the right people, the right skills, a modicum of luck and the blessing of resilience to maintain a relationship for truly extended periods of time.

The relationship between a family and its family office also requires development and renewal over time. A more correct observation is that, if you've seen one family office, you have seen that family office at a specific point in its evolution from inception through adaptation on its way to maturity and regeneration. More importantly, you've seen one moment in the inter-relationship among three key stakeholders: the family's elder generation(s), the family's rising generation(s) and the non-family professional executives and/or advisers in the family office.

Figure 1. The three major stakeholders in the extended family/family office system, connected by the technical and relational bonds that must adapt over time



The family/family office system comprises both technical and relational components among each of the three major stakeholders. Technical tasks and services encompass all the financial, legal, business, governance, tax, fiduciary, household management and related activities that the family office provides to the family. The relational component encompasses the complex personal and professional interactions that occur among the players. In a family enterprise, each of the generations also has professional responsibilities to manage along with the normal relationship bonds of the family.

The challenge is balancing these components so that they work in harmony as the whole system grows and evolves. Where there once was only one elder generation and one rising generation, in today's world with extended longevity there is likely to be more than one set of elder or upcoming generations within the family. The family office now has multiple generations to respond to, please, serve and guide.

Emerging research from a large-scale study led by one of the authors (Dennis Jaffe) confirms that successful long-term family enterprises demonstrate balance and harmony among these three sets of stakeholders.[1] Elder generations set a foundation of legacy values and practices for the family along with leadership, mentoring and stability. Over time, these progressively ageing generations must cede power to their maturing adult children and to their non-family executives and/or advisers.[2] The rising generations of younger family members need to

1 See Dennis Jaffe, Susan Massenzio and Keith Whitaker, *Good Fortune: Building a Hundred Year Family Enterprise* (Wise Counsel Research, 2013) and subsequent publications on the Hundred Year Families research project.

2 In many non-Western family enterprises, family offices are staffed exclusively or largely by trusted family members so there is less distinction between the family side and the advisory side. This diagram is more representative of Western-style family offices.

learn, grow and step forward in leadership while respecting the wisdom and experience of their elders and the non-family management serving the family. Family office executives must in turn act appropriately yet objectively as good partners to each generation. The family/family office relationship is not just a service relationship. It is a complex partnership that must survive through many phases, transitions and stresses.

Using this developmental approach, we will examine the common challenges that affect family offices in their dynamic connection with the client family. These include the formation of the family office, including how the family office is conceptualised and constructed; the transition from the founding generation to the next generation in line; the impact of liquidity events; the need to transform and professionalise an existing family office; and the handling of longer-term challenges often occurring at or after the third family generation. We include a brief commentary on the role of culture in family offices as well as tips for families to consider for each of the major challenges.

2. The first developmental challenge: formation of the family office

Family offices originate for many reasons under many circumstances. They commonly develop when the first-generation (G1) wealth founder develops a sufficiently prosperous enterprise that either management of the family's wealth outgrows its legacy advisers or there is a liquidity event – typically the sale of all or part of the legacy family business. Facing significant wealth and complexity, the family decides it needs professional services offering privacy, loyalty, convenience and integration of outside institutional wealth management.

The inception of the family office depends greatly on the nature of the family assets, especially the type, number and legal structures of the operating company or companies that form the bulk of the family's wealth. How the family office is constituted has broad implications for the first phase of the family office's existence. Many factors need to be considered:

- Founding structure and staffing: Family offices are often an outgrowth of the operating company or other enterprise asset with repurposed staff of varying levels of family office expertise and skills. They may or may not be the right people in jobs that may or may not be well defined.
- Service focus and mission: Much depends on the degree to which the family office is narrowly focused on investment management for the family's assets or more broadly based services for the family.
- Governance: Crucial differences follow from whether the family office is nested under the purview of a holdings board, has standalone oversight by the founder or reports to a family council. Small, informally constructed family offices may also struggle with the demands of growth as more staff come on board over time.
- Cultural orientation, jurisdiction and legal structure: Culture and

jurisdiction influence whether the family office is founded in civil or common law, which in turn influences ownership, level of transparency, orientation to the patriarch/matriarch, trust structure (or the absence of such) and the inter-relationship with the family.

3. The role of culture in family office development[3]

Family offices predominate in many Western cultures such as Northern Europe, North America, the United Kingdom and Australia (what we have termed 'individualist' cultures), but are now accelerating in non-Western cultures and emerging economies. Many of the developmental principles outlined in this chapter vary significantly for families and family offices in East Asia ('collective harmony' culture) or from Middle Eastern, Latin American, Southern or Eastern European and South Asian ('honour') cultures. Some key differences include the following:

- Leadership and authority: In collective harmony and honour cultures, elders' views carry much more authority, are more binding and hold the attention of the family office more tightly. Non-family executives and rising generation family members must frame ideas and suggestions with great respect and deference, as must advisers who offer recommendations or Western-style solutions.
- Transparency: Honour cultures are premised on secrecy about family resources, while collective harmony cultures often compartmentalise information sharing. Family office reporting may be sharply restricted compared with individualist expectations of openness and free access by family members. Attempts to introduce transparency may be met with scepticism and implemented cautiously.
- Communication and collaboration: In non-individualist cultures, shared decision making and outspoken communication by anyone other than leadership are rarer. Independent advisory boards and policy-setting councils can be viewed as implicitly questioning the elders' authority. New ideas are more typically shared in private or not at all.
- Trust and the role of non-family members: In harmony and honour cultures, few outside the family may be trusted to handle information or offer input. Advisers are likely to have highly compartmentalised knowledge of the family's business holdings or plans. Family offices therefore are usually staffed by family members, with varying levels of competence or industry knowledge. The transition to accepting non-family advisers in key positions is a major step in professionalising the family office for the outside world.

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3 For an extended explanation of how these dimensions may be culturally determined, see Dennis Jaffe and James Grubman, *Cross Cultures: How Global Families Negotiate Change Across Generations* (Family Wealth Consulting, 2016).

- Gender equality: Valuing women as resources for family business and leadership has been a largely individualist concept, emerging more recently in collective harmony and honour cultures. With the role of women changing in the rising generation, families and family offices are under pressure to include daughters and sisters alongside men in positions of responsibility, authority and power.

These and related factors alter the developmental paths of collective harmony and honour culture family offices. External and intra-family pressures towards greater transparency, egalitarianism, directness and shared decision making are now challenging these systems more than ever.

4. Influences on the initial development of the family office

The G1-designed single family office is strongly shaped by characteristics of the founder's personality and character, his or her needs and objectives, and what he or she believes are the needs of the family, viewed through the lens of his or her perspective. The adequacy of its structure will depend on his or her breadth of knowledge about family office design as well as the blind spots, prejudices, beliefs, knowledge gaps and biases he or she brings to the process.

The initial family office design is also influenced by the nature of the family – including, for example, whether the family is closely or widely dispersed geographically, whether the family is tightly or loosely affiliated emotionally, whether there has generally been a history of fairness or injustice in family governance, and whether the family has had a strongly collective orientation or an orientation to branches, households and individuals.

On a practical level, these elements influence two important aspects of the nascent family office. One is the job description and hiring for the initial family office chief executive. He or she is most often chosen as a match for the founder, the founder's vision and the circumstances existing at the family office inception. Too often, this can lead family office executives to assume that they are working primarily for the founder, with less clarity about their responsibility or relationship to other family members.

These family office executives may be perfectly capable of spending their days herding investment managers in sync with one dynamic entrepreneur. Founders often intentionally hire family office executives with more tactical skills than strategic thinking. Former C-suite experts in finance, operations or investments may rely on their technical strengths when the position actually requires generalist thinking, vision and significant emotional intelligence (EQ) for the relational side of the job. They may be less suited to the diplomacy, assertiveness and negotiation skills required to work with a complex group of G2s and G3s in subsequent years. The family office leadership position then is filled initially with a new hire, but unfulfilled by the wrong hire.

The other impact of initial family office design is in preparing for eventual involvement with future owners and with beneficiaries of multi-generational trusts. Aside from the founder's vision for the family, the family office will need to interface with the rising generation, their spouses and committed or cohabiting partners, and other relatives. Some have ownership shares; some are beneficiaries of family trusts; and some look forward to one or both of those roles in the future. While families in certain jurisdictions use trusts minimally, in many Western and non-Western countries trusts are central to the family's wealth and business assets.

Family office executives often either are trustees of the family's key trusts or interface directly with trustees. When the trusts encompass ownership shares and wealth for the rising generation, the trustee occupies a significant position of authority with the family. As Hartley Goldstone, an industry expert regarding multi-generational trust design and administration, has suggested, family office executives tend to focus on their responsibility for wealth oversight but may neglect their duties to inform and support the needs of family beneficiaries:

> *Trustees cannot expect to have an exemplary relationship with beneficiaries anchored in quantitative outcomes alone – no matter how good those outcomes are. It's spending a sufficient amount of time on qualitative matters that brings about flourishing relationships.*[4]

Newly formed family offices may check all the correct boxes concerning shareholder and trust administration from a technical standpoint, but be inexperienced with the human touch required on the relational side.[5]

5. Required – a respect for complexity

Many families underestimate the complexity of designing a well-run family office. The family forms an office based on what it thinks it needs rather than what it really needs. Families then proceed to build the family office to specifications based on an incomplete or inaccurate vision. Like marriages formed more on fantasy than reality, the initial relationship of family and family office eventually deteriorates due to shattered expectations or unrealistic plans. What are needed – but most often skipped – during the inception phase are a solid needs assessment, definition of roles for each staff member, and clarity of mission and responsibilities for family and non-family leaders.

Implementation tip: begin well, hire well

There follow some tips when embarking on a family office:

- Begin with a careful needs assessment and clarification of roles and

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4 Hartley Goldstone, "Family trusts that preserve family and preserve trust", *The International Family Offices Journal* Vol 1(6), December 2017, p23.

5 The current growth of the private trust company is a reflection of families' increasing sophistication in wanting to secure and control the relationship among family, family office and assets, with the elder and rising generations fundamentally affected.

responsibilities. Survey the full range of financial, legal, jurisdictional, trust, family, tax, governance, cost, staffing and philanthropic needs that the family currently has and may be likely to need within a half-generation.

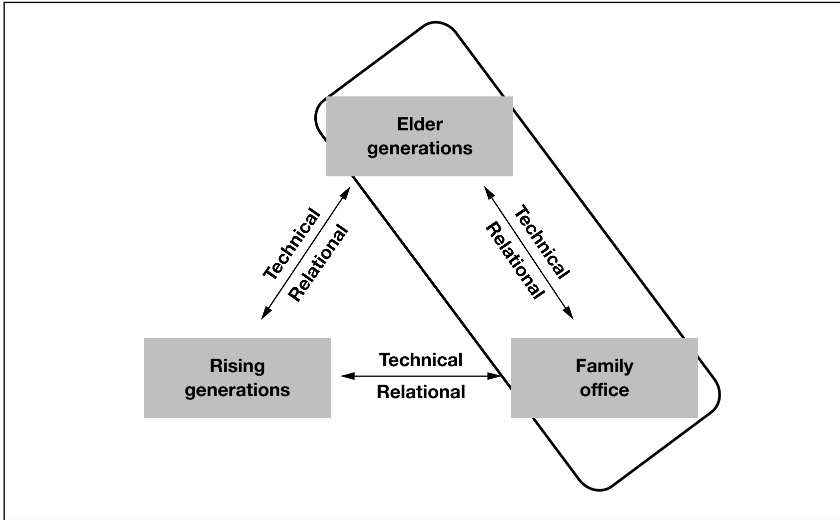
- Use a well-established search firm and let it help you define what you need now and are likely to need in the near term. Avoid being penny-wise and pound-foolish on compensation. If your budget is too tight to attract the people you truly need, re-evaluate whether you may be better off with a multi-family office than the pleasant luxury of a single family office.
- Hire a family office leader with as much EQ, vision and strategic thinking as you can find. You can always add specific expertise to the team later if necessary.
- Define the mission and purpose of the family office carefully, seeking input from the family. If the family is inexperienced with significant wealth, get input from appropriate consultants to help educate the family so it can make informed choices at this crucial early stage.
- Make clear decisions on what the office will do initially, what it will not do and what it might do within at least 10 years. Like a skilled architect, lay out the foundation not only for the current family, but for likely expansions as the family grows. Look beyond the present to reasonable estimates about the future and plan accordingly.
- Create a charter and periodically compare the family office's strategic direction to its original mandate. This may highlight when the family office is drifting from its intended purpose versus outgrowing its original design.

6. Developmental Challenge A: the generational transition from G1 to G2

Hand-offs from one generation to the next are often difficult transitions for a family enterprise. The stakes are high and the process is complex. This is where family offices need to be most far-sighted and strategic. A good family office leader can help steady the family while the transition occurs from one guiding hand to another.

Many family offices stumble at this first major transition from the founding generation to the next generation. The family office is, if not created wholly in the founder's image, certainly marked by his or her having formed the office. The initial family office CEO or executive director may have been G1's most trusted adviser or present from the inception of the operating company. He or she may be so strongly aligned with the founder that all decisions are either run by the founder or interpreted through the lens of "What would the founder do?" They also may be a conservative voice, advocating for what the founder is asking and not proposing major changes. The stakeholder alliance may therefore be overly focused on G1 and the family office.

Figure 2. Overly strong alignment between G1 and the family office during the founding years of the family office



Eventually, age, disability or retirement leads to the founder's departure and the entrance of the next cast of characters in G2. This cast may consist of experienced actors, rising stars, passive extras or weak understudies. Most often, G2 is a mixture of characters, yet all are the clients of and overseers to the family office. Many family office executives who were perfectly matched to the founder fail at this very first transition, much to their surprise and dismay. They underestimate the degree of resilience needed to realign their relationship with the family.

Many family office executives also misinterpret their responsibility and alignment with the family at this juncture. In the transition from the G1 founder, a family office executive may view his or her ongoing responsibility to be to the family assets, not the family. He or she may see himself or herself as the legacy caretaker of the founder's achievements and financial capital on behalf of the family, much like the founder may have seen his or her own role. This assumption places the family office executive in a paternalistic role, as if the family office assets were his or hers to steward for the good of upcoming generations.

This stance is short-sighted. It does not inform, educate or engage members of the rising generation for their eventual succession to positions of oversight. The family office executive may in fact not be prepared for the next generation to become his or her bosses.

Even if the rising generation is not yet ready to assume positions of leadership and decision making, the family office executive must always remember that the family owns the assets and ultimately must grow into their

management. Otherwise, one of two outcomes may occur. One is that G2 withers into passivity and dependency, with long-term negative consequences for the family enterprise. The other is that G2 chafes under paternalistic control and eventually revolts against the family office, ousting its leadership. Both outcomes represent significant risk for the long-term health of the system.

Implementation tip: anticipate and actively support generational transitions

- As elder generations approach their 60s and 70s and rising generations grow through their late 30s, foster cross-generational conversations which incorporate family office executives in the family's transition plans. Prepare and engage each rising generation in planning for the future.
- Initiate leadership assessment and coaching for rising family leaders. Up-and-coming leaders will invariably have some strengths and some gaps or challenges. Use the family's resources to foster leadership skills, strengthen governance systems and address troublesome family dynamics that may derail the transition.
- Allow the family office to be a voice of reason for family elders struggling with real or perceived inadequacies on the part of their successors.
- Family offices should be prepared to re-orient and adapt to the new leadership. Each generation will have different expectations, make different mistakes and require a fresh approach from the office. Family office staff overly aligned with elder generations should be prepared to show that they can adapt or be ready to be gone.

7. Developmental Challenge B: managing a liquidity event

The sale of a major asset of the family enterprise creates a complex problem requiring intensive action by the family office. On the technical side, a liquidity event can demand the full attention of the office and its leadership for the period before, during and immediately after the sale. What may be missed is the impact on the family and therefore eventually the family office.

The event thrusts the family into a new position of significant liquid wealth – a stress in itself. Many families which procrastinated over the creation of financial education programmes are unprepared for the tangible wealth now cascading through branches and households. Without good financial skills commensurate with the liquidity now available, much damage can occur quickly.

More importantly, the sale of the enterprise's first operating company has inordinate meaning for the family's identity, relationships, heritage, legacy, position in the community and cohesion for the future. It may have been the glue that held the family together, for better or worse. The disruption may also be experienced very differently by elder generations, rising generations and various family branches, upsetting whatever equilibrium may have existed to that point.

Liquidity events tend to unmoor the family from many of its anchoring values

and reference points. On a practical level, the family office is faced with new pressures to manage increased assets, excess spending, requests by beneficiaries for increased distributions and a host of other accelerated demands on staff time and service. All of this occurs while the family loses at least some cohesion and group identity. Without proper advance reinforcement of skills, values, family identity and governance, families and their family offices can find that liquidity events mark the beginning of a new phase of family discord and dysfunction.

Implementation tip: keep your eye on the family before, during and after liquidity events

- Do not procrastinate over financial education programmes despite their seeming to be low-priority activities. The greater the success of the family enterprise, the more likely it is that an event will arise demanding good money skills on the part of the family.
- Create opportunities for the family to mark liquidity events emotionally. Attend to the family's needs at this moment in its heritage. Anticipate a range of reactions, some of which may feel neither appropriate nor acceptable, yet are real.
- Help the family to develop traditions or rituals that acknowledge the transition and capture the most cherished aspects for its legacy.
- Anticipate that, like the family, the family office will be fundamentally different once the event has passed. Strategise and plan accordingly, in concert with the family's leadership.

8. Developmental Challenge C: the professionalising and maturing of the family office

G1 to G2 transitions and family liquidity events commonly precipitate a host of secondary adaptations that stress an established family office. With a larger number of branches, households and investments to manage, staff encounter an escalating burden of services that go well beyond their original mandate to manage just the family's assets. There are also increasing demands to serve the family's growing social, philanthropic, intellectual, human and spiritual capital, well beyond its financial capital.

On the family side of the relationship, G2 may be embarking on the formal structures and processes of governance as they either see the need or learn that they should implement such structures and processes. What the founder executed casually now needs to be made explicit and formalised for smooth operation of the family. The family office then finds itself having to collaborate with a family council and/or family assembly, complicating the cosy collaboration it enjoyed with a single leader or board. With an organised family council come requests for the family office to implement family education plans, assembly meetings, rising generation training, career counselling for 20-somethings and a host of other activities not contemplated by the founder.

The ascendance of G3 brings even more changes. Less influenced by the original family patriarch and matriarch, their preferences or even their values, G3s in leadership may also feel less constrained by the wealth creator's wishes. Their presence now as the adult generation in the family challenges the family office to answer important questions of identity and attachment:

- Who is the client?
- How are the family and the family office connected?
- How close to each other will this relationship be?

As in marriages, the relationship between family offices and their families must be periodically renegotiated and upgraded to fit current circumstances.

9. Updating past designs for current and future needs

At the same time that the relational complexities are growing, many family offices arrive at a juncture where issues of cost, purpose, function or leadership require re-evaluation of the path ahead. Should the family create a private trust company? Change jurisdictions? Spin off management of a distant family branch to a regional multi-family office better qualified to handle its needs? The choices too are difficult, ranging from whether the family office should continue on its own path, merge with others to join or become a multi-family office, or cleave off services or even family branches.

At this point the family office may become overburdened and dysfunctional if it does not undergo redevelopment. It must progress from the founder's vision to being able to serve many masters effectively.

When the family and family office arrive at this transformational juncture, the role and function of the CEO are 'mission critical'. He or she must appreciate the options for moving forward, share them coherently with the family, listen to the family's reactions and thinking, and offer practical – even disruptive – alternatives to evaluate. The CEO's sensitivity to the family's needs today and in the future, assessment of their importance and knowledge of how to prioritise implementation are all crucial. The CEO needs to function as a collaborative facilitator as much as a problem-solving adviser. Ultimately, the family's respect for the CEO and his or her strategic thinking will be a fundamental part of embarking on the best way forward.

Likely outgrowing its original design, the family office must take the developmental step of remaking itself in a more efficient way. By undoing the flaws in its inception and professionalising its services to fit current and future needs, the family office can ensure it will stay viable and strong for the next phase of its marriage with the family.[6]

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6 Thanks to Laurent Roux of Gallatin Wealth Management and the Willow Street Group (Wyoming) for some of the insights and language contained in this section.

Implementation tip: broaden and professionalise the skill-set of the office

- Engage in careful strategic planning at this stage. Reassess the needs of the family, the family office and the external environment with a willingness to redesign based on current and future conditions.
- The job requirements and skills for a later-stage family office executive demand greater EQ skills. Search for a well-rounded executive more than a classic chief information officer or chief financial officer individual.
- Ensure that family office staff understand, embrace and know how to interact with active family governance. Otherwise, the family's needs will increasingly outstrip what the family office can manage.
- Ensure that family policies and procedures are in place to create consistency and fair dealings within the family over time. Reduce ad hoc decision making.

10. Long-term developmental challenges: dispersion, disruption, dissension

Just as job changes, births, deaths and economic setbacks strain marriages, developmental challenges create predictable stress over the long journey together of family and family office. Three of these include the following.

10.1 Globalisation of the family

In the modern global environment, ultra-high-net-worth families typically plan for children to receive educational, career or business training in faraway lands. Operating companies send family members to foreign cultures to manage divisions or establish new ventures. Marriages now are as likely to be cross-cultural as they are to be interfaith or interracial. Family offices are often reasonably adept at navigating the legal, residency and tax implications of these choices. They may be less ready for the transformation of the family into a broadly multicultural, multi-jurisdictional system. Family offices must develop cultural intelligence[7] or risk being caught off-guard by the leadership, decision-making and communication stresses that can occur.

10.2 Generation-long shifts in the investment landscape

Family offices born during good times may navigate periodic market corrections using seemingly well-crafted investment strategies. These investment approaches may prove less than adequate during major bear markets, as recent history has shown. They may also lack skills for handling a panicked or entitled family used to living on rich returns. Alternatively, fiscally conservative family offices founded with excellent risk management during a deep recession may find themselves obsessed with 'fighting the last war' of economic adversity.

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7 Dennis Jaffe and James Grubman, *Cross Cultures* (2016).

They may miss the growth needed to replenish the family's wealth during prolonged bull markets. The common feature is that a family office born during a particular era may be a child of its circumstances. It will need to mature in its investment skill, become resilient and deliver consistent performance over generations for the family depending on it.

10.3 Pending G4/G5 generational era

Families successful enough to make it to at least G4 often find themselves facing major evolution or revolution. The reasons include the following:

- The family has survived far enough beyond the founding generation that the values and principles present at the beginning no longer apply or feel relevant;
- Family branches may be multiplying beyond the family's ability to sustain them financially. There comes a point where the tree may need to be pruned or split into branch entities that each survive on their own;
- Diverging interests may create rifts in ownership or investment direction, particularly between those relying on dividend distributions for income and those wanting to grow or support the family businesses;
- The world will have changed radically after 125 or more years, requiring fresh thinking and updated methodologies; and
- Family dynamics, addictions, lack of good governance or unfair treatment of branches by leadership or the family office itself may reach boiling point more than a century after the family's initial success. Real or perceived unfairness can lead to family conflict and litigation where the long-term interests of the family may be forgotten.

Upheavals in family governance are not uncommon in the G4/G5 era. A family office designed in a prior era and beholden to elder generations can easily underestimate the pressure build-up occurring within the family. The executive leadership can then fail to recognise the legitimacy of the adaptations being requested (or demanded). It becomes the voice of the past that needs to be replaced. The family must find a new way forward to match its current and future circumstances, not just its heritage.

Implementation tip: foster a learning mindset

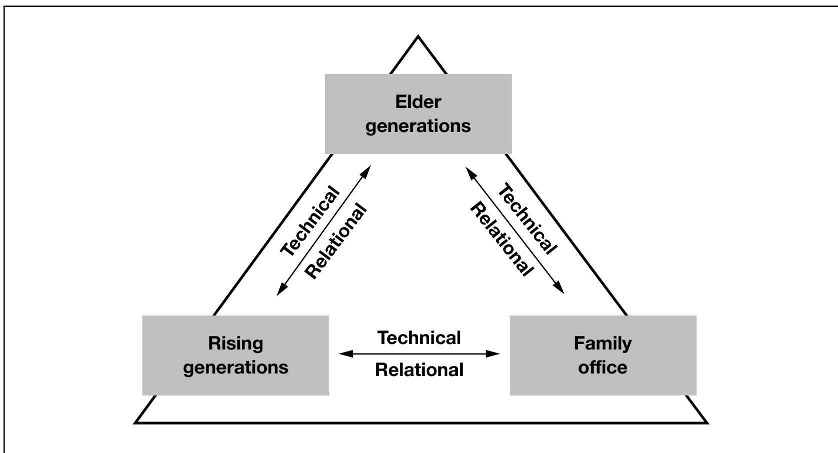
- Accept and anticipate that change is natural. Maintain a learning mindset within the family and the family office, keeping up with important trends and best practices.
- Consider implementing an advisory board (selected for diversity and experience) to help provide fresh viewpoints and input.
- Through peer conferences and informal networking, stay current on topics within and outside of the family's experience and comfort zone.
- Resist the insularity that absolute privacy can breed. Be willing to seek

out good expertise at times of stress or transition, avoiding the temptation to see each new challenge only through the lens of the past.

11. Developing a resilient family office

An essential function of the family office is to support the family in a way that both responds to and guides the family's trans-generational journey. It is an interactive, delicate dance, with the family office sometimes leading, sometimes following, but always connected. As Angelo Robles, founder of the Family Office Association, remarked in his book, *Effective Family Office*, "The adaptability of an SFO contributes to long-term sustained greatness."[8] A balanced and resilient relationship among elder generations, rising generations and the family office can withstand successive developmental challenges over extended periods of time.

Figure 3. Balanced, adaptive and resilient relationship between the family/ family office stakeholders



Working alongside a complex family across decades, even generations, requires constant attention to the pacing, development and path of the family and its needs. It is this requirement to match the constant evolution of the family that family offices must keep in mind.

If you've seen one family office, you've seen that family office at a particular stage of its development, just like many others. Adaptation is the key. When a family office is adaptable, experienced and integrating well with the family and the family's heritage, everyone is well served and the family office prospers.

8 Angelo Robles, *Effective Family Office: Best Practices and Beyond* (2017), p20.

Portions of this chapter are drawn from materials written by the first author for an event for Canadian single family office executives. The authors wish to thank multiple reviewers for their thoughtful remarks and suggestions, including Jay Hughes, Barbara Hauser, Richard Boyce, Laurent Roux, Angelo Robles, Matt Wesley, Kathryn McCarthy and Hartley Goldstone.

The lifecycle of the family office

Leslie Voth
Pitcairn

At its best, a family office works at the intersection of wealth and family. It focuses not only on achieving targeted financial results for its clients, but also on helping them to understand how to use their wealth as a source of both individual strength and family connectedness. Yet many family offices spend far more time focusing on financial needs, rather than including the very real family requirements that can affect their long-term viability.

Families that are effective in creating a positive interplay between their family and financial issues do more than 'preserve' their wealth; they achieve the ultimate goal of every family: sustained wealth progress, or what Pitcairn calls 'wealth momentum'.

Like all organisations, family offices are affected by changes over the course of time and must evolve with those changes or lose their effectiveness. To survive and succeed, the office must embrace innovation at every level of the family office; commit to an integrated approach to managing the family's wealth that accounts for all potential needs, both financial and non-financial; and engage in consistent communication and education with other family members as they transition from one generation to the next. When families prioritise these three issues – innovation, integration and communication – family offices are in a much better position to succeed.

I. The evolution of the family office

At its outset, the typical family office is usually shaped around the needs of the founder – the patriarch who is the creator of the family's wealth. These founders normally expect the office to coordinate investments and philanthropic activities, and to manage the acquisition of assets such as real estate and art. The family office may also provide personal accounting, legal and lifestyle management services. Whatever the exact details of the founder's requirements, the sole purpose is to serve the needs of the family. And of course, as the wealth of a high-net-worth family increases, so too does the extent of the family's needs, placing greater responsibilities on the family office.

Major changes invariably begin to occur when the family makes the transition to a new generation. During this transition, the family office team

must serve the needs of more than one generation and must adapt to the needs of each family member's household, even when those needs differ greatly from individual to individual. This is where a family's wealth momentum is most likely to hit a roadblock. One of the most important tasks of the family office during this period is to ensure that the next generation understands what it is inheriting – whether that be partnerships, foundations, private equity structures or the family business – since it may well be getting a more complex and illiquid wealth structure than the previous generation dealt with. Education and communication are thus the key to empowering good decisions.

In some cases members of the next generation may ask whether there is a reason for the family office to stay intact. They may question whether they need the same services as their parents or grandparents, whether they want to continue paying the fees, whether they want more (or less) income than their predecessors or whether they want to give the wealth away.

Obviously, the family members need to come together to develop a shared vision for the future. A positive decision to keep the services of the family office is more likely to be made if the office can demonstrate that it can successfully serve multiple generations. This means fostering transparency and open communication, choosing financial advisers who are right for the family and making a commitment to educate and mentor young family members as they mature into decision makers.

There are other key questions, too, such as: what is the best way for many decision makers to work together and how does the power of decision making get shared and then transferred across generations?

Ideally, the family office will create an open dialogue in which each family member feels empowered to contribute opinions and take part in decisions that keep the family intact and financially successful over the long term. The goal is a structure that will help the family office to continue meeting the family's evolving needs.

2. Building wealth momentum

Wealth preservation is always a major goal for both the family and the family office. However, preservation typically focuses on achieving short-term financial results. When families think about building wealth to sustain multiple generations, those which are successful look long term, beyond the financial results, addressing family governance structures, interpersonal issues and communications challenges to develop these plans and then carry them out. Family members will go through some of the hardest discussions that they will ever engage in, because inevitably there will be different points of view and conflicts of opinion. Nevertheless, this process will provide them with the means to define individual roles and iron out the ways in which the different generations can work together.

For the patriarch, this will usually mean giving up a degree of control – a development that can present challenges. But if the result is to instil future generations with the confidence they need to make critical decisions and even make their own mistakes, the process will put them on the road to sustainability.

It is a powerful experience when the senior leaders of a family agree to assume the roles of mentors as they step back and let the next generation take charge. Putting aside one's own needs and accepting the needs of the family as a whole can be difficult, to put it mildly; but it demonstrates a true desire to see the next generation thrive. That is why these discussions should begin as early as possible. In fact, the development of a good transition plan can stretch over a few years. During this long-range planning process, the family office should be run just as a business would be, while carrying out its obligation to help create a shared vision for the future.

As the plan moves forward, it will be necessary over time to consider changes. For example, there may come a moment when some family members no longer want their affairs to be managed by the family office. Understanding their reasons for wanting to leave will be critical for the family office if the goal is to preserve the family as a whole.

There are various reasons why a family member might want to disassociate from the family office or even to dismantle it entirely. One could be the administrative costs, which may seem onerous. There may be resentment if the patriarch has structured the family office as a top-down operation that leaves the next generation with little or no say in decisions. And sibling rivalries, or at least sibling disagreements, are often a crucial factor. Finding a way to keep family members from falling out with one another and hurting their own best interests by dissolving the family office is often not an easy task.

This is where innovation comes in. Many of these conflicts can be avoided at the outset when the family office is set up if the first generation avoids locking it into a rigid mindset. Future generations will have their own issues, needs and ways of thinking, so it is important not to stay wedded to one patriarchal way of doing things. Instead, when striving to achieve wealth momentum, it is always good practice to begin with a multi-generation mentality.

3. When the transition stages begin

Family offices, like the families they serve, go through changes too; it is a similar evolutionary process.

A family office sits at the centre of a wealthy family's universe. Normally, its primary role is investing the family's collective wealth. When done successfully, this expands wealth for all the family members in ways they could not achieve as individuals – for example, by allowing more risk taking. In some cases it also

spurs family members who might otherwise focus strictly on the family business to take up exciting new interests. In any case, there is a greater pool of assets in play, with top professionals overseeing the investments.

The family office inevitably expands with the growing wealth to add alternative structures, new partnerships and other useful activities. When the wealth reaches a certain level, ancillary services are often added, including estate planning, timely bill payment, tax accounting and real estate management. As financial affairs become more complex, most family members usually want these matters handled through the family office.

But as the family grows, different needs arise and these needs change with time. This is when the family office's transition to a new phase becomes an important concern. For example, collective investing in the old way may no longer be acceptable because some family members want more of a say. The very existence of the family office may therefore be called into question.

When that happens, there are three possible outcomes:

- The family office may be restructured into a very different kind of operation;
- It may be merged with another family office; or
- It may be dismantled altogether. When an office is dismantled, a family's wealth momentum is almost always halted.

4. Restructuring: the Pitcairn story

The history of Pitcairn offers an instructive example of how a family office can achieve wealth momentum.

When the three Pitcairn brothers decided to create a family office in 1923, the goal was to simplify their lives. The family had amassed enormous wealth in the early part of the 20th century under its Scottish immigrant patriarch, John Pitcairn – a passionate entrepreneur and private equity investor who ranked among the financial giants of his time, along with the Rockefellers and Carnegies. One of Pitcairn's most famous investments was in a formula for plate glass that was so successful it led to the creation of the Pittsburgh Plate Glass Company (PPG). Following his death, his three sons wanted a family office to manage their wealth so that they would be free to explore their personal passions – architecture, theology and aviation.

The brothers saw the value of assembling all their advisers under one roof to coordinate the different aspects of their lives, including the management of PPG, which continued to flourish; the management of their private investments; the accumulation of personal assets (eg, real estate, aircraft); support of their philanthropic initiatives; and lifestyle management services.

As the Pitcairn brothers transitioned to the next generation, they selected an in-law as the new leader of the family office. He was a strong executive who, in keeping with the management style of the early years, centralised most decision

making, supported by a small board made up of key family members. He put together a professional investment team to give the family access to institutional investing opportunities. The team built good relations with the family and produced outstanding results over 30 years. Senior team members were even encouraged to co-invest with the family, which motivated them to stay with the family office as they built their own wealth. Over the years, however, this also led to a culture of entitlement and resistance to change.

Meanwhile, the family was getting bigger and individual household needs were changing. A group of Pitcairns did not want to be tied together by commingled, illiquid assets. The only way to provide an exit was to liquidate the holding company, including the legacy investment in PPG. In 1986 the liquidation was completed and the family created a new private trust company. Simultaneously, they decided to convert the family office into a multi-family office.

We can learn as much from things that do not go well as from things that do. The lesson for the Pitcairn family leaders was that they needed a succession plan for key positions in the family office, which to this day is updated every alternate year. In addition, the leaders adopted a policy called 'free association', which allows family members to leave the family office with their trusts, even if the trust instruments technically do not allow it. That has proved to be a successful formula for maintaining family ties while allowing those individuals who want to go in their own direction to do so without creating conflicts.

Once the multi-family office was established, a new family leader committed to transparency and open communication took charge. He recognised that while the old command-and-control leadership had produced solid results for many years, it also discouraged the innovation and creativity that are critical to success in today's world. Equally important, the next generation of family members and employees did not respond well to top-down management that just parcelled out benefits. They wanted to understand what was going on and they wanted a say in how it happened. Transparency was not only desirable, but necessary.

All these changes over the years have led to a very different kind of structure at the Pitcairn family office, yet the positive momentum that the family started with nearly 100 years ago remains intact. As the current leader, I carry on the policy of transparency and open communications established by my predecessor while operating the office as a forward-thinking business and incorporating the best management techniques. Our goal is to use strategic thinking and continuity planning to ensure our sustainability far into the future. Pitcairn is a classic example of a successfully restructured family office.

5. Partnering with other family offices

The second possible outcome for a family office in transition is to merge with another organisation. There are several reasons why this may be the best option to pursue in order for the family to maintain its wealth momentum.

Not every family office has the capacity to offer a full array of services. In some cases, the office may have expertise in some specific areas, but must look outside to meet additional needs such as investment advice, administrative capacity, customised education or fiduciary services. In these situations, a family office may choose to partner with another entity, such as a multi-family office. This enables the management team to concentrate on business affairs while the new partner helps to manage the added family needs.

Take the example of a family whose patriarch passed away unexpectedly. He had always managed both the family business and his family's personal assets through its family office. The family office also handled personal tax compliance, insurance, estate planning and household administration. The significance of the patriarch's death was much greater than his wife and children could have imagined, since no family members were involved in the financial affairs of either the business or the family office. Most of the family's assets were maintained within the holding company to support the growth of the business.

This meant that none of the individual household's needs were considered independently of one other. Everything was done collectively, which meant that the adult children did not have a solid understanding of their financial pictures. Unsurprisingly, after the patriarch's death, they began expressing a desire for greater control of their portfolios and an end to the family office's centralised control over their families' financial affairs.

The new president of the company, to whom the patriarch had given just about all of his business and financial responsibilities, agreed that a new governance structure was needed. He also saw the need for individual family members to take responsibility for their households. On the recommendation of a business consultant, the president brought in a multi-family office to serve as an external chief investment officer.

Financial statements and projections for each family were created. All of the adult children were given the tools to make their own investment decisions. Forecasts were made on the business's capital needs over the next 10 years. The multi-family office – working collaboratively with the family members, the president, the consultant and the family council – determined what each household needed to maintain its lifestyle over the next 10 years.

What arises from this process of merging the original family office with a multi-family office is future stability and growth, with individual family members now having a voice in their own financial futures.

6. Dismantling the family office

There may come a time when a family decides that it no longer makes sense to keep the family office. Perhaps a new generation of family members concludes that the office does not serve any meaningful purpose in their lives. Perhaps the

wealth of the family has been depleted and the cost of the office can no longer be sustained. Or the Dodd-Frank regulatory changes of 2010 in the United States that sought to clarify what constitutes a family office might lead to the dissolution of an office that cannot meet the standards.

One example is a family office that had been around for more than 50 years, but was tied to an investment scandal that had significantly reduced the family's wealth. The scandal led family members to question the existence of the office; and since the office had been created by the patriarch and matriarch to meet their own needs, the children concluded that there was no point in funding it any longer.

It took two years and a well-crafted transition plan for the family office to be completely unwound. There was a lot involved: disposing of real estate, artwork and furniture; scanning every record; building a website so that the family could easily access everything; and reviewing the long-serving staff. One year was spent conducting the analysis and making tough decisions. The second year saw the implementation of the plan.

What steps can a family office take to avoid being dissolved?

In some cases, the fate may be unavoidable – after all, it is the family that ultimately makes the decision. But the solution is to focus constantly on transition planning so that the office always keeps current with changing family needs. The family office must be in sync not only with the founder, but also with each succeeding generation. The key is good planning.

It is not very different from strategic planning for a business. Typically, one would map out a three to five-year strategic plan, test it, keep it up to date and try to anticipate what might be just over the horizon. In the case of family offices, the concept is the same: get the family and the office together to do a SWOT (strengths, weaknesses, opportunities, threats) analysis. Ask questions such as the following:

- "Where will we be in five years?"
- "Are there employees at the family office who need to be replaced?"
- "Is there anything we're not doing that we should?"

Part of the process may be getting the patriarch to think about a future that one day will not include him. That is hard for the individual, hard for the family and hard for the family office. But it is crucial to think down the road.

7. Fostering open communication

As part of successful planning for transitions, we also emphasise the importance of fostering open communication. Wealthy families with multiple generations inevitably experience problems because of differing viewpoints on wealth management. The family office can play an important role in dealing with such conflicts by practising transparency and encouraging open communication.

Keeping lines of communication open is not always easy, but it can be done. The Pitcairn family is a good example. By the fourth generation, consensus on how the family assets should be managed was impossible, but there was still agreement on preserving the family as a whole. That is what led the Pitcairns to liquidate their holding company in 1986 and implement the policy of free association, which allows any family member to leave the family office. The Pitcairns are now in their sixth generation of wealth management – a remarkable record, given that great numbers of American families have gone, as the old saying puts it, from shirtsleeves to shirtsleeves in three generations.

8. Educate to empower

Finally, we believe that one of a family office's major duties is to educate and develop members of younger generations in family matters. They are the key to long-term family sustainability, so raising their level of awareness is vital. This is not always easy. When it comes to financial matters, for example, the conversations can be uncomfortable. Members of wealthy families tend to shy away from them – sometimes until it is too late. Yet another difficulty is when the patriarch has assumed total control – a situation that can discourage the open communication and educational process necessary for long-term growth. In fact, a top-down style of leadership can actually result in a loss of control, because nothing changes or moves forward. Transparency should always be an objective in the discussions, regardless of the issue.

Large families may want to consider creating a family council as part of the education of younger generations. The council can be a place where they learn what is happening within the family office and the family business, where they acquire the skills to work collaboratively with one another and where they receive the training to eventually become members of the senior board.

Inviting in outside mentors and advisers can be beneficial, too. They bring a neutral perspective to controversial issues, and their specialised skills can help the family members to identify unrecognised needs, locate resources they may be unaware of and devise solutions to difficult challenges.

A family office's commitment to education is not only fundamental; it is crucial in empowering the members of the next generation and setting them on the path to success. It is a process that cannot start too soon and that never ends.

9. Conclusion

Achieving true wealth momentum is not easy for families or family offices. It requires strategic thinking and long-term planning. The family office structure must be one that the founder is comfortable with, but it must also be one that accommodates change. That is especially true when it comes to the transfer of control from one generation to the next.

Succession planning for the family office's leadership is crucial and this plan must be updated on a regular basis. Allowing some unexpected event to leave the office rudderless is a recipe for crisis.

The successful family office must assemble a team with the skills to achieve the family's goals – whether they concern investments, the acquisition of assets, ancillary services such as legal advice and tax planning or generational transitions. The team must always be open to change and can never be allowed to settle into patterns of complacency and self-entitlement. Integration, communication and innovation are the essential ingredients of the relationship between the family office team and the family members.

Every family office is designed to serve a purpose. But the process is organic and evolutionary – the only thing that is constant is change. The Pitcairn family office was created to manage the family's wealth, but it has been able to carry on into the sixth generation precisely because – despite all the ups and downs – it found ways to adjust to new demands and generational changes. Even as some family members have chosen to separate from the family office, many others – including an increasing number of non-Pitcairn families – have seen the value of the wealth management and other services that we deliver. And so, working collaboratively, we have kept our office aligned with the vision of the families we serve.

The global culture of giving: four key trends

Melissa A Berman
Rockefeller Philanthropy Advisors

Over the last decade, we have seen a remarkable development in philanthropy: the emergence of a global culture of giving among leading wealth holders. Increasingly, the ultra-wealthy do business together, buy and sell art from each other, vacation together and attend global events together. This interconnectivity has laid the foundation for ideas about philanthropy and social investing to spread rapidly among this cohort, amplified by social media. At the same time, expectations of businesses, their leaders and the wealthy are growing – especially as inequality, populism and climate change seize the headlines.

The signs of this giving renaissance are evident not only through well-known examples of philanthropy and social investing, but also through the growth of programmes in private banks and institutes focused on philanthropy, impact investing and/or social enterprise around the world, from Brazil to Beijing. The World Economic Forum and Forbes now offer programmes on philanthropy and social investing. The Giving Pledge launched by three current trustees of the Gates Foundation (Bill Gates, Melinda Gates and Warren Buffett) both reflects and intensifies this new type of commitment.

And the global culture of giving will only become deeper and more significant in the coming years as baby boomers retire and younger generations move into leadership roles. These cohorts have a much more global education, outlook, work experience, civic involvement and use of networks than any prior generation. They demonstrate a strong belief that their resources – whether via donating, investing or entrepreneurship – can be aligned for a better world.

Four trends, closely intertwined, characterise this global culture of giving, based on what we have observed as we work with philanthropists around the world: deep involvement; solutions-based approaches; assessing impact; and new ways to fund.

1. Trend 1: deep involvement

Throughout all times and in all cultures, people have been charitable – it is in our nature. Analysis of brain activity reveals that giving money away lights up the same centres of happiness as eating chocolate, so we are clearly wired to be

kind and generous in certain circumstances. And of course, the wealthy have been especially generous in many eras and societies.

What is different now is that the wealthy are going beyond simple generosity. They want to make philanthropy an important part of their life, to be knowledgeable about the issues they are getting involved in and to do something more than simply hand out money They see their engagement in philanthropy and social investing as an important part of their legacy.

Thus, wealth holders are turning to philanthropy much earlier in their lives. For most of modern history, people became deeply involved in philanthropy after they had retired and after they were sure that their children were taken care of. In effect, it was the last thing on their list – and in some cases it was quite literally their final act, as their generosity was expressed only through bequests.

That is less and less true today. We now see many people – from Marc Zuckerberg to Jack Ma to Carlos Slim – involving themselves in social issues and social change much earlier in their lives, even as they are still building their businesses. Their engagement is also more intense, as they seek to give something other than their financial resources. That might mean that wealth holders are using their influence with peers to raise visibility and get more people involved; it might mean trying to partner with the public sector to get it to adopt programmes that they see as successful; it might mean lending skills, talent, business expertise and technical expertise.

The consequences of this earlier and deeper engagement are profound. Just the added decades of time – and added decades of support – that many of the world's most powerful people are committing will have a profound impact on the level of resources going into social change. When their capabilities as thought leaders, advocates and innovators are also engaged, the potential is truly exciting.

2. Trend 2: solutions-based approaches

In part because of this earlier and deeper involvement, the approach that major donors take to their philanthropy is also changing profoundly. Increasingly, donors want to be part of solving a problem. This has made them willing to make big bets, to partner with others to get leverage and to think about the whole system in which the problem exists. It also leads them to focus on assessing results.

Of course, this is not exactly new. John D Rockefeller and Andrew Carnegie took this approach in their time too. But they were rare examples in their era, whereas today a sizeable number of philanthropists are taking a solutions-oriented approach. There are indeed still donors who give almost entirely to favoured institutions based on affiliations – their old university, a prestigious arts organisation that their peers admire or a local medical institution tackling

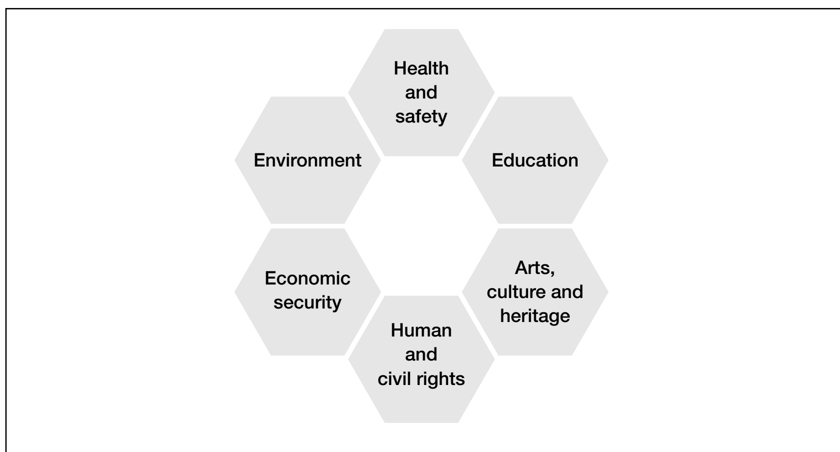
a condition that affects their family. And this kind of philanthropy does wonderful things for society.

For many donors, though, this kind of philanthropy is not satisfying enough. Some of their giving to traditional institutions is now framed around access and opportunity – ways to deal with growing inequality. Others are making big bets in microfinance, clean energy, water and sanitation, or attempts to eliminate diseases such as malaria and tuberculosis.

This focus on large-scale, sustainable change creates a need to understand the ecosystem in which a problem exists. That is not a simple matter. Frequently, these challenges have existed for centuries and are tightly enmeshed with other challenges. Someone can build a wonderful school with great teaching staff, but malnourished children cannot learn. It is easy to dig a well, but not clear how it will be maintained and how the water will be allocated. Such social challenges are often termed 'wicked' problems, rather than merely complex problems. Wicked problems have no agreed-upon definition and therefore no agreed-upon solution – and even no agreement about what success would mean.

A classic example of this is poverty. What is poverty? Every nation has some definition of poverty on the basis of income. Economists and policymakers may also define it based on assets, opportunity for mobility, access to education or healthcare, or in some cases culture. Thus, when we talk about ending poverty, it is not clear whether or when poverty has in fact ended. If we look at some of the beneficiaries of microfinance, households often have more income, but perhaps no savings, no buttress against illness or weather; they are always on the brink of catastrophe. They are less poor by some measures, but is having an income above a low threshold where poverty ends? Taking a step further back,

Figure 1. Where do you enter the circle?



Source: © Rockefeller Philanthropy Advisors

figuring out the cause of poverty is also a source of disagreement. Is it climate? Lack of education? Lack of health? Uneven access to opportunities? Corruption? Bias?

When thinking about big systemic issues, it is clear that issues such as climate, poverty and healthcare are connected in some way (see Figure 1). The interconnectivity makes it hard for today's donors to know where to start. The challenge is how to look at the problem in its whole context, without taking on every dimension of the problem. Even the Gates Foundation does not have the resources to 'solve' poverty; it cannot even tackle access to basic healthcare by itself. It partners with government organisations, other foundations, private donors and corporations.

3. Trend 3: assessing impact

Progress on a wicked problem is likely to be slow, and donors increasingly want to see indicators that show change is happening and that their approach is working. They are using impact assessment at several different points in time for their philanthropy, and for different purposes. The most immediate, and simplest, are tools for accountability. For example, suppose a donor gives money to an organisation to train teachers to teach poor students how to code. Did it in fact train the number of teachers that it promised? That is basic accountability.

Donors also now turn to assessment to inform their decision making. In evaluating two non-profit organisations, each training teachers with a different methodology, donors want the organisations to have measured their efficiency – that is, how much time and what costs were involved in training teachers, how many teachers graduated from the programme, how many went on to teach coding, how many students were taught. And if the organisation is established enough and well resourced enough to track such things, donors want comparable information on effectiveness – how well did students learn and what opportunities did that learning create?

Donors are also using assessment for 'proof of concept' – a way to demonstrate to others that there are successful results. Here, their goal is to use the assessment to make the case for scaling up a programme by increasing the budget dramatically, replicating it elsewhere or getting the public sector, a multilateral agency or the market to adopt it. This is what everyone hopes for in philanthropy: finding a programme that works, convincing others of the same and taking it up at scale.

At the end of the day, philanthropic resources are a very small part of the total capital markets. Philanthropy is important in signalling and raising awareness, so it can have a disproportionate impact. But today's donors know that without a public sector or capital markets solution, philanthropy will not be enough to fix serious issues.

4. Trend 4: new ways to fund

For many donors around the world, philanthropy is not just about donations from a foundation established in perpetuity. They are exploring new ways to use money to drive change, including limiting the timeline of their philanthropy, pursuing social investing, launching social enterprises and conducting active outreach.

Led by the examples of Chuck Feeney and the Gateses (not to mention Julius Rosenwald in the early 20th century), donors are often choosing to do most of their giving while living (as Feeney has) or establishing a defined sunset for their philanthropy. Several motivations lie behind this trend. Feeney, for example, has often said that the joy of giving should not be postponed or diluted, and that he wants to be able to guide his philanthropy personally. Many who take this approach also have little confidence that their successors will allocate resources as they would wish. Or they feel that actively engaged donors distributing wealth that they themselves created will be more proactive, entrepreneurial, enthusiastic and effective than a steward.

Among those who favour time-limited giving, which usually sets the endpoint about one generation after the death of the founder, there are also concerns about successors. Others express confidence that future generations will create their own sources of wealth and philanthropy. In addition, many who take this approach are convinced that more money over a shorter period will do more good than smaller amounts distributed over a long period, even though cumulatively the latter may be a larger amount. In particular, funders around the world who are interested in climate change have a sense that there is only a narrow window for action in order to prevent the most catastrophic effects.

Social investing looks like a powerful tool to many philanthropists, especially among the younger generations. Social investing can range from fairly simple and relatively low-impact decisions, such as stripping a portfolio of holdings that do not align with the wealth holder's values, to more active impact investing. Impact investing seeks both a financial and a social/environmental return. In impact investing, the financial return may be below market, at market or have above-market potential. As this field has matured, there are increasingly opportunities across all major asset classes and all major issue areas. Impact investing has the potential to deploy significantly more capital than traditional giving – by orders of magnitude – to address social and environmental challenges.

For an endowed foundation, for example, the capital base of the foundation offers far more opportunity to do things than the portion of its income allocated for grant-making programmes. Philanthropists can be involved in much bigger deals, make bigger bets and get greater leverage. Non-profit Acumen, which seeks investing opportunities to help the global poor, has

demonstrated that an investor would have greater impact by loaning money to an African company that manufactures anti-malarial bed nets than by giving the same amount of money as a charitable gift to an organisation that provides bed nets.

It can be difficult to do impact investing at scale or without investing significant time, energy and due diligence (which can create expense). Many impact investments are targeted at relatively small organisations that cannot absorb much capital. Some really need a tranche of philanthropy and then a tranche of investment capital. However, the field is beginning to see some funds of funds, which help in minimising risk, sharing due diligence and getting to scale.

Funding social enterprises is also appealing to global donors. Simply put, a social enterprise uses market principles and mechanisms to achieve its mission. In some cases it is meeting a market need and selling its products or services to customers who are not well served by the purely commercial marketplace. In others, it is supplying a product or service in a way that benefits society. Thus, a social enterprise may also achieve its mission and serve its target group by employing disadvantaged people in a business that sells products or services.

There are different levels of risk, just as in the investing world. A funder of a social enterprise can be a social entrepreneur, or can serve as an angel investor (putting in a small amount of money at a high level of risk) or participate in more mature markets such as microfinance, where entities such as the Grameen Bank have a business model proven over 30-plus years. Social enterprise works for many, but not all issues – it is difficult to imagine a social enterprise model for human rights. But it is an interesting opportunity to use resources to make change happen.

Finally, global donors are increasingly seeing outreach, advocacy and communications as part of their philanthropic toolkit. At the simplest level, the ultra-wealthy seek to build awareness for their causes among peers, or even to recruit them as co-funders. They are also increasingly comfortable (although not in all jurisdictions) with the idea of launching a campaign to sway public opinion or to affect policy. Social media offers a remarkable set of opportunities in this regard, although the ALS Ice Bucket Challenge has yet to be replicated. That phenomenon raised some $125 million for an organisation with a $2 million operating budget. Notably, that organisation itself did not start, manage or in any way control the campaign – it was truly a grassroots consumer initiative powered by social media. And while nothing like it has happened since, many donors are sure there will be ways to tap into generosity via social networks.

5. Final comment

Despite great progress in reducing global poverty and disease, factors such as acute income inequality and the growing concentration of wealth have

contributed to populist and nationalist ideologies, as well as to a backlash in some quarters against private philanthropy. For some, that very concentration of resources and the influence that comes with it are understood as main contributors to the problems that societies face. Yet, as shown by the above trends, this is indeed a golden age for philanthropy (broadly defined), with a widening circle of wealthy individuals and families committed to it; a depth, intensity and timeline of involvement that have never been seen before at scale; and a new set of tools to address complex issues.

Australia

Keith Drewery
Drewery Consulting

1. Background

In the chapter on Australian family offices in the first edition of this book, the authors observed that recognition of family offices – both as a vehicle for management of wealth and as a distinct service offering – was relatively nascent compared to that in the United States in particular.

However, in common with other economies in Southeast Asia, encouraged by the rise of the Chinese economy and utilisation of digital technology, the number of family offices has increased. With that increase, we have seen an expansion of their influence on private capital markets in Australia and what might best be described as the start of the maturity phase.

The maturity phase symptomatically shows:

- the term ‘family office’ being recognised as a descriptor of a model for service delivery;
- consolidation and aggregation of service providers to develop ‘holistic’ services;
- frequent references to ‘family offices’, both as markets for penetration by manufacturers of products and as investors in private equity and venture capital in the Australian financial press; and
- heightened awareness of the family office market as a place for recruitment and transfer of institutional investment capability and skills.

Using the research and materials discussed in “Australian Family Office Down Under” in the December 2016 edition of the *International Family Offices Journal*,[1] this chapter expands on that article and follows up on the development of the trends identified in that article.

To quote from that article’s conclusion:[2]

I suspect that in common with the manner in which society itself changes the family offices may exhibit the following:

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1 Keith Drewery, “Australian Family Office Down Under”, *The International Family Offices Journal*, Vol 1, Issue 2, December 2016, pp22–30.

2 *Ibid*, p30.

- *An increase in openness and transparency in the dealings of family offices either voluntarily or by way of regulation caused by concerns over the 'inequality of wealth';*
- *An increase in the number of Australian SFOs developing global wealth management capability outside of Australia;*
- *An inevitable increase in the role of technology in serving the needs of families including regular communication via Smart Phone and devices;*
- *The willingness of SFOs to share and co-invest through deal making platforms*
- *With this willingness, the establishment of more precise measures of the extent of the market and 'benchmarking' of the performance of family office participants; and*
- *The increase in SFOs that develop their own 'corporate social responsibility' agenda and co-invest in meaningful social enterprises.*

These were hardly visionary statements; however, this chapter develops several of these themes and recognises the progress that has been made in several of those areas in the Australian context.

2. The term 'family office'

There is now a broad understanding in the Australian marketplace as to what a family office is and what a family office does, with rather more specific enquiries as to how one starts a family office.

As an indication, the relative importance of the search term 'family office' in Google Trends since 2008[3] has diminished significantly. Assuming an increased understanding of what a family office represents, one can conjecture that there would be a decrease in the number of times that someone asks, "What is a family office?" This conjecture, albeit admittedly very loose, can be supported in some way by an examination of the use of the search term 'family office' in Australia in Google Trends, which measures the level of interest in the search term relative to its highest peak. Since December 2008, when the search was at its highest prevalence, there has been a clear and obvious drop in the use of the search term 'family office', to a point in December 2018 where the relative frequency of the search term had decreased to less than 5% of its peak.

In contrast, an examination of the use of the term 'family office' as a topic for search in Australia in the five years up to December 2018 suggests that there is now a consistent level of enquiry on the topic, with a slight upward trend.

An exhaustive examination of trends using the Google Trends tool is beyond the scope of this chapter – for example, how does this compare with global trends including developed family office markets, such as those in the United

3 Search term 'family office' in the Australian region since inception at https://trends.google.com/trends/explore?date=all&geo=AU&q=family%20office.

States and the United Kingdom, and more developing markets? However, it is worth noting that Australia ranks 18th out of 52 regions worldwide in a search for 'family office' as a topic.[4] The top five countries and territories are – perhaps unsurprisingly – those whose economies are heavily geared towards the delivery of fiduciary services on behalf of the owners of private capital: Liechtenstein, Monaco, Jersey, Luxembourg and Switzerland.

3. The evolving nature of the family office marketplace

As in most developed countries, an increasing number of single family offices are being established in Australia following successful harvest events and the recognition by many wealth holders of the capacity to create their own models around wealth management.

Table 1. Examination of BRW 200 Rich List state of residence

Location	Wealth ($ million)	% of total wealth	No of family offices	% of family offices
ACT	1000	0.4	1	0.5
NSW	82127	30.8	64	32.0
QLD	21770	8.2	24	12.0
SA	1650	0.6	2	1.0
TAS	947	0.4	2	1.0
VIC	94776	35.5	69	34.5
WA	33871	12.7	18	9.0
Overseas	30756	11.5	20	10.0
Total	266898	100.0	200	100.0

Source: Family Office Connect Report 2017

4 Google Trends' 'interest by region' is a measure of the popularity of a search term in the region measured as a proportion of all searches in that region. For this reason, it is perhaps not surprising that the top five is constituted as it is.

The Table Club (TTC), a global family office investor network representing about 900 families in 10 countries, estimated in its 2017 Annual Family Office Report[5] that the number of single family offices in Australia was 350, with a minimum asset base of A$200 million. This amount is also the TTC's estimate of the relative level of wealth required to establish a single family office in Australia.

The TTC report estimated the value of the assets controlled by these single family offices at over $308 billion, of which the top 20 single family offices controlled over $115 billion collectively.

Based on the TTC's analysis of the top 200 Australian single family offices, the pattern of distribution of those single family offices was centred on the East Coast, with (unsurprisingly) the main two states by location being New South Wales (NSW) and Victoria.

With this increase in the number of private offices, Australia has seen an increase in the number of membership-based associations focused on the owners of private wealth. These include everything from private networks focused on particular demographics (eg, next-generation family members under the age of 40) to deal-specific platforms such as CapRaise.[6]

The most significant of these associations is arguably the Private Wealth Network (PWN),[7] which held its 11th Family Office Congress in Melbourne in November 2018. At that Congress, over 420 attendees met to discuss a range of topics, from investment to family dynamics, philanthropy and social impact.

The PWN's 2018 membership survey[8] – the network's third – provided further insights into the evolution of its membership and the family office market in Australia in general. With members from both Australia and New Zealand, its membership covers a broader geographic spread, based on membership criteria, than that used for the analysis in the TTC report, which focuses solely on the Financial Review Rich List[9] of Australia's 200 wealthiest individuals and families.

Both the TTC report and the PWN membership survey revealed that the majority of single family offices in Australia work on behalf of the founder or the next generation. In the TTC report, only six of the top 200 single family offices representing the Financial Review Rich List served the needs of families beyond the third generation. Of these families, their wealth had been created in the media, manufacturing and retail industries.

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5 TTC, 2017 Annual Family Office Report.

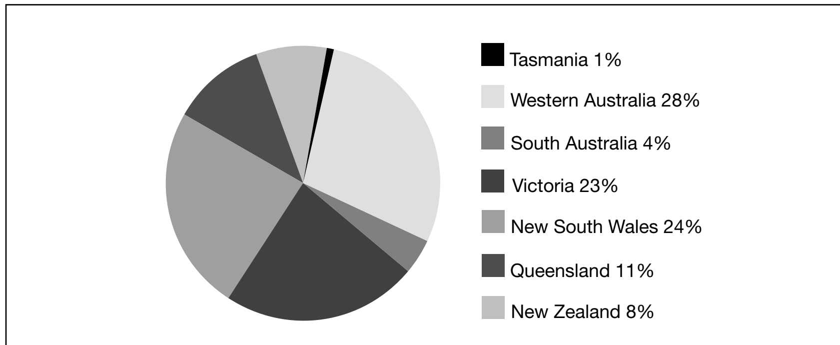
6 CapRaise was formed in April 2018; https://capraise.financial/about.

7 The PWN was established in 2005 and held its first Family Office Congress in 2006.

8 The PWN membership comprises over 620 named individuals across more than 165 families across Australia and New Zealand.

9 The Financial Review Rich List (previously the BRW Rich 200) has been published annually for 35 years and in 2018 for the first time included three individuals whose net worth was estimated to be in excess of A$10 billion.

Figure 1. PWN membership – state of residence of member



Source: PWN Annual Membership Survey 2018

Of those single family offices created more recently, the families' wealth was primarily generated through the ownership of real estate or involvement in the finance industry. However, since the turn of the century, the most significant sector as regards concentration of wealth has been the resources sector, as demand for Australia's natural resources has created significant wealth, particularly in Western Australia.

Most recently, the fastest-growing sector for wealth ownership, similar to the pattern globally, has been the technology sector. In Australia, this is best exemplified by the extraordinary increase in the wealth of the founders of Atlassian, Michael Cannon-Brookes and Scott Farquhar. In this regard, it is noted that Skip Capital started operations in 2017 and is headed up by husband and wife Scott and Kim Jackson. In common with several other new private investment vehicles, its stated focus is on investing long term as both an early-stage and late-stage investor, with a stated passion for "transformation and technology".[10]

Newer emergent wealth holders have also been supported by government policy and the growth in the need for infrastructure development. There are a number of long-term holders of real property assets whose 'land bank' potential value has only recently been realised, as government policy has shifted towards accommodating Australia's fast-growing population on the fringes of its major cities.

For this reason, and due to the importance placed by a number of wealth holders on sensitivity and privacy, it is difficult to predict with any accuracy the actual number of single family offices, but it would be reasonable to suggest that the number of private offices exceeds 500 and could well be closer to 750.

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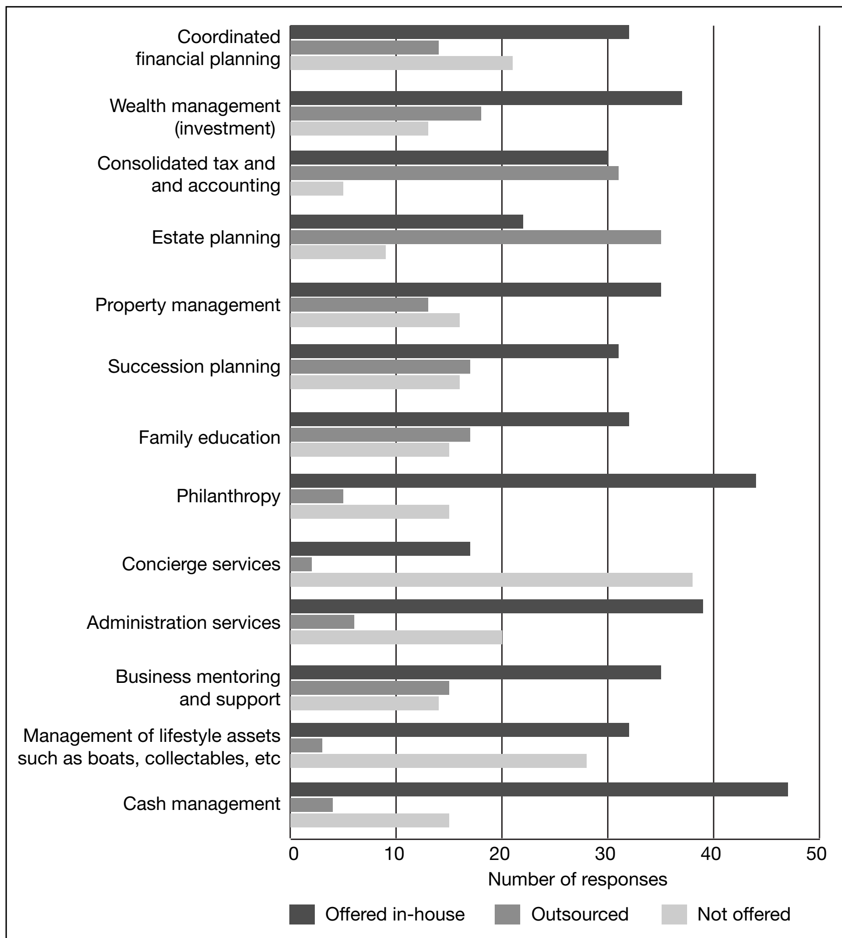
10 The Skip Capital website can be accessed at www.skipcapital.com.

4. What is the role of the family office in Australia?

The concept of using a family office to help preserve and maintain wealth remains a central function of a family office. Increasingly, however, there is an appreciation of the need to develop the family's capital in its overall sense. As such, family offices – and families themselves – have seen the importance of investing in 'human' and 'social capital', as well as their financial capital, to ensure that the benefit of their wealth can transfer peacefully to subsequent generations.

In its survey, PWN members reported that their family offices offered a diverse range of services to meet a complex set of needs, which again is not a feature particular to Australia itself.

Figure 2. PWN membership survey – services provided to family

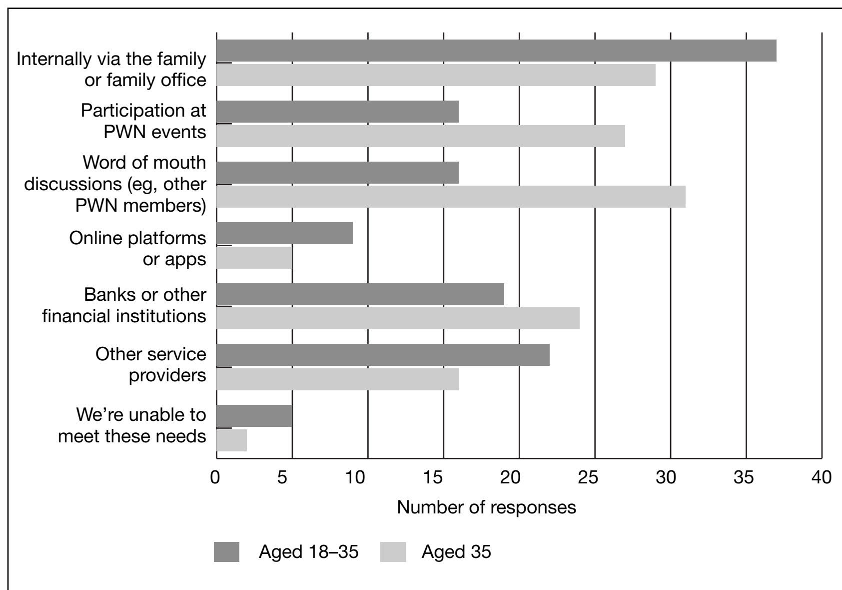


Source: PWN Membership Survey 2018

The most common services offered included cash management, philanthropy and administration services, which all exceeded wealth management itself. The sense of 'philanthropy' as an important function of the family office, being a very personal and self-directed pursuit, may be a function of the PWN brand itself and its byline, "Make Wealth Meaningful", but does illustrate the importance attached to the role of philanthropy for many socially conscious wealth holders.

Reflective of the concern that families needed to invest in themselves, the highest priority of importance to members surveyed as part of the PWN membership survey was family education, with 45% of respondents describing family education as their highest priority.[11] The importance of the role of the family office was highlighted by the fact that in the age bracket of over 18 (split between 18-35 and over 35), the family office was seen as the entity with the greatest responsibility to develop that education.

Figure 3. PWN members survey – how families' educational needs are met



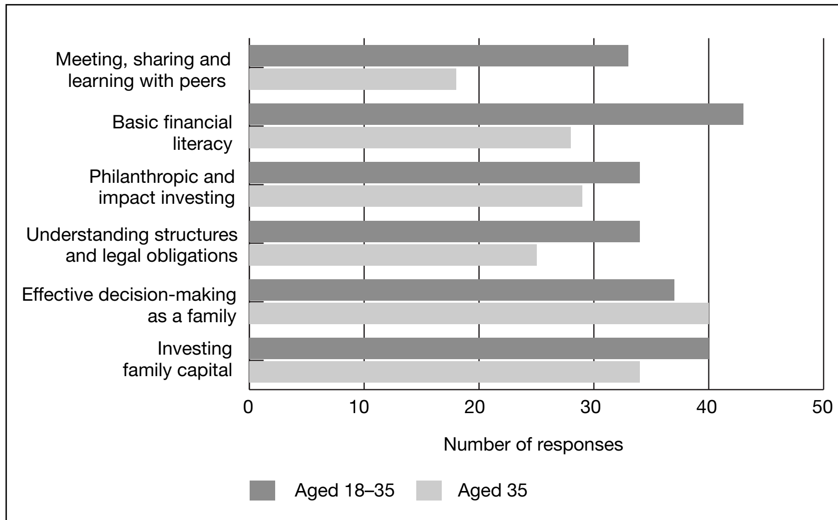
Source: PWN Membership Survey 2018

In developing that education, the family office's role for delivery is less clearly defined. Increasingly, however, family offices – particularly those servicing a broad number of households – are actively developing formal structures of education, including by investing in financial literacy courses and

11 The question in the survey was, "To what extent is family education a priority for your family?"

encouraging attendance at broad networking events involving peer-to-peer networks.

Figure 4. PWN member survey – key educational needs



Source: PWN Membership Survey 2018

The nature of the family curriculum is also fairly broad, with a focus on certain aspects which may reflect the family's relationship to its wealth by, for example, encouraging formal training in business management where a family-owned operating business is core to the family's wealth. In this vein, many families (and their family offices) may be members of several networks serving differing interests and needs, including Family Business Australia, the World Presidents' Organization, the Young Presidents' Organization and Philanthropy Australia.

Service providers that work to understand the educational needs of the family and identify ways and means by which their offerings can enable family learning will find themselves well placed to add value in the future. Understanding the impact of new technology on the delivery of those services and how they can be provided to engage as broad a number of family members as possible will position those providers well.

5. Future planning and the development of family governance structures

The thinking around governance, decision making and authority and the role of structure is evolving as families familiarise themselves with the options available and seek the counsel of peers who have gone through similar experiences.

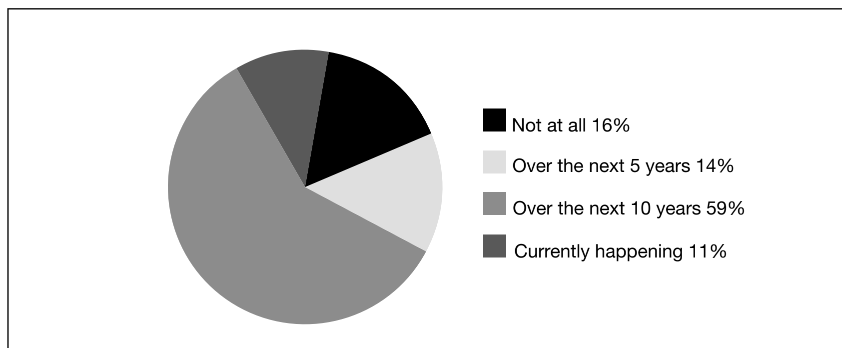
Several families which made their wealth from the financial markets in the 1990s understand the concepts of governance very clearly. Other families, where the founder has traditionally played a very direct role in the development of real estate projects or more transactional-based deal making, sometimes struggle to come to terms with the idea of creating a formal decision-making framework; and yet fundamentally believe that it is important that the family learn to make decisions for itself.

In the Deloitte Private Australian High Net Wealth Report 2018,[12] conducted in partnership with the TTC, over 60% of the families surveyed advised that they were planning for the process of succession both inside and outside the family office.

The consideration of future planning in a family office's thinking is also raised in the PWN survey. In this case the timeframe around the transition (10 years as opposed to five) is slightly longer than that anticipated in the Deloitte/TTC report, which surveyed a number of owners of family offices, with family businesses being a key component.[13]

To some extent, this can be attributed to the nature of the family office as an inter-generational wealth transfer vehicle, as opposed to the shorter timeframes that are reported in the transition of ownership, management and control of family businesses.[14]

Figure 5. PWN member survey – when is it expected that a generational shift shall occur?



Source: PWN Membership Survey 2018

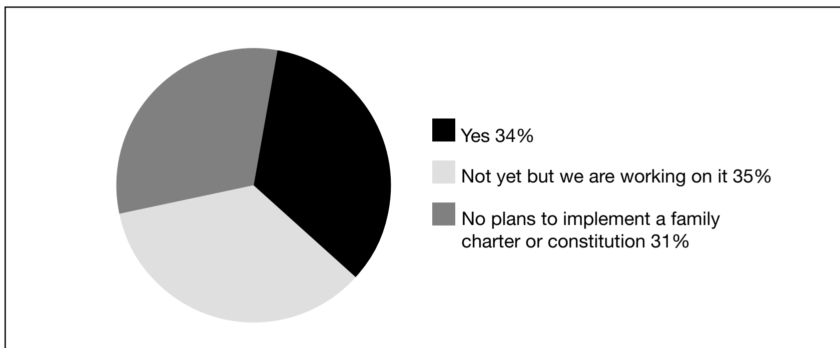
As part of the formality of governance, the latest PWN membership survey illustrated that over the last three years, there has been an increase in the

12 Deloitte Private Australian High Net Wealth Study for The Table Club 2018.
13 In the PWN survey, the percentage of respondents that retained an interest in an operating business was 58%.
14 See particularly KPMG and Family Business Australia's 2018 survey, "Family Business – the balance for success".

percentage of members reporting that formal governance structures such as a family board have been established, with more than 60% advising that a formal board structure was in place.[15] During that period, the most significant increase was seen in family governing boards that had either non-family executive involvement or independent boards, with a slight decrease in the percentage of family boards comprising only family members.

The establishment of family councils and similar governance structures inside family offices is also increasing in Australia, although it remains largely the preserve of those where a significant family business ownership interest remains.

Figure 6. PWN member survey – members with family constitutions in place



Source: PWN Membership Survey 2018

The development of family boards and the engagement of 'next-gen' family members remain something which seems to be a function of age. The survey responses further revealed that over 60% of family members under the age of 35 did not participate in family decision making, whereas nearly 60% of those over 35 were either highly or very involved. The extent to which this trend towards maturity before participation remains could thwart future family office development.

What is becoming increasingly problematic for the management teams of several well-established family offices is ensuring that the family office has continued relevance to the next generation of family members. This has manifested itself in several ways.

First, the traditional values of the elder generations are respected, but not necessarily adopted; rather, there is a greater sense of educating children about the background to the family's wealth. The importance of storytelling is

15 PWN Membership Survey 2018 – Question: "Does your family have a governing board overseeing the family wealth?"

profound and it remains a key ingredient in successful transitions. With that recognised, a number of service providers to family offices are now looking to capture those stories and organise for them to be properly documented.

It should be stressed that the family's values remain important and there remains an emphasis on ensuring not only that those values are truly inherited, but that inheritance extends to the next generation not just adopting the statements of others, but making them their own.

This was borne out by discussions with one significant philanthropist who had not sought to dictate how his children would manage the foundation in the future and even excluded them from the board itself, arguing, "What interests me may not interest them."

To digress slightly, this has also manifested itself in the way that wealth owners have approached the management of their succession. Over the last 10 years, rather than tell, parents have increasingly chosen to ask. "It's not my money, it's theirs; why wouldn't I ask them?" said one founder who was planning to involve his children in managing their estate planning.

With a greater willingness and sense of openness, the rising generation is increasingly confident in accepting a custodial role in inter-generational wealth management.

Second, many third or later generations of wealth owners have sought to identify how they can utilise the benefits of their wealth towards what they consider to be more meaningful and worthwhile pursuits, and by doing so have asked family offices, indirectly, to readjust their role from preservation to purpose.

Third, several family offices in Australia have had to recast the way they communicate with their clients, including the information provided and how that information is delivered.

One chief executive officer (CEO) of a significant single family office mentioned that it has had to adapt its communication styles to suit the generation it is targeting. With the younger generations, the office texts investment information rather than sending emails or hard copies, and it is also considering whether a family app should be developed: "What has been important is to ensure that our style of communication has been tailored to meet the needs of the third and fourth generation."

The impact of technology – as an enabler of improved functionality, an area of significant concern from a cyber-security perspective and an area of investment interest – now occupies a significant amount of a family office executive's attention.

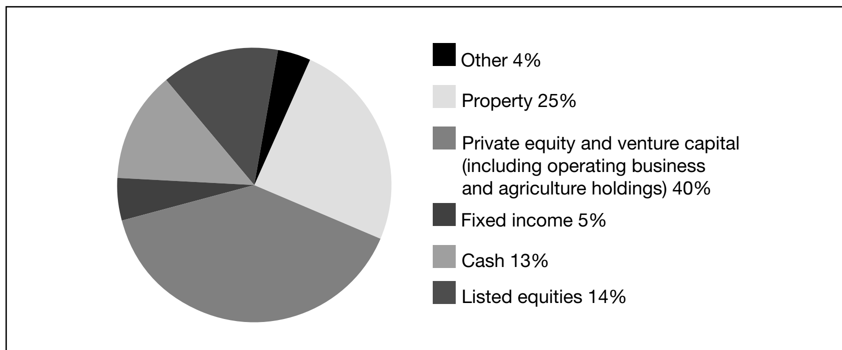
6. Family offices and the investment of family wealth

As an example of how capital is allocated across the portfolios of its members, the latest PWN membership survey indicated the average asset allocations based on the responses of its members (see Figure 7 below).

The most obvious point to note is the low level of listed market risk exposure expressed as a percentage of the whole portfolio (approximately 20%), with the majority (nearly 70%) held in private unlisted assets. Typically, these assets are illiquid and are inherited heritage assets or real estate.

The asset allocations of single family offices remain particular to each office and are typically based on the relevant risk profile of their owners and those of the family members and beneficiaries. Determining a standard asset allocation model for family offices is therefore not only impossible, but largely irrelevant. However, it does perhaps offer a chance to compare asset allocation strategies in Australia with the findings of similar surveys globally.

Figure 7. PWN Membership Survey 2018 – average asset allocation of respondents



Source: PWN Membership Survey 2018

By way of comparison to the global market, the 2018 UBS Campden Wealth Family Office[16] survey of 311 family offices in the period February to May 2018 suggests that assets were on average allocated across family offices globally and in the Asia-Pacific region, as illustrated in Table 2.

In the PWN survey, the most popular stated portfolio target return percentage was between 5% and 10% per annum. The next most popular return target was between 10% and 15%. The problem facing the chief investment officers (CIOs) of single family offices and the achievement of these target returns in Australia at present is a fundamental domestic bias prevalent in portfolio structure, despite limitations on anticipated future short-term growth in Australia and the general level of uncertainty that prevails.

Essentially, as the capacity for the market to generate the returns required to enable families to meet their portfolio objectives has decreased, the attitude to

16 UBS/Campden Wealth Global Family Office Survey 2018, quoted in "Family Offices becoming financial titans", *The Economist*, 15 December 2018.

Table 2. UBS/Campden Wealth Global – asset allocation of family offices

Asset class	Average family office portfolio %	Asia-Pacific region %
Bonds	16.2	15.0
Equities	28.0	28.0
Direct investment	14.0	41
Private equity funds	7.6	
Property	18.1	
Hedge funds	5.7	
Commodities	3.4	3.7
Cash or equivalents	7.0	12.0

risk has changed.[17] In addition, more enlightened families have understood the importance of cash flow, and that expectation management has become an important part of maintaining the family's corpus and capacity to continue to enjoy the benefits of its wealth into the future.

Implicit within the previous objective settings was the sense that wealth preservation was paramount, and that to achieve this custodians needed to adopt broad-based diversification strategies with a focus on income and growth in a traditional 60/40 style of investment. In many cases their capacity to remain invested over the long term was seen to offer greater surety as regards return outcomes (and to provide greater levels of confidence in the capacity of their portfolios to withstand volatility).

To a large extent, many were recanting the messages from the industry and adopting the basic approaches to managing risk. In this vein, it is interesting to observe the changes in asset allocation models that have evolved over the last five years.

Undoubtedly driven by changes in economic circumstances, the availability of early-stage venture opportunities and the rise of alternative asset classes such as cryptocurrencies, the sense is that family offices have sought to invest their

17 Explaining perhaps the low level of allocations to market-based risk.

long-term capital patiently, in the belief that over the long term, illiquid private capital opportunities will offer outsized returns to compensate for a high level of relative liquidity in relation to cash levels. In the case of early-stage investments in emerging asset classes, we will wait and see whether there is a cost of early adoption.

In interviews with single family office executives in Australia, while a principal motivation for the establishment and continued operation of a family office has been and remains the desire to preserve the wealth for the benefit of future generations, this is no longer the sole or even predominant reason.

This is particularly the case for more recently established family offices, where the founder may be the person in charge of the direction of the office and there are no immediate heirs, due to their still being very young. It is also the case that many single family offices are more active in the management of the portfolio and are looking to achieve outsized returns or returns that might best be described as 'private equity' in their characteristics:

> *In a rare insight into the private investments of a family office, investment manager Jon Biesse said Mr Jones's portfolio was designed to contrast with the traditional family office concerned solely with wealth protection. "We operate more like a mini-private equity firm complete with early stage investments," said Mr Biesse, who heads the Perth-based Jones family office, named Hoperidge.*[18]

With the objective of wealth preservation[19] becoming increasingly difficult, the philosophy underpinning the management of the family's wealth and thus the focus of the family office's attention has shifted in several cases.

This shift has been towards the following:

- greater levels of self-determination – the more substantial single family offices are increasingly recruiting highly skilled staff in areas that were traditionally outsourced and buying fewer of these skills from third parties, providing them with much greater capacity to make decisions internally;
- a decrease in the responsibilities given to agents – as the Deloitte/TTC report observed,[20] high-net-worth individuals "tend to make their own decisions. For example, only five out of the top 100 SFOs by wealth use an asset consultant";
- an immersion in deeper levels of financial education; and
- the encouragement of the next generation to define its own vision for the future.

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18 "Education Boss Rod Jones and his Investment Elixir", *Australian Financial Review*, 25 August 2014.

19 The concept of wealth preservation itself has obviously extended beyond achieving a 'real' return to ensuring that the purchasing power of future generations is equivalent or higher than that of previous generations.

20 Deloitte Private Australian High Net Wealth Study for The Table Club 2018.

Over the last five years, this last point in particular has started to reshape the mandate given to executives of family offices and how family offices themselves see their main roles. However, this comes with some problems, as the expectations of each generation require recalibration.

In some cases CEOs and CIOs are finding it difficult to develop strategy with the next generation and separate themselves from the perception of an appointee of the founder or earlier generations. "It is frustrating to me that, despite best endeavours, they [the founder's children] struggle to enunciate what it is they wish to do and how they wish to be involved with the family office," reported one CIO of a second-generation family office in Sydney.

It will be interesting to see how the transition of family office executive responsibility is handled across the number of families looking to get the next generation involved and hand over the baton.

7. Family offices and capital markets – deal flow and role of platforms

The last few years has seen the expansion and formalisation of deal flow propositions in the Australian market. These have ranged from early-stage venture incubator models with cornerstone support from Australian family offices, such as Capital Pitch, to platforms driving deal flow opportunities to family offices that have registered an interest as a buyer and analysed the investment opportunities they are seeking. The fastest growing of these platforms in Australia is Cap Raise,[21] which was founded in April 2018 and now purports to have 80 family offices registered as investors on the platform.

As the CapRaise website suggests, the value proposition from a family office perspective is as follows: "For Family Offices, CapRaise provides you the tools to tell Deal Providers exactly what type of investments you are looking for. Most importantly, CapRaise reduces the noise around your deal pipeline, and frees up more time to focus on the deals that matter most."

Interestingly, the registered family office investors include a significant number of non-Australian resident offices attracted to the opportunities available in Australia.

What this means potentially is that the size of investment contemplated by investors will probably limit the capacity for such platforms to raise money for small to medium-sized deals as the platform caters for increasingly significant and complex transactions.

This sense of the importance of allocating limited resources effectively was the inspiration for one family office, the Tulla Group, to seed the development of Capital Pitch and its Capital Pitch Venture Fund in 2017.[22]

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21 The Cap Raise website can be accessed at https://capraise.financial/.

22 "Tulla, Intrepic invest in CapitalPitch", Nine MSN, https://finance.nine.com.au/2017/03/15/11/21/tulla-intrepic-invest-in-capitalpitch.

Prisma Investments, another family investment office, explained its basis for partnering with venture capital funds as follows: "Our Venture Partners will undertake the first round of filtering. In this way we effectively bring in the highest quality VC advisory and filtering skills for our chosen sectors."

The rising importance of early-stage technology investment for family offices is also reflective of the emergence of a Sydney chapter of global angel investor network the Keiretsu Forum.[23]

Also noticeable has been the willingness of family offices to advise not only of their investment thesis in general, but also of particular areas of investment interest. The increased openness of family offices to disclose their preferences in part reflects a desire to ensure that they are provided with relevant investment opportunities and as such can allocate their resources internally more productively.

As one example, the Ottomin Group – whose profile has previously been documented in the International Family Offices Journal[24] – explains:

The Group aims to preserve and grow capital in real terms, seeking absolute returns and investing over a long-term, ten-year horizon. The Group has extensive debt and equity financing experience and seeks out diversification by investing in a range of sectors; including agriculture, consumer retail, energy, financial services, healthcare, natural resources, real estate, technology, transportation and utilities, either through externally managed funds or directly in businesses.

It is incumbent upon advisers wishing to engage with family offices that they actively seek to understand the needs of the family office from an investment perspective before promoting investment opportunities.

8. The development of social capital

Set against the increase in institutional environmental, social and governance investment strategies, the extent to which families choose to allocate to 'purpose' in the family's portfolio has increased markedly over the last five years.

In the PWN Membership Survey 2018, 60% of respondents reported that they took into account socially responsible investment principles. However, more than acknowledging the requirement to be socially responsible in their investment strategy, many are now actively taking steps to engage in investing for impact through 'profit for purpose' models.

As Impact Investment Australia states on its website:[25] "For family offices, there are many motivations for engaging in impact investing. In addition to contributing to a more sustainable society, impact investing provides an

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23 The Keiretsu Forum website can be accessed at www.keiretsuforum.com.au/.

24 "The Otomin Group", Richard Kovacs – *International Family Office Journal* Vol 1, Issue 3, Globe Law and Business.

25 See https://impactinvestingaustralia.com/trusts-foundations-family-offices-high-net-wealth-individuals/.

opportunity to unite families around common values and positive legacies, as well as to engage a younger generation in the leadership of a family office."

Due to the perceived nature of impact investments being philanthropic, the funds of tax-exempt family foundations are increasingly being applied towards impact opportunities. This is obviously a global trend and not isolated to Australia, but it has become increasingly visible with the development of several organisations whose focus is specifically on enabling social enterprises to succeed and flourish.

Within the Australian marketplace, the limitations are currently market constraints on available investment opportunities. There is no shortage of interest, but the current opportunity set remains driven largely by government policy and the direct relationship between an investment's return expectations and the reduction in government funding costs as a consequence of implementation of the investment strategy.

At a broader level, the rise of Australian philanthropy and engagement of family offices – either set up solely with a priority attached to a family's philanthropic engagement[26] or as an adjunct to engagement as a family across generations – have helped to drive the implementation of social change strategies.

Recently, Judith Nielsen, founder of the White Rabbit Gallery, donated A$100 million to establish the Judith Nielsen Institute for Journalism, including funding the purchase of a building to house the institute. The Dusseldorp Forum, Cages Foundation and Vincent Fairfax Family Foundation also recently collaborated in funding a social justice project in Bourke, NSW, promoted and pioneered by Just Reinvest NSW, the Maranguka Project.

There are numerous other examples of family office philanthropy influencing public policy and driving strategic outcomes in such areas as modern slavery,[27] indigenous recognition[28] and climate change. The expectation is that family offices will increasingly become more involved in philanthropy at the behest of the next generation.

9. The evolution of the adviser relationship

Despite the increase in recognition of the term 'family office', many wealth owners remain unaware of the options that may be available to consider in the management of significant liquid assets.

On the realisation of a 'harvest event', many rush to invest, trusting their business acumen as a foundation for developing an investment thesis; others

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26 The Balnaves Foundation is an example of such an office. By way of disclosure, the author sits as a trustee of the board of the Foundation. See https://balnavesfoundation.com/.

27 The Mindaroo Foundation, founded by Andrew Forrest, has been instrumental in building awareness of the impact of modern slavery in Australian work environments.

28 The Balnaves Foundation's funding of The Guardian Australia and the University of Melbourne in funding the Guardian Civic Journalism Trust is a leading example.

may stick to the management of the idiosyncratic risks to which they have become expert. Typically, this manifests in reinvestment back into the market from which that wealth was created or a search for private equity opportunities.

The risk of overconfidence eroding the value of past endeavours is increasingly profound while investment markets remain volatile.

A great number of new wealth owners will look to their peers and networks to help guide them. Many will use their existing service accountants and lawyers, who may not have an appreciation of how best to manage liquid wealth or indeed be licensed to offer such advice.

With the number of family business owners having had or likely to have a liquidity event increasing year on year, the number of new wealth owners needing education on the options open to them will naturally drive an increase in service providers catering to the market and looking to offer holistic models.

Many more service providers may look to provide a family office suite of services to their existing clients as a basis for retaining their relationships, but may struggle to make their business models effective as margins are eroded.

There will be a market for firms to help educate business owners on the cusp of a sale on the impact of that sale and the transition from managing an operational business to being an investor.[29] It is a recognition of this rise in the number of potential liquidity events that has triggered Australia's retail banks and 'Big Four' accounting firms to reassess their services to the private markets, for fear of losing their relevance and their relationships with long-term clients.

However, the perceived erosion of trust in financial service providers and the impact of Australia's royal commission into the banking system in 2018 have served to dismantle several of the retail banks' wealth offerings and – perhaps ironically – refocused their efforts on relationships with existing clients rather than the acquisition of new clients.

10. The impact of technology in delivering family office services

The increased relevance of technology in delivering more efficient, customer-focused services will have an impact on the service delivery of family offices, much as it has affected the delivery of financial services in general.

The concept of software as a service and the use of cloud-based platforms to deliver reporting capabilities are now firmly established in the marketplace. The adoption of these solutions within single family offices remains largely a function of the current needs of the family and, in several cases, dependent on a broader understanding and appreciation of the benefits that technology can deliver.

Where the single family office's portfolio is broadly diversified between

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29 As to an exploration of the impact of this change please refer to "Transitioning from entrepreneur to investor", *International Family Office Journal* (IFOJ), Vol 3, September 2018, p23.

liquid and illiquid assets, listed and unlisted equity, domestic and foreign-based positions, the benefits of a more robust and systematic capability are obvious. In these cases, bespoke solutions have been created and implemented to enhance the speed and reliability of reporting.

As a general proposition, the nature of a family office and its capacity to assess risk are often limited by the resources available to the family and the attention paid by the family to financial risks, rather than an appreciation of the risks inherent in their day-to-day operations.

The significant problem that all single family offices face is, of course, the capacity for the resources inside the single family office to deal with the proper evaluation and assessment of its technology needs, where relevant experience may well be limited to investment management rather than custody, asset management and increasingly data ownership and protection.

It is likely that few family offices currently have a defined risk management framework and have properly considered the full extent of the risks that they face, particularly in the area of cybersecurity and data protection.

11. Conclusion

In the period since the global financial crisis, the Australian family office market has become richer and more sophisticated. It has truly become a mature market, growing and expanding as the capacity for wealthy individuals to self-determine how their wealth and family's capital is managed increases. The number of single family offices that identify as such and the number participants in networks designed to help wealthy families navigate the challenges of wealth have risen markedly.

Over the next five to 10 years, as the market expands further, the following trends will have an impact on the focus of family office executives:

- the dynamic effect of technology on the flow of information and knowledge, which will heighten the need for wealth owners to remain conscious of the risks and seek ways to protect the privacy and data of the family office and its clients;
- the inevitability of the transition of the ownership and control of family wealth, and the increased engagement of the next generation in the future management of the family's wealth;
- the impact of ageing on the capacity of wealth owners to continue to manage their own affairs, with no clearly defined strategy around 'capacity constraints';
- re-evaluation of the allocation of capital inside individual family offices under the increased influence of the next generation, with a rise in the amount of capital allocated to 'profit for purpose' style investments;
- the increased availability of and exposure to deal flow generated from within the network of family offices;

- an increase in the influence of family office capital on private capital markets, leading to an increase in the scrutiny of regulatory authorities on the operation of such deal flow;
- increased demand for highly experienced external family office CEOs and executives to manage the heightened complexity associated with the running of a family office; and
- an appreciation of the role of family office executives and the potential creation of a formal association of family office executives in Australia with recognised professional qualifications.

For those advising family offices, the range of matters of interest to family offices continues to expand and the capacity to add value becomes broader. However, the key to engagement with family offices will continue to be through the strength of pre-existing relationships, and a keen interest in and understanding of the family's purpose and mission and how the family views the role of the family office in the management of its wealth.

Bermuda

Keith Robinson
Carey Olsen Bermuda Limited

Bermuda has historically flown beneath the radar when it comes to promoting itself as the ideal location for the establishment of a family office. There are likely a number of reasons for this, but one is that Bermuda was often chosen as a domicile for trusts or for the location of a physical family office precisely because the family could rely on Bermuda for quiet professionalism, a high quality of service but also discretion among its service providers. However, a significant number of family offices are established in Bermuda, although there is no official survey of their number. The overall value of the trust business to Bermuda is significant, with hundreds of billions of trust assets under management on the island.

The focus on family service and the respect for privacy remain at the heart of fiduciary service on the island. But with the changing dynamic of multiple offshore jurisdictions competing for key clients in a world that must respond to numerous challenges and changes – including the rise of the millennial, the impact and ever-increasing cost of regulatory compliance and multinational reporting regimes – it is inevitable that Bermuda has sought to promote itself as a trust and family office domicile of choice. This shift in emphasis can perhaps be traced to the formation of the Bermuda Business Development Agency (BBDA) as a public-private partnership in 2013 to promote business on the island. The BBDA has a number of sector-specific focus groups made up of industry leaders and the family office has been a focus of the trust and private client focus group for some time. This plank of the BBDA's work has recently been rebranded as 'high-net-worth services' spanning trusts, family offices, aviation and superyachts. Bermuda also has a very active branch of the Society of Trust and Estates Practitioners (STEP), with almost 200 members. The STEP Bermuda Branch's annual conference in 2016 was dedicated to Bermuda as a centre of excellence for the family office. That conference looked at key advantages that Bermuda has as a location for a family office (either single family or multi-family), and it is to those advantages that this chapter now turns.

Before dealing with the fiduciary-specific landscape, it is perhaps worthwhile to place Bermuda in its geographical and political context. It is a

common misconception that Bermuda is in the Caribbean. It is in fact a group of more than 100 islands, the principal islands being linked by bridges and causeways resulting in a main island some 21 miles long and never more than two miles wide. It is in fact located in the North Atlantic Ocean some 665 miles off the coast of Cape Hatteras in North Carolina, United States. Bermuda has multiple flights each day to Eastern Seaboard hub airports (with customs and immigration pre-clearance in Bermuda). New York and Boston are less than two hours away and there is one daily direct flight to London in the summer and five flights weekly in the winter. Bermuda is more than 1,000 miles from Miami and while an associate member of the Caribbean Community (the association of Caribbean countries), it is geographically distinct.

On the international plane, Bermuda is an overseas territory of the United Kingdom of Great Britain and Northern Ireland. Bermuda is thought to have been first sighted in 1505 by Spanish explorer Juan De Bermudez (from whom it takes its modern name) on board the Spanish ship La Garza. It first appeared on a Spanish map in 1509, but was not settled until British ship the Sea Venture was wrecked on its reef during a hurricane 100 years later in 1609. The Sea Venture was en route to Jamestown, Virginia, carrying the new governor of Virginia and captained by Sir George Somers. Thereafter, Bermuda (sometimes known officially as the Somers Isles) was formally claimed by the British Crown in 1612, English law was extended to Bermuda and the Supreme Court had its first recorded sitting in 1616. The law of Bermuda today remains, according to the Supreme Court Act of 1905, the law of England as it applied on 11 July 1612 (the formal date of settlement), as amended from time to time thereafter.

Not only is this historical digression of interest, but it also establishes a number of important points about Bermuda's modern constitutional position as set out in its 1968 Constitution. The first is that the British governor of Bermuda retains significant reserved powers over international relations, police and security, and the assent to legislation passed by the Bermuda Parliament. This Parliament is the third oldest continuously sitting Parliament in the world, having first sat in 1620. The second point is that Bermuda law has the great benefit of applying principles of English law and equity. Many of Bermuda's most important statutes are drawn from English precedents. This is also true in the sphere of trusts, with Bermuda's Trustee Act 1975 following closely the English equivalent of 1925. Third, Bermuda's final court of appeal (the Supreme Court of Bermuda being the first instance court and the Bermuda Court of Appeal the intermediate appellate court) is the Privy Council in London. This provides those who do business in Bermuda, or who have their wealth managed from Bermuda, with a high degree of confidence as to the predictability of decision making in the Bermuda courts. Bermuda therefore represents a unique mix of cultures, with a central pillar being its stability as a tax-neutral domicile.

While Bermuda's dominance in the insurance and reinsurance market came

later than its development as a trust domicile (Bermuda is now the second most important reinsurance market in the world, surpassed only by the City of London), it would be wrong to see private wealth as subsidiary business to that of insurance. In fact, Bermuda as a trust domicile and as a location for family offices derives very significant benefit from Bermuda's success in insurance. Many of the world's most important insurers and reinsurers have offices, staff and key operations in Bermuda. This not only drives the local economy and results in an exceptionally high standard of living on the island, but also has the consequence that the banking sector and professional service firms, such as legal and accountancy firms, provide a world-class service across their entire client base, including trustees and families. The captive insurance vehicle for which Bermuda is rightly renowned as the world's leading captive domicile can, depending on the underlying corporate structure holding a family's wealth, be considered.

Going hand in hand with this professional service culture is an experienced regulator in the form of the Bermuda Monetary Authority, which is charged with the regulation of the licensed trustee sector. Bermuda has 28 licensed trust companies regulated by the Bermuda Monetary Authority under the terms of the Trusts (Regulation of Trust Business) Act 2001. Private trust companies (PTCs) – those whose sole purpose is to act as a trustee for a specific trust or related group of trusts – are currently exempt from the licensing requirements under the Trusts (Regulation of Trusts Business) Act 2001, so long as the PTC offers trustee services only to those trusts specified in its memorandum of association or (if an overseas company) its permit and such other trusts as Bermuda's minister of finance may approve from time to time. The exemption is provided for under Section 3 of the Trusts (Regulation of Trust Business) Exemption Order 2002. The incorporation and management of PTCs in Bermuda are governed by the Companies Act 1981, which provides, among other things, for public access to the register of members, directors and officers. Among Bermuda's licensed trust companies are a number of global players, as well as high-quality Bermuda-specific firms. Family offices established in Bermuda can draw on the breadth of talent that the licensed trust company sector promotes.

Beyond the world of the trust service provider, the 'Big Four' accountancy practices have had significant businesses on the island for many years, while a number of other global accountancy practices with a focus on high-net-worth clients are also represented. A recent development in the professional services sphere has been the establishment in Bermuda of a number of legal practices with affiliations with global offshore law firms. Bermuda was in many ways the pioneer of such firms, with Conyers Dill & Pearman (established in 1928) and Appleby Spurling & Kempe (established in 1949) expanding out from Bermuda to establish a worldwide presence. More recently, other international brands such as Kennedys, Walkers and Carey Olsen have formed associations with

Bermuda firms. The increased competition and service level across the board that are encouraged by such dynamic changes bode well for a vibrant professional service sector that can respond to the needs of the modern family office.

Turning now to how and why Bermuda trust law is supportive of the family office sector, as noted above, it is based on English equitable principles and Bermuda's trust statutes have often been developed from English statutory law. Bermuda's principal trust law statute is the Trustee Act 1975, which follows quite closely the Trustee Act 1925 of England and Wales. The 1975 act sets out general powers of trustees, but these have application subject to the terms of the trust instrument. Section 22 is an important section from the point of view of trustees, since it provides for a statutory indemnity, except for actions which are the result of a trustee's own deliberate, reckless or negligent breach of an equitable duty. While the 1975 act originally provided for more a more restricted statutory regime for trustee investment, the legislation was subsequently amended so that (unless a more restricted regime is mandated in the trust instrument) a trustee may invest in the purchase or acquisition of property at any time, anywhere in the world, with or without security, for the purpose of:

- receiving an appropriate total return from income and capital appreciation;
- controlling or limiting risk;
- benefiting purposes interested in any way whatsoever in the income produced by the trust property; or
- a mixture of such purposes.

The important and necessary qualification to this extremely wide power of investment is provided by Section 55A(4) of the 1975 act, which states that "in so investing or otherwise applying trust property, a trustee shall act as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust and by exercising reasonable care, skill and caution". The 1975 act also provides for the Supreme Court to have a range of powers to intervene in the life of a trust – such as the powers to remove and appoint trustees (Sections 31-33) and make vesting orders (Sections 34-46) – and provides for an important and effective regime for the amendment of trusts and the setting aside errors made by trustees. These powers of the Bermuda court are considered further below.

The classic discretionary trust (usually with protector provisions) remains the most common form of Bermuda trust structure and has been in use as an international wealth planning tool for more than 70 years. One of the earliest examples of a Bermuda discretionary trust coming to international attention was in the English House of Lords case of *Countess of Kenmare v Inland Revenue Commissioners* [1958] AC 267, in which it was recorded that:

in August, 1947, the appellant ceased to reside in the United Kingdom, and on September 24, 1947, she made a settlement in Bermuda, according to the law of that island. The property comprised in the settlement consisted of certain mortgages and certain stocks, shares and securities in industrial companies in the United Kingdom of the value of about £700,000. The trustees of the settlement were Nicholas Conyers Dill and the Bank of N. T. Butterfield & Son Ltd., both of them resident in Bermuda.

The tax planning in the case of that particular Bermuda trust did not work, since the House of Lords held that the countess was liable to UK tax on her income under the settlement. Efficient tax planning has certainly been an important driver for the Bermuda trust industry over the years, but these days Bermuda trusts are more often established or maintained for generational, asset protection or other non-tax planning reasons.

With regard to asset protection, Bermuda has so-called 'firewall' legislation set out in Section 11 of the Trusts (Special Provisions) Act 1989, which aims to protect properly established and funded Bermuda law trusts from attack based on foreign inheritance, matrimonial or insolvency claims. This legislation (which dates from 1989 and was amended in 2004) is expected to be revised and modernised in 2019. As currently enacted, this section provides that a trust which is validly created under the laws of Bermuda shall not be varied or set aside by a Bermuda court and no disposition of property to be held upon the trusts thereof is void, voidable or liable to be set aside for any reason; nor is the trustee, any beneficiary or any other person to be subjected to any liability or deprived of any rights, by reason that:

- the law of any other jurisdiction prohibits or does not recognise the concept of a trust;
- the trust or disposition avoids or defeats rights, claims or interests conferred by the law of another jurisdiction upon any person by reason of a personal relationship to the settlor or to any beneficiary or by way of heirship rights, or contravenes the law of another jurisdiction or any foreign judicial or administrative order or action intended to recognise, protect, enforce or give effect to any such rights, claims or interests; or
- the trust or disposition avoids or defeats rights, claims or interests conferred by the law of another jurisdiction upon any person in respect of the protection of creditors in matters of insolvency.

While the intention of the Trust Law Reform Committee of the Bermuda Business Development is to reform this section, any reform will continue with the same policy objective, which is to protect properly constituted Bermuda trusts from challenges based upon the forced heirship or insolvency regimes of other jurisdictions. The firewall has proved to be very effective in practice, insofar as there is a dearth of reported Bermuda case law on its effect. This

suggests, but does not prove, that once a Bermuda trust is validly constituted and the trustee has received title to trust assets, third parties that may wish to attack the structure are dissuaded from doing so by virtue of the existence of the firewall.

In what remains a very significant departure from the English trust law historical background, the Trusts (Special Provisions) Act 1989 permitted the establishment of non-charitable purpose trusts. These have proved to be enduringly popular for families or businesses wishing to develop a trust structure for a particular business or philanthropic purpose, and are often employed at the top of a structure to hold the shares of a private trust company. While as initially enacted in 1989, Bermuda purpose trusts were required to have an enforcer, this requirement was relaxed in 1998 and a range of persons with a sufficient interest now have standing to make an application to the Supreme Court to enforce a Bermuda purpose trust. This change also resulted in Bermuda purpose trusts becoming less complex and expensive. Bermuda purpose trusts have been the subject of very limited case law, again suggesting that such structures have achieved a level of stability. One recent notable exception to this is the case of *Trustee L v The Attorney General* [2015] SC (Bda) 41 Com (15 May 2015), in which the validity of purpose trusts established under the 1989 act was challenged on a number of grounds, including that they were void for uncertainty. It is clear from the ruling of the Supreme Court that the value of the assets held in the trusts is exceptional. The court has to date ruled only in respect of whether the trustees are entitled to fund the defence of the litigation as the expense of the trust and not on the merits of the action. It remains to be seen whether this litigation results in a final ruling on the validity of purpose trusts.

Another innovation was the amendment to the Trusts (Special Provisions) Act 1989 in 2014 to enumerate the powers which may be reserved to a settlor or given to a third party, such as a protector. Prior to this law reform coming into force on 16 July 2014, it was very common to see such reserved powers in Bermuda law trusts. While the legality of such powers was not questioned (and in general terms had been recognised in the original 1989 act), it was thought preferable that Bermuda law be developed to make it clear that such powers are and always have been valid. This reforming legislation also provided innovation in the form of a presumption as to whether, going forward, such powers were to be construed as fiduciary and express recognition that a trustee who acted in accordance with such reserved powers would not thereby commit a breach of duty.

In a further piece of clarifying legislation, the Perpetuities and Accumulations Amendment Act 2015 made the process for perpetuating Bermuda law trusts much more straightforward. The amendment to the Perpetuities and Accumulations Act 2009, introduced by the 2015 Amendment

Act, has generated significant interest among practitioners. It has also seen a number of high-value trusts redomiciling to Bermuda to take advantage of the flexibility afforded to the Bermuda court to perpetuate trusts which were perhaps settled some time ago and which require restructuring. Prior to the passing of the 2009 act, the perpetuity period under Bermuda law was 100 years. The 2009 act effectively abolished the rule against perpetuities as a matter of Bermuda law prospectively, save for trusts which held Bermuda land. Thus, in respect of trusts holding assets for ultra-wealthy international families established on or after 1 August 2009, those trusts could be of indefinite duration – something which is often of particular appeal to settlors interested in a dynastic settlement.

With regard to trusts which had been established prior to 1 August 2009, there was no straightforward method to perpetuate those trusts. The 2015 Amendment Act, which came into force on 1 August 2015, addressed this issue with an amendment to Section 4 of the 2009 act. This section now provides that the Supreme Court has clear jurisdiction to grant an order on the application of the trustee of such trusts extending the duration of Bermuda law trusts which were in existence prior to 1 August 2009 (again excluding trusts of Bermuda land) or trusts governed by a foreign law (whether established prior to or after 1 August 2009). The test to be applied by the court under Section 4 is a discretionary one: "… as [the court] thinks fit."

This statutory amendment has resulted in several reported cases before the Supreme Court in which the court considered the test to be applied when perpetuating trusts. Section 4 was first considered in *Re The C Trust* [2016] SC (Bda) 53 Civ, in which Chief Justice Kawaley held that it may be appropriate to grant relief under Section 4 on an *ex parte* application by a trustee, provided that the court is comfortable that any adverse impact on beneficiaries has been properly considered and presented to the court. The principles which Kawaley set out in the *C Trust* case are as follows:

- The court should not act as a 'rubber stamp';
- The court should have regard to the best interests of all interested parties, broadly defined and looked at as a whole; and
- The fact that extending the duration of a trust will dilute the economic interests of existing beneficiaries will ordinarily be an irrelevant consideration.

This latter point is an important one, given that ultimate default beneficiaries are not ordinarily intended to benefit in fact by a settlor, but rather are added to any structure to avoid wealth resulting to the settlor at the end of a fixed trust period.

More recently, in *In the Matter of the G Trusts* [2017] SC (Bda) 98 Civ, the court granted an application to extend the duration of trusts which had

redomiciled from Cayman to Bermuda. The factors which Kawaley took into consideration in granting the application included that:

- the family whose wealth was held in the G Trust genuinely looked upon wealth as dynastic in nature; and
- the extensive distribution of wealth to the generation that happened to be in existence at the conclusion of the existing perpetuity period could be detrimental in a number of respects, including in respect of taxation and the resulting dissipation of the family wealth.

The ability to establish new perpetual trusts and to perpetuate older structures has added to Bermuda's reputation as the pre-eminent jurisdiction for complex and high-value trust restructuring. Quite apart from perpetuation, Section 47 of the Trustee Act 1975 has been used successfully for many years to restructure trusts via a court process without the need to join as parties or seek the consent of all members of the beneficial class. This can be particularly beneficial in the case of discretionary trusts with very wide classes or where active consent is unattractive due to the fiscal consequences. Section 47 provides that the Bermuda court may grant a trustee the power to effect a transaction provided that the proposed transaction is 'expedient', which has been interpreted in the case law to mean 'expedient for the trust as a whole'. A transaction may still pass the expediency test if it is expedient for one beneficiary, but neutral for another. The definition of 'transaction' is much wider than in similar legislation in other jurisdictions and this has allowed the Bermuda court to confer upon a trustee a power to amend a trust including the beneficial interests held under the trust. In the leading case on this legislation, *GH v KL* [2011] SC (Bda) 23 Civ, Chief Justice Ground rejected the suggestion that tax implications should be ignored when considering expediency, saying: "if the proposal is otherwise plainly expedient, then there is no limitation in the statute which prevents its sanction simply on the grounds that it is designed in the interests of tax efficiency, and nothing to justify my importing such a restriction."

The flexible nature of the Section 47 jurisdiction has been recognised in a number of more recent cases, notably *In the Matter of XYZ Trusts* [2017] SC (Bda) 111 Civ (12 December 2017). In this case, the trustees sought a range of additional powers in aid of an intended restructuring of a complex and valuable trust structure, the details of which had not yet been worked out. It was argued by certain beneficiaries that the court could not grant additional powers to the trustee under Section 47 because it could not be said in advance of the working out of a detailed restructuring proposal whether what was proposed satisfied the 'expediency' trust or whether the trustees would in fact need the additional powers. The chief justice rejected this argument, pointing to earlier case law in which the court's power under Section 47 was described as "a broad one"; he

held that he was "unable to see any proper legal basis for concluding that section 47 could not be deployed to approve the first stage of a transaction which would in the second stage be more fully fleshed out". Bermuda continues to see valuable structures in need of restructuring migrating to the island to take advantage of this flexible restructuring regime.

Several recent cases have also reaffirmed the principles upon which the Bermuda court will act when being asked to anonymise public records of court proceedings (and judgments) and permit hearings in private in order to maintain confidentiality. The most important consideration of this issue was again in the *G Trusts* case, in which the chief justice reaffirmed the practice of the Bermuda court of anonymising trust cases in non-contentious cases. Importantly, this decision came after and specifically considered the impact of press coverage of Bermuda trusts as a result of the publication of the so-called 'Paradise Papers'. In deciding that this practice was constitutional and ought to continue in appropriate cases, Kawaley noted that:

> *persons administering, interested in or settling Bermuda trusts should rest assured that this Court's firmly established practice of making confidentiality orders in appropriate cases, which is merely designed to enable law-abiding citizens to peaceably enjoy their actual and contingent property rights, has a venerable legal basis. The existing practice will continue to be applied in appropriate cases such as the present.*

Another recent trend in Bermuda trust cases is that of trustees increasingly seeking the assistance of the court when taking what are referred to as 'momentous decisions'. The jurisdiction of the court to grant blessing to trustees (often referred to as the *Public Trustee v Cooper* jurisdiction, after an English case of that name) has been exercised for many years, but prior to 2014 had resulted only in one or two reported cases over the previous decade. However, there have been several important recent cases concerning trusts of very significant value. One example was *In the Matter of A Trust* [2018] SC (Bda) 42 Civ, in which the court considered such an application in which trustees sought approval for their decision to permit a company that they controlled to make a substantial investment. In exercising this jurisdiction, the court ordinarily tests the trustees' decision making against what a reasonable body of trustees would have decided and asks whether the trustees had taken into account any irrelevant, improper or irrational factors. Importantly, the court considered the proper approach to expert evidence and decided that it was not enough for the trustees to adopt an unquestioning approach to their own expert evidence when presented with evidence from opposing beneficiaries. On the facts, the court approved the trustees' decision to enter into the transaction.

The case law mentioned above is but a small sample of the interesting decisions in high-value trust cases that have emanated from the Supreme Court of Bermuda in recent years. Many of these are non-contentious cases which deal

with the court's powers to assist with various kinds of trust restructuring. Almost invariably, this case law emanates from trust structures held for the benefit of international ultra-high-net-worth families. The recent legislative reforms mentioned in this chapter are helping to drive the trust business sector in Bermuda. Coupled with this, the Bermuda government has recently developed a fintech strategy with the passing of several statutes aimed at encouraging business in this sector, including the Digital Asset Business Act 2018.

These developments in Bermuda law bode well for the family office sector and meet the challenge head on of making the Bermuda trust fit for purpose for the next generation of ultra-high-net-worth families. To pick up on the theme of the STEP Bermuda 2016 conference, Bermuda rightly considers itself a 'centre of excellence' for the family office.

Canada[1]

Mary Anne Bueschkens
Miller Thomson LLP
Lucinda Main
Andrea Tratnik
Beard Winter LLP

1. Introduction

The concept of the family office is relatively new in Canada. It was virtually unheard of 15 years ago, and only in the past four or five years has the concept become more familiar to wealthy Canadians.[2] Canada's minimal number of family offices is due, in part, to the country's relatively small population and its "less robust historical infrastructure for entrepreneurs to cultivate and pass on their family wealth".[3] This chapter summarises the current status of single family and multi-family offices in Canada and the factors that have presented themselves which could lead to an increasing need for their services. However, while there are reasons to assume that family offices will become more prevalent in Canada, there are also a number of reasons to believe that such growth could be thwarted. In addition, it is important that the family office industry in Canada realises that because of the country's smaller population and fewer high-net-worth residents, the US and European concepts of a family office will need to be adapted in order for the family office concept to succeed in Canada; therefore, a Canadian solution must be found and embraced.

2. The definition of a 'family office' in Canada

The concept of a family office – single family or multi-family – is still in its genesis in Canada. As a result of the continuing evolution of the business model, there is as yet no commonly understood or accepted definition of a 'family office'. The following are some of the definitions published for Canadian single family and multi-family offices, to provide a sense of how such businesses are being marketed and portrayed in Canada:

- "A family office is a dedicated multi-disciplinary team of professionals who look after your family's complex financial and human capital needs.

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1 An adaptation of this chapter was published in *The International Family Offices Journal* (Globe Law and Business), vol June 2017, pp6–15, in an article called "Family offices in Canada" written by Mary Anne Bueschkens of Miller Thomson LLP, and Lucinda E Main and Andrea Tratnik of Beard Winter LLP.

2 "Family office profile: Northwood Family Office", interview with Tom McCullough by Barbara R Hauser. *The International Family Offices Journal* (Globe Law and Business), vol Sept 2017 (p42).

3 Brent Barrie, "The Family Way: The Modern Family Office Deals with Many Issues", 17 July 2013, www.firstaffiliated.ca/media/.

The family office oversees and manages all of your financial affairs and maintains all of your financial information and records. It provides customized services to several generations of your family and works to support the family to sustain and grow family wealth."[4]

- "A family office acts as a personal CFO or chief advisor to successful families, with a dedicated team of professionals who oversee and manage the complete financial affairs of client families."[5]
- "A family office acts as a single coordinating function between family members and their key advisors."[6]
- "There are about as many variants of the family office as there are families. For a smaller family whose principal asset is a family business, the family office may simply be a personal assistant who, as well as dealing with business administration, assists family members with more domestic matters such as paying the cleaner and gardener, and making travel arrangements. At the other end of the scale, a large family with significant wealth may have a family office with staff ranging from investment advisers, lawyers, property managers and philanthropy directors."[7]
- "When you've seen one single family office, you've seen one single family office … There's no blueprint, and every family is different, and every family's needs are different."[8]

As the concept of the family office develops in Canada, the industry's goals and the services that family offices deliver will become more consistent. In this regard, the way in which family offices are defined and marketed in Canada will become less vague and will better articulate the services offered to meet the wealthy family's business, financial and personal lifestyle goals.

3. The future of the family office in Canada

3.1 Factors for potential growth

While family offices are still a relatively new phenomenon in Canada, there are reasons to believe that the foundation is being set for growth. First, the number of wealthy families in Canada is expected to continue to increase. Whether the funds are received as an inheritance or the result of the sale of a family business, such families are more likely than ever to need the services of a family office to manage the newly acquired funds and preserve their wealth. Second, it is hoped

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4 Kerr Financial, "FAQ", http://kerrfinancial.ca/faqs/.
5 Northwood Family Office, "What is a Family Office?", www.northwoodfamilyoffice.com.
6 "How to Evolve your Family Office", Creagan McConnell Group, www.cmgpartners.ca/family-office/.
7 RBC, "Considering a family office? Here's what you need to know", www.rbcwealthmanagement.com/global/en/research-insights/considering-a-family-office-heres-what-you-need-to-know/detail/.
8 Elizabeth Cloutier (Canada Overseas Investment Ltd), Family Office and Family Planning, Society of Trusts and Estates Practitioners (STEP) seminar in Toronto, 15 May 2018.

that the current trend of high-net-worth individuals moving to Canada will continue. A recent Statistics Canada study suggests that nearly one in two Canadians could be an immigrant or the child of an immigrant by 2036.[9] Finally, as assets and families become more complex and globalised, there is a growing need for integrated and centralised management of assets.

(a) Increase in the accumulation of wealth

The number of high-net-worth individuals has been growing across the globe. In 1999 there were 55,000 individuals with more than US$30 million in investible assets. In 2010 that number had increased to 103,000. In 2017 that number had jumped to 255,810, representing a 12.9% increase from the previous year.[10]

Only in the last three to four decades have Canadians begun to accumulate significant wealth. Given Canada's relatively small population (36,708,083 in 2017),[11] the number of wealthy Canadian individuals and families and their total net worth are very often dwarfed by their neighbours to the south. According to a 2011 *Canadian Business* report, there were 61 billionaires in Canada, with an average worth of C$2.7 billion.[12] In comparison, the same 2011 report stated that there were 412 billionaires in the United States with an average worth of C$3.7 billion. A 2018 *Forbes* article noted that the number of billionaires in the United States had increased to 585 in 2018 and that it is currently the country with the highest number of billionaires (out of 2,208 worldwide).[13] Growth in the number of wealthy individuals has continued in Canada too. *Canadian Business* annually ranks the top 100 richest Canadians and as of the start of 2018, all of them were billionaires.[14] The 2018 list ranks the Thomson family in first place, with a net worth of C$41.14 billion. The frozen food empire of the Harrison McCain family places 23rd on the list, with a net worth of C$3.79 billion. In 31st place is Frank Stronach, founder of car manufacturing company Magna International, with a net worth of C$3.06 billion.[15] All three have single family offices: Woodbridge Company Limited (Thomson family); the GWF McCain Financial Services Inc (McCain family); and Magna Management Inc (Frank Stronach).

Only the ultra-wealthy can afford to sustain the operational costs of a single family office. The multi-family office is the more economically feasible option

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9 Statistics Canada, *Study: A look at immigration, ethnocultural diversity and languages in Canada up to 2036, 2011 to 2036*, released 25 January 2017.

10 Wealth-X, *World Ultra Wealth Report 2018*, www.wealthx.com/report/world-ultra-wealth-report-2018, p1.

11 Statistics Canada, *Canada at a glance 2018*, www150.statcan.gc.ca/n1/pub/12-581-x/12-581-x2018000-eng.htm, p2.

12 *Canadian Business*, "The Rich 100", www.canadianbusiness.com/article/48712—interactive-map-the-billionaires-of-the-world.

13 *Forbes*' 32nd Annual World's Billionaires Issue, 6 March 2018, www.forbes.com/sites/forbespr/2018/03/06/forbes-32nd-annual-worlds-billionaires-issue/#442e7e4110e0.

14 *Canadian Business*, "The Rich 100", 9 November 2017, www.canadianbusiness.com/lists-and-rankings/richest-people/100-richest-canadians-complete-list/.

15 *Ibid*.

for most wealthy families. However, there are still relatively few Canadians with the net worth necessary to join a multi-family office. In 2017, there were 376,680 individuals in Canada with US$1 million or more in investable assets,[16] making up a little less than 1% of the population.[17]

Inheritance boom: With this increase in accumulation of wealth, Canadians have had to start considering how they will transfer their wealth after their death. It is speculated that there will be a significant transfer of wealth over the next couple of decades. According to a report by the BMO Wealth Institute: "The biggest wealth transfer in history is set to take place."[18] The report stipulates that there will be an approximately US$1 trillion transfer in the next 20 years. In comparison, the transfer in the United States is expected to be approximately US$41 trillion. While there is uncertainty as to the plausibility of these exceptional numbers, due to increasing life expectancy and escalating costs of healthcare, it is clear that there will be a transfer of some significance: "experts say that even if the anticipated tidal wave turns out to be a trickle collectively, it can still have an impact on individual's personal finances."[19] It appears that Canadians are more likely to pass their investments and assets to their spouses, children and grandchildren, as opposed to making charitable gifts, at least in comparison with Americans.[20] Many Canadians – more than half of those surveyed for an Investors Group report – are expecting an inheritance (and many are relying on it).[21]

Business succession planning: The inheritance boom is not the only expected liquidity event to have much significance in Canada in the next couple of decades. It is estimated that 80% of all businesses operating in Canada are family-run.[22] A large number of family businesses expect to see an inter-generational transfer of management and/or ownership. More specifically, over the next decade up to 70% of Canadian businesses are expected to see a change of ownership.[23] The concerns of such succession were well articulated by Sara Hamilton:

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16 Investible assets do not include primary residence, collectibles, consumables and consumer durables.

17 World Wealth Report 2018, Cap Gemini and www.worldwealthreport.com/reports/population/north_america/Canada.

18 The BMO Wealth Institute, "Passing it on: What Will Future Inheritances Look Like?", Canadian edition, www.bmo.com/pdf/mf/prospectus/en/09-429_Retirement_Institute_Report_E_final.pdf.

19 Madhavi Acharya-Tom Yew, "Baby Boomers Set to Inherit $1 Trillion", *The Toronto Star*, 20 February 2012, www.thestar.com/business/personal_finance/retirement/2012/02/20/baby_boomers_set_to_inherit_1_trillion.html.

20 Darah Hansen, "Canada's Pending Inheritance Boom Could Worsen Wealth Gap", Yahoo! Finance, 9 April 2014, ca.finance.yahoo.com/blogs/pay-day-/canada-pending-inheritance-boom-could-worsen-wealth-gap-183515296.html.

21 Yew, footnote 19.

22 Samantha Garner, "Molson: A Canadian Family Business Success Story", *GoForth Institute*, 31 July 2010, canadianentrepreneurtraining.com/molson-a-canadian-family-business-success-story/.

23 Sloan Levett, Multi-Family Office, "What Is It and Is It Right For You?", www.fullerlandau.com/site/images/Articles/Multi_Family.pdf.

Many private family business owners aren't ready for the changes that are imminent as they transition leadership and/or ownership of their business enterprise. Some are in denial, while others are oblivious. They may feel that their children aren't prepared to be in charge, or, perhaps, they haven't spoken to their children about handing over the reins because they love being in control. Maybe they say they can't find a successor who takes a long-term view or cares enough about the employees. No matter the reason, when it comes down to it, many clients can't see a logical transition path.[24]

Owners of such businesses essentially have two options: transfer the business to other family members or sell the business to a third party.

If the business will be transferred to the next generation, a family office can assist with the planning, tax structuring and creation of a workable corporate governance structure.

Where the business is sold to an arm's-length party, the vendors will frequently come into a significant amount of liquid assets. Often they are not familiar with managing such a large sum of money. A family office can assist not only in creating and maintaining the investment strategy, but also in preparing for the management of the money when it eventually passes to the next generation.

(b) Immigration to Canada of high-net-worth families

Canada is a developed country with a high standard of living and good healthcare and education systems. It is a family-friendly and politically stable country.[25] Canada had the ninth largest economy in the world in 2017[26] and fares well in many international rankings, including:

- placing 14th (out of 137 countries) in the World Economic Forum's *Global Competitiveness Report 2017–2018*;[27]
- placing 22nd (out of 190 countries) in the World Bank's "Ease of Doing Business" rankings for 2017;[28] and
- placing 12th (out of 189 countries) in the United Nations Human Development Report Office's "Human Development Index" for 2017.[29]

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24 *Ibid.*

25 For more in-depth discussion on the attractions of Canada for high-net-worth individuals, see Northwood Family Office, *Canadian Citizenship: The Wealthy Global Family's Safe and Tax-Efficient Alternative*, October 2009, www.northwoodfamilyoffice.com/wp-content/uploads/2011/12/Canadian_Citizenship.pdf.

26 The Economist Intelligence Unit, "Canada: Fact Sheet", available upon registration at http://country.eiu.com/article.aspx?articleid=1917144175&Country=Canada&topic=Summary&subtopic=Fact+sheet.

27 World Economic Forum, *The Global Competitiveness Report 2017–2018*, www.weforum.org/reports/the-global-competitiveness-report-2017-2018.

28 World Bank, "Doing Business 2017: Equal Opportunity for All", 25 October 2016, www.doingbusiness.org/reports/global-reports/doing-business-2017 .

29 United Nations Development Programme, "Human Development Index", http://hdr.undp.org/en/composite/HDI.

Not surprisingly, Canada is a country that appeals to potential immigrants. In 2014 Canada admitted about 296,000 permanent immigrants[30] from around the world.

The coveted Canadian passport: Northwood Family Office, a multi-family office in Canada, has summarised why wealthy families ought to consider Canadian citizenship when choosing a jurisdiction for their citizenship strategy:

> *Canada is one of the world's best kept secrets. It hasn't always showed up on the list of potential countries for wealthy families looking for additional citizenships or residences. The reason is its (partly unfair) reputation as a high-tax and chilly-weather destination, and also the perception that better alternatives might be available.*
>
> *But things have changed and so have the perceptions. Canada is now recognized as a much more attractive destination for wealthy families… At the same time, the relative attractiveness of other destinations (such as the US, UK, Switzerland, Caribbean tax havens, etc.) has waned, for well-publicized reasons.*[31]

Canadian citizenship is becoming a coveted status to hold. Many high-net-worth families are considering relocating to Canada, sometimes only temporarily, simply to obtain a Canadian passport. Having done so, they can return to their home country, which may be fraught with political and economic uncertainty, in the knowledge and comfort that they can return to Canada at any time and stay as long as necessary. Moreover, holders of Canadian passports can travel to many countries without a visa.

As Canada levies taxes on the basis of residency, and not domicile or citizenship, once Canadian citizenship has been obtained, the individual need not remain in Canada (and, therefore, can cease Canadian residency from a Canadian tax perspective), and can continually renew his or her passport without further residency requirements having to be met.

(c) Increased globalisation and management complexity

Our lives are becoming increasingly more complex and international. As one family office planner from The Heritage Wealth Strategy Group puts it:

> *We know our world is changing. And what we have seen specifically is that there are factors of globalisation: we have complexity with geographically dispersed family members; we've got really irreconcilable contrasting tax regimes and accounting regimes worldwide; regulatory compliance is growing – CRS, FATCA – they are everyday words in our world, and they are causing confusion.*[32]

Indeed, regulatory compliance for individuals with assets held in various

30 Minister of immigration, refugees and citizenship, *2017 Annual Report to Parliament on Immigration*, www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2017.html.

31 Northwood Family Office article, footnote 25 above, at p3.

32 Linda Betts (The Heritage Wealth Strategy Group), Family Office and Family Planning, STEP seminar in Toronto, 15 May 2018.

jurisdictions can be extremely time consuming and difficult. Compliance and globalisation, paired with rapidly advancing technology, make for increasingly complicated wealth management needs. Coordination of advisers, both international and domestic, can be cumbersome and overwhelming. A family office can minimise the burden of dealing with all of these moving parts.

3.2 Factors that may prevent growth

Unfortunately, despite the above reasons for hope for, and anticipation of, the growth of the family office concept in Canada, two important changes were announced by the federal government in 2014 which, in sum, make Canada a less appealing destination for wealthy immigrants. The full effect of these changes is not yet known, but they could very well slow down and impede the growth of the family office industry in Canada. A third change was also introduced in 2014, but has since been reversed. Additional changes were implemented in 2016 and 2017 relating to real estate in Canada, though their deterrent effects on high-net-worth individuals may be nominal.

(a) Termination of Immigrant Investor Programme

The Immigrant Investor Programme – sometimes referred to as the 'cash for citizenship' programme – was created in the mid-1980s in an effort to entice high-net-worth individuals to Canada.[33] Immigrants had to invest at least C$800,000 in Canada using an interest-free loan to the provincial government where the individual would reside. The individual would receive permanent residency status and could thereafter eventually apply for Canadian citizenship. The programme brought in approximately 130,000 individuals to Canada[34] over the course of almost 30 years. Despite these numbers, the programme was criticised for being ineffective at generating economic benefits for Canada, primarily due to its low investment threshold.[35] One critic described the programme as "grant[ing] permanent residence to wealthy foreigners able to cough up $800,000 with few strings attached".[36]

The programme was cancelled on 19 June 2014 with little opposition.[37] One news article stated that the "federal government was right … to end the program, after 28 largely futile years".[38]

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33 Editorial, "The Immigrant Investor Program's Overdue End", *The Globe and Mail*, 12 February 2014, www.theglobeandmail.com/globe-debate/editorials/the-immigrant-investor-programs-overdue-end/article16838689/.

34 Matthew McClearn, "Immigrant Investors to Canada Face Backlog", *Canadian Business*, 19 March 2012, www.canadianbusiness.com/investing/immigrant-investors-to-canada-face-backlog/.

35 Tara Carman and Peter O'Neill, "Ottawa scraps investor immigrant program", *Vancouver Sun*, 10 March 2014, www.vancouversun.com/news/Ottawa+scraps+investor+immigrant+program/9496380/story.html.

36 *Ibid*.

37 Government of Canada, "Investors", www.cic.gc.ca/englisH/immigrate/business/investors/index.asp.

38 Editorial, "Selling citizenship: The immigrant investor program", *The Globe and Mail*, 30 June 2014, www.theglobeandmail.com/opinion/editorials/selling-citizenship-the-immigrant-investor-program/article19400925/.

A modified version of the Immigrant Investor Programme, known as the Immigrant Investor Venture Capital Pilot Programme, was launched in January 2015. Applicants of the pilot programme had to have a personal net worth of at least C$10 million and had to be willing to make a non-guaranteed investment of C$2 million. The investment would be held in the programme's fund for approximately 15 years.[39] The pilot programme did not fare well. After one year, the programme, which was expected to bring in 60 new immigrants, yielded "just seven applications from potential international investors and no permanent resident visas".[40] The application period for the pilot programme has closed[41] and it remains unclear as to whether an official programme will be launched in the future.

(b) Important tax holiday abruptly eliminated

Canada is a high tax jurisdiction and individuals are generally not known to relocate to Canada to save tax dollars. However, Canada offers an important tax benefit to immigrants: a step-up in the cost base of their capital property upon arrival. Paragraph 128.1(1)(c) of the Income Tax Act (Canada) provides that on immigration to Canada, certain capital assets of the immigrant will be deemed to have been acquired at their then fair market value without the assets actually having to be sold. When the immigrant later sells or otherwise disposes of the assets, he or she can benefit from this step-up in the cost base. Many high-net-worth immigrants benefit significantly from this provision in Canada's federal tax legislation.

In a more targeted and obvious effort to attract high-net-worth families to Canada in the hope that they remain and invest in the country, the federal government previously allowed for a special tax holiday for high-net-worth immigrants to Canada. In 2014, however, the government terminated this tax holiday without warning.[42]

Since the late 1990s, Canada has increased its efforts to eliminate tax benefits for wealthy Canadians who use offshore trusts to shelter income from the Canadian tax authorities. These attempts have resulted in a long series of drafts of proposed legislation, much of which has only recently been enacted into law.[43] These rules make it more difficult for a Canadian resident to establish,

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39 Government of Canada, "Determine your eligibility – Immigrant Investor Venture Capital Pilot Program", www.cic.gc.ca/english/immigrate/business/iivc/eligibility.asp.

40 Susan Mas, "Millionaire immigrant investor program lures only 7 instead of 60", CBC News, 22 January 2016, www.cbc.ca/news/politics/immigration-investor-pilot-program-1.3331204.

41 Government of Canada, "How will the Immigrant Investor Venture Capital Fund be managed?", http://webcache.googleusercontent.com/search?q=cache:R-25LAbZBu8J:www.cic.gc.ca/english/helpcentre/answer.asp%3Fqnum%3D980%26top%3D6+&cd=5&hl=en&ct=clnk&gl=ca. This is a snapshot of the page as it appeared on 17 July 2018. We could no longer find any government references to the pilot; it appears they have been removed from websites.

42 Budget plan, 11 February 2014, www.budget.gc.ca/2014/docs/plan/pdf/budget2014-eng.pdf.

43 For more information, see L Main, "Estates, Trust and Tax Law in Canada: Recent Developments of Interest", *Journal of International Tax, Trust and Corporate Planning*, Vol 20, No 4, 2013.

control or benefit from an offshore trust without the imposition of Canadian income tax.

The Canadian government, however, for many years continued to maintain a special exception for high-net-worth immigrants. While, like all other residents of Canada, immigrants must pay tax on their worldwide income or capital gains earned, Canada permitted immigrants to use a qualified non-resident trust – an 'immigration trust' – to protect income earned in such a qualified trust from Canadian taxes for up to 60 months. An individual who became a Canadian resident and who had previously not been a resident of Canada for more than 60 cumulative months could establish an immigration trust that would be exempt from tax on certain types of income earned in the trust. Thus, the immigration trust was a potentially very significant tax-planning mechanism for high-net-worth individuals moving to Canada.

The policy rationale behind the immigration trust was to entice high-net-worth individuals to relocate to Canada to spend their money in Canada, invest in Canadian products and businesses and, in some cases, start their own businesses or set up a Canadian branch or subsidiary of a foreign business in Canada. It was expected and hoped that many would become intertwined in Canadian business and would set up a life and family in Canada such that at the end of the five-year tax holiday, they would decide to remain in the country.

It is still not yet known what effect, if any, the termination of the immigration trust and the other measures referred to above have had and will have on high-net-worth immigration to Canada. Some advisers are pessimistic: Kim Moody of Moodys Gartner Tax Law is quoted as saying that the elimination of the immigration trust "will certainly make immigration a more painful tax exercise for very wealthy immigrants".[44] In the same vein, Dave Rickards of Grant Thornton LLP has stated that "[i]t's possible the elimination of the immigrant trust rule will be a disincentive for people who aren't used to Canada's high tax rates (like those from China or Hong Kong) to take up residence here".[45] Kevyn Nightingale of MNP LLP explained that, combined with the two other recent measures taken by the federal government discussed above, Canada is sending a strong message to high-net-worth immigrants: "If you really want to come here, we're going to make it hard and you're going to have to pay."[46] He goes on to say:

> *The … measures will not really affect low- and middle-income people because they wouldn't have used these tactics anyway. Since there are a lot more people in this average net worth category, the changes will be politically popular. Whether it is to*

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44 Suzanna Sharma, "No More Immigration Trusts? No Problem", 13 February 2014, www.advisor.ca/news/industry-news/no-more-immigration-trusts-no-problem-144733.

45 *Ibid*.

46 Kevyn Nightingale, "The Federal Budget 2014: A Hidden Trap for High-Net-Worth Immigrants", 13 February 2014, www.mnp.ca/en/media-centre/blog/2014/2/13/the-federal-budget-2014-a-hidden-trap-for-high-net-worth-immigrants.

Canada's advantage to hold up a 'STOP' sign to wealthy immigrants is a different question.

Conversely, Wilmot George of Mackenzie Investments remains optimistic following the termination of the immigration trust strategy: "It's not going to stop individuals from coming to Canada. There are other reasons to come here."[47] Some of these non-tax reasons were set out above. Another important non-tax incentive to remember is family ties. It is not uncommon for parents to relocate to Canada if their child moved to Canada to study and decided to remain and start their career and family in the country.

On the note of non-tax reasons to immigrate to Canada, with the election of President Trump in the United States, the statistics reflecting an increase in immigration may not (to some) seem surprising. The number of Americans and other foreign nationals immigrating to Canada has increased as a result of Trump's policy changes and anti-immigration stance.[48] One immigration lawyer has suggested that such immigration could be a "brain gain" for Canada, fuelling an increase in well-educated, contributing members of society.[49]

It appears to be too early to determine whether the elimination of this tax holiday along with the cancellation of the Immigrant Investor Programme will have the effect of reducing the number of high-net-worth individuals immigrating to Canada. It is hoped that the many non-tax factors will be sufficient incentives. However, these changes and proposed changes are important, and must be considered when discussing the immigration of wealthy individuals and families to Canada. The message the country is potentially sending cannot be ignored.

(c) Attempted change to citizenship laws

It is generally feasible to obtain Canadian citizenship without one's worldwide income being subject to Canadian income tax. A recent short-lived change in Canada's citizenship laws thwarted this feasibility, though this change has now been somewhat reversed.

In 2014 the Conservative government made a number of significant changes to the Citizenship Act,[50] which came into effect in June 2015. As a result of these changes, an individual had to be physically present in Canada for four years in a six-year period. In addition, the individual had to be in Canada at least 183 days per year in those four years. This very likely meant that the individual would become a tax resident of Canada pursuant to the Income Tax

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47 Sharma, see footnote 44, above.

48 "Analysis: Canada already seeing effects of Trump's immigration clampdown" Global News, 22 June 2018; updated 23 August 2018, https://globalnews.ca/news/4289648/this-is-why-trump-immigration-crack-down-canada/.

49 Sean Previl and Steve Silva, "How Donald Trump's immigration policies could impact Canada", Global News, 26 January 2017.

50 RSC, 1985, c C-29.

Act (Canada),[51] requiring a filing of Canadian income tax returns and the payment of Canadian income tax on worldwide income.[52] This tax consequence may have deterred high-net-worth individuals and families from relocating to Canada, even if just temporarily to obtain a Canadian passport.

After the Liberal Party won the 2015 federal election, however, the new government took steps to undo the changes by introducing additional amendments to the Citizenship Act. These amendments now permit an individual to be physically present in Canada for only three years in a five-year period. They also repeal the 183 days per year requirement. These amendments received royal assent on 19 June 2017.[53]

(d) New tax on real estate owned by new immigrants

Very generally, Canadian taxpayers are not required to pay income tax on gains arising from the disposition of their principal residence. In 2016 and 2017, in response to rising concerns about overheated housing markets in Canada – particularly in the cities of Toronto and Vancouver – the federal government introduced limitations to this principal residence exemption (PRE) and a foreign buyers' tax was implemented in the two cities by their respective provincial governments.

The new limitations to the PRE affect immigrants. While a Canadian taxpayer is normally permitted to designate only one property in a year as a principal residence, an exception called the 'one-plus rule' permits the PRE on two properties when one is sold and another is bought in the same year. Historically, this rule applied to all Canadian taxpayers; as of October 2016, it is available only to a taxpayer who has been resident in Canada throughout the year. This means that a new immigrant or a non-resident who sells and buys a residence in Canada in the same year cannot benefit from the one-plus rule that year.[54]

A 15% property transfer tax for foreign buyers of residential property in the Vancouver area was introduced by the British Columbia government in 2016[55] and the rate of this tax was increased to 20% for certain districts as of 21 February 2018. This tax applies to a person who is not a Canadian citizen or permanent resident of Canada,[56] meaning that new immigrants are subject to

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51 RSC 1985, c 1 (5th Supp).

52 Section 5(c) of the Citizenship Act; RSC 1985, c C-29.

53 SC 2017, c 14.

54 Lucinda Main and Andrea Tratnik, "On the House", *Offshore Investment*, October 2017. See also, for reference, Carla Figliomeni and Benjamin Mann, "Department of Finance Announces Proposed Changes to the Use of the Principal Residence Exemption," Miller Thomson LLP, October 2016, www.millerthomson.com/en/publications/communiques-and-updates/wealth-matters/october-2016-3/department-of-finance-announces-proposed/.

55 "B.C. Imposes Additional 15% Property Transfer Tax for Foreign Buyers", KPMG, 27 July 2016, https://home.kpmg.com/ca/en/home/insights/2016/07/b-c-imposes-additional-15-property-transfer-tax-for-foreign-buyers.html.

56 BC government, "Additional Property Transfer Tax for Foreign Entities & Taxable Trustees", www2.gov.bc.ca/gov/content/taxes/property-taxes/property-transfer-tax/understand/additional-property-transfer-tax.

the tax. In 2017 Ontario implemented a 15% non-refundable speculation tax on the transfer of residential property located in Toronto and surrounding regions which, mirroring British Columbia, applies to individuals who are neither citizens nor permanent residents of Canada.[57] There has been some backlash to this transfer tax in light of its arguably unfair application to new immigrants living and working in Canada on work permits;[58] however, to date the tax remains in place in both cities.

Overall, these real estate tax changes are unfavourable to new immigrants and may deter individuals from immigrating to Canada. That said, these changes likely affect only a nominal number of immigrants and arguably will not have a significant impact on a high-net-worth individual's decision to immigrate to Canada.

4. Examples of current multi-family offices in Canada

While family wealth is growing in Canada and high-net-worth individuals are moving to and setting up in Canada, there are currently relatively few single family and multi-family offices in Canada. The three most recognised multi-family offices are Northwood Family Office, WaterStreet Family Offices (The WaterStreet Group Inc) and First Affiliated Holdings Inc. Another notable family office is Holdun Family Office, which started out as a single family office and transitioned to a multi-family office five generations later. Some investment and wealth management firms, including Richardson GMP and Kerr Financial, have also started their own multi-family law office divisions.

5. Typical clients of the family office

Canadians look to set up or join a family office typically for one of three reasons. First, the family may have a keen interest in growing and preserving the family wealth for multiple generations. These funds may have already been accumulated over several generations, but now the family wants to ensure that the funds are in fact preserved and maintained.

The second reason is the sale of a business. Many family business owners are not sure how to invest or deal with the funds received on the sale of their business, and need assistance in determining how to invest and preserve that wealth for the business owner's lifetime and, if possible, to maintain the funds for future generations.

Finally, family offices can provide valuable help to surviving spouses, particularly if the surviving spouse was not the family member in charge of running the family business and/or the family finances. They provide one place

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57 "Non-Resident Speculation Tax", Ontario Ministry of Finance, www.fin.gov.on.ca/en/bulletins/nrst.

58 See Lucinda Main and Andrea Tratnik, "Recent changes to Canadian immigration, tax, real estate and trust law and their potential adverse consequences on attracting high net worth foreigners and foreign investment to Canada", *Journal of International Tax, Trust and Corporate Planning*, vol 24, issue 3, 2017.

for the surviving spouse to go to obtain all of the necessary help needed, including the preparation of a budget and guidance on investing.

6. Goals of the family office

Regardless of the source of wealth, Canadians considering setting up or joining a family office share many of the same goals as wealthy individuals in other parts of the world in similar situations. The main goals include the following:

- preserving family wealth for the current generation and, if possible, future generations; moreover, there is often a desire to provide continuity of investment and philanthropic philosophies over multiple generations;
- simplifying life – a family office can centralise financial matters and provide all the legal, investment and tax advice and planning under one roof and assist with maintaining all relevant bookkeeping and reporting, which can ensure that there is no duplication of efforts, as all advisers work together in the same office and share information; and
- as multi-generational wealth is relatively new in Canada, assisting families with the transition of wealth, which includes ensuring that the proper tax and estate plans are in place. Moreover, there is often a need to teach the younger generation how to handle wealth properly.

7. Services offered by the family office

To meet the goals of wealthy Canadians, the services of family offices in Canada are currently very wide-ranging. Family offices strive to leverage advisers (both within the family office and outsourced) with different expertise to work together for a family. Table 1 summarises the services offered by many family offices in Canada.

To improve their client service, both single family and multi-family offices are seeking ways in which they can better provide for their clients. Given Canada's proximity to the United States and the fact that the majority of Canada's population lives close to the US border, many families face cross-border tax and estate planning issues. In some cases, a child may move to the United States and take up residency or citizenship. In other cases, the family may purchase a vacation property in the United States. Such issues require particular attention in relation to the family's tax and estate planning, as the family must now deal with potential US gift and estate tax issues. Canadian family offices are often required to advise on such matters and many are providing these specialised services to their clients.

Another example of family offices trying to provide more specialised services for their clients is by acting as executors, trustees and estate trustees of their clients' living trusts, testamentary trusts and wills. In such regard, they can often provide independent and objective advice, as they are not beneficially

Table 1. Summary of services offered

Planning • Financial planning • Philanthropic planning • Tax planning • Estate planning • Insurance planning • Retirement planning	**Risk management and risk allocation** • Review and management of assets and debts • Review and management of investment philosophy • Review and management of insurance coverage • Review and management of structures holding family wealth
Financial • Financial planning • Selection of money managers • Consolidated reporting on investments	**Tax** • Income tax return preparation • Strategic tax planning to minimise tax otherwise payable • Oversight of tax audits • Coordination of filing of tax returns in other jurisdictions
Accounting/bookkeeping • Renewal of insurance policies • Property management • Monitoring and reporting on outside counsel/adviser work • Assistance with the creation of a family and/or personal budget • Payment of bills and invoices	**Philanthropy** • Definition of family's philanthropic philosophy • Establishment and management of a charitable family foundation • Charitable donations
Family • Management of the family's public reputation • Family governance • Family constitutions • Family mediations and dispute resolution • Arrangement of specialised healthcare services • Career coaching/counselling	**Lifestyle** • Management of day-to-day affairs • Holiday rentals • Private jet rentals • Travel arrangements • Social club and athletic memberships • Engagement of childcare and cleaning services • Arrangement of car services

interested in the assets. Having worked with the family for a number of years and having intimate knowledge of the family's financial situation and the family dynamics often makes the family office more suitable for the task compared to a more remote family member, friend, colleague or trust company affiliated with a bank. Moreover, the family office is more likely to have the expertise (or access to experts) than a more remote family member, friend or colleague.

In several jurisdictions in Canada, only individuals can act as executors, trustees and estate trustees. It is not always ideal to name an individual family office employee in the event that they leave the employ of the family office, die, become incapacitated or otherwise choose not to act in such a role when the time comes. If a family office wishes to provide such services in Ontario, for example, it must establish itself as a trust company in Canada with a licence to carry on trust business in Ontario. This is a rigorous, lengthy and highly regulated process.

Given the amount of work and costs involved in setting up a trust company that can carry on business in Ontario, it is unsurprising that many family offices choose not to attempt to travel down that road. In fact, as of September 2018, only 50 registered trust and loan companies were operating in Ontario (a reduction from 56 in October 2012).[59] However, as the need for family offices and the desire to gain competitive advantage increase, this may become a service that family offices in Canada wish to provide.

8. Asset base required to operate a single family office

Neither a single family nor a multi-family office will be appropriate for all wealthy families in Canada. The first determination is the costs of either operating a single family office or joining a multi-family office.

There is obviously no set minimum asset requirement to set up a single family office. It will depend entirely on the objectives of the family and the services that the office will provide to the family in order to meet these objectives. It has been suggested that a single family office becomes financially viable in Canada only to a family with liquid wealth of more than C$75 million.[60] However, Tom McCullough, the chief executive officer of Northwood, has asserted that a single family office is really economically viable only when a family has a net worth in excess of C$250 million and more realistically a net worth of at least C$500 million.[61] Tim Cestnick, the founder of WaterStreet, has stated that between C$300 million and C$500 million of net assets is needed to cover the operational costs of a single family office.[62]

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59 See Financial Services Commission of Ontario, "Loan and Trust Companies Registered in Ontario", available at http://loanandtrust.fsco.gov.on.ca/loantrust.aspx.

60 Sloan Levett, "Multi-Family Office – What Is It and Is It Right For You?", www.fullerlandau.com/site/images/Articles/Multi_Family.pdf.

61 McCullough, footnote 7 above.

62 *National Post*, "If you can't beat 'em, join a family office", 18 December 2007.

Some single family offices in Canada are simply a branch or offshoot of a larger international family office structure. These situations typically arise when a family has created much wealth several generations ago and then, as the family grows and the wealth is spread around, members of the family relocate to other countries. There may be 20 to 50 family members in Canada who require the services of a family office, and there is a desire that all family members across the globe receive similar services and pursue similar investment and philanthropic philosophies so as to maintain the family wealth for as long as possible. Therefore, while it may not be economically feasible for the Canadian family members to establish their own separate single family office in Canada, by being a part of a larger international structure of family offices, it is still possible to take advantage of economies of scale.

9. Cost to join a multi-family office

Multi-family offices often start out as a single family office, as was the case with Northwood and Holdun. Some family offices wind up and the family joins a multi-family office to control and reduce costs.[63]

The multi-family office offers economies of scale and typically services families with a C$10 million to C$250 million net worth.[64] Most Canadian multi-family offices focus on families with a net worth of C$25 million to C$30 million.[65]

The fees charged by multi-family offices are typically on a percentage basis of the assets under management. Generally, clients are charged between 0.5% and 1.25% of their assets under management for all services rendered.[66] However, the view of charging based on the value of the assets is changing and an annual retainer is beginning to make an appearance.[67] Charging based on hourly rates or other billing structures is not yet common.[68]

10. Setting up and regulating a family office

There is no particular legislation in place to deal with the setting up or running of a family office and no specific regulation of their work. Both single family and multi-family offices in Canada tend to be independently owned private companies. They are not typically part of an investment firm or bank (though some are). Therefore, the setting up of a single family or multi-family office simply requires the incorporation of a federal or provincial private company.

Regulation is not required, as Canadian family offices typically do not actually carry out any investing of their clients' money. They will work with their

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63 McCullough, footnote 7 above.
64 *Ibid.*
65 *Ibid.*
66 *National Post* article, footnote 55 above.
67 McCullough, footnote 7 above.
68 *Ibid.*

clients' investment advisers, assist with selecting the proper money managers and/or consolidate the financial reporting. Those family offices that are not affiliated with a bank or trust company pride themselves on their independence and consider this a strong benefit of using a family office over simply employing an investment firm or a more traditional wealth-management firm. Single family offices will often pool together the family's funds so as to be in a position to leverage the best possible management fees from the money managers.

The management of funds is a highly regulated industry in Canada. The regulation of investment firms and individuals offering money management services is completed at the provincial level, with each province having its own regulatory system and rules. The Ontario Securities Commission's Compliance and Registrant Regulation Branch is in charge of regulating individuals and firms which provide investment advice and manage investment funds in the province. Ontario has legislation in place that regulates these activities.

11. Viability and future of the family office

There are reasons to believe that the concept of family offices will be embraced in Canada and become more commonplace. To this end, it is anticipated that:

- the number of wealthy individuals and families resident in Canada will continue to grow;
- there will be a significant transfer of wealth from one generation to the next in the following two decades;
- the ownership of many family businesses will be transferred to family members or sold to third parties in the near future, creating significant liquidity; and
- immigration, it is hoped, will remain steady and high-net-worth individuals will continue to relocate to Canada.

However, while the stage may be set for an increasing need for the family office in Canada in the next couple of decades, in recent years the federal and some provincial governments have dealt a few blows to Canada's ability to entice high-net-worth immigrants to relocate to the country. The effects of these changes to the immigration, citizenship and tax laws cannot yet be fully appreciated and understood. In addition to these new hurdles, the young industry needs to appreciate the differences between Canada and its neighbour to the south and Europe, and adapt the family office model accordingly. If the industry fails to understand and deal with the differences (eg, small population generally, relatively small population of high-net-worth individuals, shorter history of family businesses and wealth accumulation, specific objectives and needs of high-net-worth families), and simply mimics the models currently presented in other countries, the concept of the family office will not take hold or proliferate in Canada.

The Gulf states

Barbara R Hauser
Independent family adviser
Asher Noor
AlTouq Group

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1. Overview

What constitutes the 'Middle East' is a question whose answer is as elusive as the peace sought in the region.

When the term was coined some 170-odd years ago, it referred to the area between Arabia and pre-Partition India. Today, it usually refers to the Arab countries; but depending on whom you speak to, Egypt, Iran, Israel, Turkey and North Africa are sometimes added to the simmering cauldron. What is largely agreed, though, is that the Middle East is a transcontinental region straddling Western Asia, Europe (courtesy of Turkey) and North Africa (courtesy of Egypt).

Some 40 years or so ago, however, the GCC was born. Now officially called the Cooperation Council for the Arab States of the Gulf, is was previously known simply as the Gulf Cooperation Council. It is quite clear who is in the GCC and who is not; although in recent times, noises have also been made as to who is welcome and who is not. The GCC remains a political and economic union of all Arab states in the Persian Gulf, except Iraq. The member states are Saudi Arabia, the United Arab Emirates, Qatar, Oman, Kuwait and Bahrain. For the sake of simplicity, when we use the term 'Gulf states' in this chapter, we refer to these member states.

A few common themes are shared among the Gulf states. From a government perspective, all are monarchies, albeit variants thereof. From a language perspective, Arabic is the dominant tongue. From a religious aspect, Islam is the prevailing doctrine. From a currency perspective, there is little forex variation, and a peg to the US dollar has been tried and tested by all Gulf states and is still evident in hard or soft form. Oil remains the economic mainstay for most Gulf states, although tourism has been promoted in recent times to diversify from oil-based revenue inflows.

In the Gulf states, businesses are relatively young. With the exception of Saudi Arabia, which was created in 1932, the other Gulf states secured independence merely half a century or so ago. Therefore, enterprises are primarily either well-entrenched first-generation businesses or at best transitioning to second-generation businesses. This transition is the most significant trend in play in the region, but it is still early days and there are

many hits and misses, misunderstanding and misconceptions, and some gambles taken with civil law, *Sharia* law or common law structures that are possibly ill-suited to the region.

Given the lack of accurate statistics from credible regional sources, depending on which publication you read, you will find assertions stating that 70% to 95% of Gulf state businesses are family-run or family-controlled businesses. Although there is some debate as to the actual figure, it is clear that the vast majority of businesses in the region qualify as such.

2. Unique characteristics of Gulf state family offices

This section highlights a few characteristics unique to Gulf state family offices, from the perspectives of investment, hiring, financials and portfolios.

2.1 Investment portfolios

Many business families in the Gulf states have made their initial wealth via government contracts in construction, retail, trading, distributorships or oil. However, all of these can be classed as operating businesses. Once the transition to the family office is made, a holding company is in place and the investment portfolio is regarded more as a financial asset, two key features emerge as staples of any Gulf State family office portfolio: exposure to the local stock exchange and real estate. Real estate can also include a large number of land parcels yielding precisely nothing. In the past, such tracts of land were enthusiastically collateralised with banks, until the time came when central banks realised that this so-called 'collateral' was largely 'sand in the desert'. Those days are over.

Direct investment is the favoured approach, although international private equity firms have been able to tap into the Gulf state family office segment for quite some time now. Families in the region have a real affinity for co-investment rights. Regional yields are usually slightly more than what can be secured internationally. Most Gulf state family offices are also comfortable with the combination of lower yields and a stronger legal framework that they find in international markets. Private equity in the region is in its infancy, as family businesses prefer commercial loans to private equity money. Also, aside from the emotional ties to their businesses which may be found anywhere in the world, in Gulf states valuations are usually exaggerated in the minds of the principals. Gulf state family offices are proving to be the most attractive investor base in seed stage or Series A or B stage offerings in the region's nascent venture and start-up space.

2.2 Key hires

Once a family office structure is agreed as the way forward – whether the family arrives at this decision thanks to its own due diligence or on the advice of a family business adviser – the first key hire is usually a chief financial officer

(CFO). But the definition and job description of a CFO in the family office space are not what you might ordinarily associate with this role. In family-operated businesses, the CFO is perceived as more of an accountant; but at the family office level, the key requirement is to find a confidante who has emotional maturity and is not looking for the job merely as a stepping stone to another career elsewhere. A technical skillset is key, but is more or less assumed as a given. Referrals work best for such hires, as these positions are not usually publicly advertised. A background in the financial services arena is usually a prerequisite. In Gulf state family offices, there tends to be a higher concentration of nationalities from the region, if Arabic expertise is crucial, or alternatively from Pakistan and India. Western nationals have yet to make a sustained mark, because they are perceived as unlikely to commit to the region or the family for the long haul.

The next key hire in the Gulf state family office is the chief investment officer (CIO), with a mandate to manage the family's financial/investment portfolio. Increasingly, as they become more sophisticated, Gulf state family offices are moving away from the global private banking and wealth management model. They are keen to develop in-house due diligence and investment and portfolio management capabilities.

2.3 Philanthropy

At present, philanthropy mostly takes the form of *ad hoc* donations, which are sometimes person or institution specific and not very institutionalised. Most wealthy families have created a *waqf*, which is like an endowment, usually for educational, religious or other charitable purposes. It is typically established by donating real estate or other return-yielding assets into a charitable trust-type structure for perpetuity and with no intention of reclaiming the endowed assets. Additionally, Gulf state families are increasingly waking up to the potential of impact philanthropy. However, there is limited awareness and understanding of how to measure impact against key indicators. A handful of Gulf state families have nonetheless institutionalised their philanthropic efforts by establishing foundations which are funded with a clear percentage of profits from family businesses and are focused on either job creation, skills developments, home-based job programmes or interest-free loans. They are expected to lead the way for many others. However, media coverage is neither solicited nor encouraged.

2.4 *Zakat*

Zakat is one of the compulsory tenets of Islam. Any Muslim who owns wealth over a defined threshold should donate a specific portion of that wealth annually to those who are eligible. The percentage is 2.5%, but the Islamic calendar is lunar based and is thus 10 to 12 days shorter than the solar

Gregorian calendar; the percentage from a Gregorian aspect would be around 2.58% per annum. Individuals pay *Zakat* on their wealth and have full flexibility as regards to whom to pay it to, although eligibility criteria do exist. Individuals typically pay their annual *Zakat* at *Ramadan* – the ninth month of the Islamic year – although it can be paid at any time of the year. Corporate *Zakat* is a percentage of the company's net worth. However, corporate *Zakat* is restricted to businesses or shares in businesses owned by Saudi or GCC nationals. Kuwait has a slightly different treatment, whereby businesses are required to pay 1% of their profits as *Zakat*; the payment can also be a contribution to the state budget. Several other Gulf states are considering introducing something along these lines as well. Most individuals also forgo any interest on their banking deposits, providing banks in the region with an incredibly cheap cost of capital.

3. Examples of Gulf State family offices

This section provides an overview of a number of example family offices in the region. All of the following have agreed to share this information.

3.1 The A family

This is one of the largest and best-organised families in Saudi Arabia. The second generation consists of a number of brothers who own and manage a growing and diverse group of international companies. As with several other family businesses in the region, it has had a partial initial public offering, but continues to encourage all family members to participate in the management of the business. The company head of human resources has put together a series of training plans for family members, which includes a three-year rotation among the various companies. The family has engaged in best practices for family governance, including establishing a family constitution. Somewhat surprisingly, even this large family-focused group did not have a separate family office until recently. The primary goal is to begin to let individual family units separate and manage a portion of the group family wealth. For decades the family has had the investment function of a family office, structured separately from the business. But it was only in 2013 that its private office assumed its current form as a fully fledged family office that is staffed for investment, legal and personal and family affairs.

3.2 The Al-Rajhi family office

This family office manages the wealth of one branch of the well-known Al-Rajhi banking family.

Its head office is located in the Eastern Province in Saudi Arabia, with two other offices in Bahrain and Geneva. Collectively, the three entities represent the private investment company both in Saudi Arabia and internationally.

The private investment company has a portfolio of investments, ranging

from public equity investments to private equity investments and real estate. It has focused on strategic investments across various sectors, including financial services, real estate, infrastructure, mining, healthcare, telecommunications, utilities, oil and gas and petrochemicals.

In 2004, with the help of a consultant, the family spent two years working on a set of protocols (similar to a constitution), which was signed in 2006. The protocols were then translated into Arabic and revised to comply with *Sharia* law, and signed again in 2009.

The structure, role and scope of the family council are clearly set out in the family protocols. The protocols also cover:

- the family's vision statement;
- the overall group's governance structure;
- the principles according to which the family chooses to conduct its businesses; and
- general references to family members' aspirations and goals.

In addition, the protocols provide for the formation of:

- the family office, to manage daily family operations;
- the family development committee, to create a platform for continuous improvement and employment for family members;
- the family charity committee, to govern the family *waqf*;
- the family finance committee, to advise on investment decisions for family members in respect of assets outside of the private investment company; and
- the family advisory committee, to handle conflict resolution matters.

After five years of utilising the protocols and upon the request of the partners, the protocols are again being refined.

The family office was formed in December 2007 to segregate the family from the business. The role of the head of the family office was particularly significant in the implementation of the family protocols.

The family office not only provides personal lifestyle management and concierge services, but is also involved in philanthropic services and public relations. There is a strong focus on continuing education, training and development. The family sees it as crucial to train the younger generation and prepare it for the future as the group continues to flourish.

3.3 The Bin-Laden family office

Apart from its notorious terrorist member, the family is a large and successful family with a very good reputation, based in Jeddah. It has a very organised family office, including a detailed family 'university' programme for the next generation, which includes international faculty members.

3.4 The Al-R family office

The founding father of this family began as a trader who walked from country to country across the desert selling various goods. He saved enough with his brothers to start the first bank in Saudi Arabia. He later invested in some large farmlands, which he left to his children under *Sharia* law. A son now heads the family office and provides investment oversight and budget planning for a number of family members. He has 33 siblings and the extended family has between 600 and 700 members. He convened a family gathering – 300 attended – and they agreed to form a family council that would act very much like a family office. The family office itself became a closed stock company. The current project is to have a family website.

3.5 The ATG family office

This is a unique family office in that it did not develop out of any single primary operating business. In fact, the founder started out as a corporate executive in his early days. Successful local and international financial investments over the decades were the nucleus of the wealth for this family. Since the establishment of this office in the 1970s, the founder has established strong governance and handed over the leadership to the second generation. The chief executive officer and deputy chief executive officer are family members with initial international careers outside the family office. The CIO is a non-family member and has been with the family office for almost a decade; he previously worked in the investment and commercial banking sector.

Although it is a single family office, the family office is run in an institutionalised way, with a professional team focused on succession planning, risk management, asset allocation, continuous portfolio monitoring and rebalancing. Including International Financial Reporting Standards-based audits, the financial reporting to family members provides a detailed and consolidated overview (including personal assets). From a governance aspect, an investment committee is in place with a mix of family and independent members who meet every month to deliberate on deal flow and review the existing portfolio. Offsite strategic review meetings are also held annually.

In addition to managing its large and complex international and local portfolio, the office provides full concierge services to the family. Full-time dedicated resources cater to travel, personal and medical needs, among other things.

The family has committed to invest in the office's people and staff to provide the best services for the family, professionally and personally. A rule is to provide training twice a year to every member of its team, and family members, in relevant areas. The vision is clearly stated on its website:

> *God willing, we will increase the tangible value of our family portfolio of investments and business interests. We will provide for our family's current and*

future generations and for people associated with our family. We will also care for the wider good of our community and the Kingdom of Saudi Arabia as a whole.

3.6 The Al-Agil family office

This is a fairly structured family office. The family head of the office says that over the years he and his senior colleagues have learned a lot from family offices in the United States.

The family has two annual meetings. The second generation participates in the second part of each meeting and women are also included – all begin participating either after college or when over the age of 20. Each is given a small amount of money to invest at that time.

The meetings cover general family issues, such as ethics, public behaviour, risks and how to learn not to depend on the money. The family head shares information about the new ventures (but does not tell them the total financial investments).

Their family office began in the 1990s as an investment office and grew slowly. Born out of a need to diversify from the retail business, it expanded from two people in 1992 to 40 people today. Early on, it learned from the US leaders in the family office space, especially the Chicago-based Family Office Exchange and the New-York based Institute for Private Investors. The best practices learned from them have been incorporated into the family office. The family office has also developed a sustainable wealth management programme investing in the United States, Europe and Asia in different asset classes. It has largely been investment-focused, but in the last few years it has also been adding family services. The family office helps with education and schools, travel and family expenses. It has also created a family constitution.

In terms of supporting the next generation, the office has already funded some family ventures. There are now two young women training on the investment side and five young men are already working in different segments of the family business. The family likes the next generation to have between three and five years of successful work experience outside the family business. It also has a rule that a child cannot work for his or her father – although he or she can be hired by an uncle. Five children, who each have between three and four years' external experience, are now working in the company groups. They are valued for how much they participate in the family and the business.

The head of the family office comments: "The key for success will be the next generation. They are clearly the most important. We are lucky in the first generation in that we are five partners, so we are already used to working together and respecting each other."

Once second-generation members have graduated and entered employment, each is given a small amount to invest. The office will help only where help is requested; it is the individual's decision. About three years later,

they are given a much larger amount; a further sum may be given after six years. The hope is that they will co-invest in Saudi Arabia, and that they will encourage group thinking and cooperation rather than having selfish attitudes.

The family has a tradition of charity. For 30 years it has donated to many small villages, especially its small home town. It has set up micro-financing projects, supported orphanages and charities for the disabled, and made significant contributions to sports. It has also funded more than 30 computer clubs. It has a chair at the National University of Singapore and a Rhodes Scholarship for Saudi graduates at Oxford University. It encourages the next generation to present requests for charity funding and to contribute some of their own money.

The head of family office comments: "I see my job in the family to think ahead three to five years all the time… and to focus on navigation and visibility. We need to think ahead about who will be retiring, who will be the new leaders and who might influence them. We could say. 'The caravan is moving.'"

He suggests that families in Saudi Arabia seem to be much closer than most western families. Even so, he says that the family is realistic: no family is perfect, so if even just 70% of each generation are thriving, that is considered a success. The family wants to empower its children and hope they will share together and protect their investments.

His advice for other family offices is to "develop slowly and practise how it will work".

3.7 The Al-Muhaidib family office

These family businesses began in 1946 and have grown to an international group with more than 10,000 employees. The extended family has been proactive in the family governance area. As one family member comments:

> *The Family Council serves as a legitimate forum for dialogue concerning the interests of the family. There are committees which work under the guidance of the council to focus on:*
>
> - *formalised communication;*
> - *educational planning;*
> - *development initiatives;*
> - *corporate social responsibility;*
> - *philanthropy; and*
> - *female empowerment and education of the young generation. Right from the beginning, the group has encouraged the next generation of women to become valuable members of business.*

The family office is named 'Khair', Arabic for 'goodwill'. Between 80 and 100 family members attend its annual retreat (about an 80% attendance rate). They travel to a special location in a group bus and participate in activities such as

ship-building exercises, lessons in public speaking, parent counselling and orienteering. The family council has existed for about 10 years and focuses on preparing the next generation, family education and corporate social responsibility. It includes males and females, and all family members aged 16 or older. A special event is the third-generation annual competition of creative proposals for self-sustaining business initiatives, called *Wasareou* – which means "Let's run, let's go fast" in Arabic – in which winners are awarded each year. The family council has an impressive number of ongoing initiatives aimed at engaging the entire family, especially the next generation.

4. Conclusion

The Gulf region has all the elements that lead to the creation of family offices, including:

- a healthy economy;
- a prevalence of family-owned businesses;
- a culture of very close families;
- a recognised need to professionalise their global enterprises, in part by separating personal services from business services;
- a highly educated generation poised to take over family businesses; and
- a strong dedication to preserving the welfare of the entire family.

A rapid increase in the number of single family offices in the Gulf region is thus anticipated.

Note: These descriptions are based on personal and private observations from spending an extended period in the Gulf States. It is clearly difficult to offer accurate generalisations, but every effort has been made to try to offer objective and representative observations.

Hong Kong

Christian Stewart
Family Legacy Asia (HK) Limited

Unless otherwise noted, the focus of this chapter is on a single family office set up to serve an ethnic Chinese family resident in Hong Kong or other Asian family that has decided to base its single family office in Hong Kong.

1. Introduction

Asian families can be very private and secretive, inward looking and self-reliant. That makes it extremely difficult to obtain accurate statistics on the number and nature of formal family offices that have been established in Hong Kong. A 2018 report by Reuters referred to a rapid rise in the number of family offices and private investment offices being set up in Hong Kong and Singapore, as rich Chinese and other Asians increasingly seek more control of their wealth.[1] Reuters notes that: "The family office is a relatively new concept in Asia, with less than 500 such entities, compared to thousands in the West. There is no precise number available, given the private ownership structure and secrecy around these businesses."

There is certain to be growth in this sector; but on the other side of the coin, many Asian families are not willing to formalise the management of their family affairs through a formal family office – they are happy to maintain blurred boundaries between their family operating business(es) and their private wealth.

A feature of Asian family offices is that there is often still a connection between the founding family and one or more operating businesses that the family controls. Most Asian family offices are likely to be serving families that are in the first or second generation of wealth ownership. The characteristics of an office will depend on the generation of ownership of wealth. Hong Kong family offices can also be expected to be created and to evolve organically depending on the needs, interests and approach of the owning family.

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1 "Rich Asians crazy about securing wealth spark family office boom in HK, Singapore", Reuters, 5 November 2018, www.reuters.com/article/us-asia-wealth-family-offices/rich-asians-crazy-about-securing-wealth-spark-family-office-boom-in-hk-singapore-idUSKCN1N90QT

1.1 Hong Kong's Confucian families

Much Asian family wealth is still in the hands of the first-generation wealth creators or the family patriarchs, although we are now in a time of transition. While not exclusively so, most billionaires (and other ultra-high-net-worth families) in Hong Kong are of ethnic Chinese origin. These traditional Asian patriarchs typically attribute their financial success to their Confucian values and principles, such as frugality, hard work and perseverance, which they would like to pass on to future generations.

A traditional Confucian family will display the following characteristics:

- The family is the basic unit, not the individual; individuals will be called on to subjugate their personal interests to the interests of the family;
- Family harmony and togetherness are important values;
- The family is hierarchical and respect for elders is required;
- There may be gender differences within the family, with male heirs more likely to be expected to take on business roles and possibly receiving a greater share of the estate on inheritance than female heirs;
- There may be a communication gap between the generations;
- Siblings are not taught how to collaborate together, yet will expect to inherit equally.
- This is not a culture of primogeniture, yet elder siblings require that they be given 'face'; and
- The educational level of the family is likely to increase with each generation, with many of the third-generation family members having received a top-class Western education. These Western-educated family members often experience a values conflict when they return home to Hong Kong.[2]

As in other cultures, in Chinese there is saying that "Family wealth does not survive for three generations". This is something that all Asian wealth creators are aware of and would like to overcome; they would like the success of the family to continue and they would like the family to remain together and united. Notwithstanding the equal inheritance rule mentioned above, the Asian patriarch frequently has a vision of family wealth remaining undivided and jointly owned by all of his children, and in turn by his grandchildren.

Sadly, there are also many high-profile examples in Hong Kong of feuds breaking out among siblings – or between the families of different spouses[3] – once the patriarch has died. Articles in the press[4] also raise questions about

2 For a process for working with such cross-cultural conflicts, see Dennis T Jaffe and James Grubman, *Cross Cultures: How Global Families Negotiate Change Across Generations*.

3 For Chinese families, polygamy was legal in Hong Kong up until 1971.

4 For example, see Te-Ping Chen, "Aging Scions Stoke Concerns Over Transition", *The Wall Street Journal*, 31 August 2012.

how successful succession will be, in large part due to a failure of ageing patriarchs to plan for succession or to let go and retire; and whether the personal connections and other "intangible assets"[5] that they possess can be passed on to their successors. The patriarch may contribute to the family feuds and succession failures that follow his death through his unwillingness to engage in formal succession planning and to adopt more formalised family governance arrangements and family agreements, and by failing to appreciate that the family will change once he is no longer around and by failing to develop collaborative skills – the ability to share power together – among his children.

1.2 A roadmap for family flourishing and success

In order for a family office to help a successful Asian family to sustain family wealth for at least five generations[6] while preserving family harmony and positive family relationships, that family office should be guided by the following roadmap:[7]

- It should be organised on the basis that family wealth has at least four separate dimensions – family human capital, family intellectual capital, family social capital and family financial capital.
- It will need to help improve trust and communication within the family, including by ensuring that the family holds periodic formal family meetings.
- It must help family members to develop the ability to work together collaboratively and to become effective at joint decision making.
- It must help the family to put in place more formalised family governance arrangements, including establishing communication forums, developing role clarity, evolving the role of the corporate board, agreeing processes for dealing with conflicts and creating agreements dealing with the possible exit of a family member.
- It must help the family to address both the quantitative issues of managing family financial capital and the qualitative issues facing family members who grow up with inherited financial capital.
- It must help the family to give serious attention to learning (not just education) as a family activity. It must help the family to become an effective learning organisation. The family office should encourage the family (through its family council) to create the new role of chief learning officer (CLO). The purpose of this new function is to help

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5 Joseph Fan, Chinese University of Hong Kong.

6 The goal of beating the 'three generation curse' by seeing family wealth in all its forms last for at least five generations is articulated in James E Hughes, Jr, *Family Wealth; Keeping it in the Family* (Bloomberg Press).

7 This roadmap is based on *Family Wealth; Keeping it in the Family* and other works by Hughes. Most recently, see James E. Hughes, Jr, Susan E Massenzio and Keith Whitaker, *Complete Family Wealth*, 2018, Bloomberg Press.

ensure that all family members learn to make better joint decisions and develop the capacity of each individual family member to the fullest.[8]

This chapter is structured based on this roadmap.

2. Hong Kong as an international finance centre

Hong Kong is a well-regulated international finance centre with a strong rule of law and an independent judiciary. In addition to families resident in Hong Kong, it can be considered as a location for establishing a family office either for ultra-high-net-worth families from other parts of Asia or for international families looking for a convenient geographical location to give them access to investment opportunities within China or elsewhere in North Asia.

2.1 The Hong Kong Special Administrative Region of China

Since 1 July 2007, Hong Kong has been a special administrative region of China and is referred to as the 'Hong Kong Special Administrative Region' or the 'Hong Kong SAR'. The Basic Law of the Hong Kong Special Administrative Region is essentially Hong Kong's own mini-constitution.[9] The most prominent feature of the Basic Law is the underlying principle of 'one country, two systems', whereby the socialist system and policies of mainland China shall not be practised in Hong Kong, and the previous capitalist system and way of life will remain unchanged for 50 years.[10] This is not to say, however, that the capitalist system currently practised in Hong Kong will suddenly disappear on 1 July 2047.[11] China's national laws do not apply in Hong Kong, except for a number of laws relating to defence and foreign affairs.[12]

The Basic Law authorises Hong Kong to exercise a high degree of autonomy. Hong Kong enjoys executive, legislative and independent judicial power, including that of final adjudication, in accordance with the Basic Law. Although foreign affairs relating to Hong Kong are the responsibility of the Central People's Government, Hong Kong is authorised to conduct external affairs on its own in accordance with the Basic Law. Hong Kong has the capacity under the Basic Law to enter into international treaties and agreements.[13]

2.2 Taxation

The taxation system in Hong Kong is a territorial system and is relatively simple.

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8 See "Epilogue: The Future?" in James E Hughes, Jr, Susan E Massenzio and Keith Whitaker, *Complete Family Wealth*, 2018, Bloomberg Press.

9 Department of Justice website, www.doj.gov.hk/eng/legal/index.html.

10 Department of Justice website.

11 The future of Hong Kong in 2047 was a theme explored by Professor Anselmo Reyes of the University of Hong Kong in a keynote speech entitled "Hong Kong 2047" delivered at the Society of Trusts and Estates Practitioners Asia Conference in Hong Kong in October 2014.

12 Department of Justice website.

13 Department of Justice website.

It would not be correct to call Hong Kong a tax haven, however. On the other hand, the taxation system should not be a deterrent to a non-Hong Kong family choosing to base a family office in Hong Kong. The Inland Revenue Ordinance (Cap 112) imposes a property tax, a salaries tax and a profits tax, and provides that in general, tax is imposed only on income which has a Hong Kong source. Profits tax is imposed on anyone who carries on a trade, profession or business in Hong Kong and earns profits that arise in Hong Kong or that are derived from Hong Kong. The profits tax applies only to revenue profits and not to capital gains. Revenue profits from dealings in Hong Kong listed stocks will be regarded as having a Hong Kong source. In general, the principles for determining the source of profits can be said to be well settled in Hong Kong. There is no tax on dividend income.[14] The current top profits tax rate for corporations is 16.5%.

For the purpose of promoting Hong Kong's competitiveness as an international finance centre, there is an exemption for offshore funds from profits tax.[15] Under this exemption, a non-resident person is exempt from profits tax in respect of assessable profits derived from specified transactions carried out through or arranged by a specified person. The specified transactions include transactions in securities, futures contracts, foreign exchange contracts, foreign currencies, certain deposits and exchange-traded commodities. A 'specified person' refers to a broker, dealer or asset manager licensed under the Securities and Futures Ordinance. There are anti-avoidance rules to prevent this exemption from being used by resident investors.

The Basic Law contains articles that guarantee the independence of Hong Kong's taxation system from that of China. Double tax agreements entered into by China are not applicable to Hong Kong, and Hong Kong has the capacity to enter into both double tax agreements and tax information exchange agreements (see below) with other countries. Currently, Hong Kong has entered into 40 double tax agreements with respect to income tax[16] with foreign countries. In addition, a comprehensive double tax agreement was entered into between Hong Kong and China in August 2006.[17]

Hong Kong also imposes a stamp duty, which will be relevant in relation to dealings in Hong Kong stocks, Hong Kong bearer instruments and Hong Kong immovable property, including leases of immovable property. Stamp duty measures have been introduced that are intended to prevent speculation in Hong Kong residential properties, including a 15% buyers' stamp duty, which applies when property is purchased by any corporation or individual other than a Hong Kong permanent resident, and a special stamp duty.

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14 For an overview of the Hong Kong taxation system, see the CCH Hong Kong Master Tax Guide.

15 Section 20AC of the Inland Revenue Ordinance, which was introduced by the Revenue (Profits Tax Exemption for Offshore Funds) Ordinance 2006.

16 See list on the Inland Revenue Department website at www.ird.gov.hk/eng/tax/dta_inc.htm.

17 Before this, a limited scope double tax agreement was in place since February 1998.

2.3 Exchange of beneficial ownership information

Hong Kong has entered into an agreement with the United States for the exchange of taxation information on request. This has been effective since 20 June 2014.[18] Hong Kong entered into a Model II intergovernmental agreement with the United States to implement the US Foreign Account Tax Compliance Act.

Under the Inland Revenue Ordinance, the Inland Revenue Department has the power to collect and to disclose a taxpayer's information in response to requests made by countries with which Hong Kong has negotiated a comprehensive double tax agreement, even when the information was not otherwise required for domestic tax purposes.

Hong Kong has also committed to adopting the Organisation for Economic Cooperation and Development/G20 Common Reporting Standard (CRS) for the automatic exchange of financial account information. The first exchanges of information by Hong Kong under the CRS commenced in 2018. Reporting financial institutions in Hong Kong must now report financial account information with respect to some 75 jurisdictions.[19] The Hong Kong Guidance on CRS for Financial Institutions can be found on the website of the Inland Revenue Department.[20]

2.4 Anti-money laundering regime

Hong Kong is a member of the Financial Action Task Force. Hong Kong has an all-crimes anti-money laundering regime. Under Section 25 of the Organised and Serious Crimes Ordinance (Cap 455), a person commits an offence of "dealing with property known or believed to represent proceeds of an indictable offence" if, knowing or having reasonable grounds to believe that any property in whole or in part, directly or indirectly, represents any person's proceeds of an indictable offence, he or she deals with that property. Indictable offences are more serious criminal offences.[21] Reference to indictable offences includes conduct that would constitute an indictable offence if it had occurred in Hong Kong. Tax evasion is an indictable offence in Hong Kong.[22] Under Section 25A of the Organised and Serious Crimes Ordinance, any person who knows or suspects that any property represents any other person's proceeds of an indictable offence must file a suspicious transactions report as soon as it is reasonable for him or her to do so.

With effect from 1 April 2012, Hong Kong introduced the Anti-Money

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18 For a list of tax information exchange agreements, see www.ird.gov.hk/eng/tax/dta_tiea_agreement.htm.
19 For the full list of reportable jurisdictions, see www.ird.gov.hk/eng/tax/aeoi/rpt_jur.htm.
20 www.ird.gov.hk/eng/tax/aeoi/guidance.htm.
21 Other laws that are relevant are the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap 405), which applies to drug trafficking, and the United Nations (Anti-Terrorism Measures) Ordinance (Cap 575), which applies to terrorist financing.
22 Section 82 of the Inland Revenue Ordinance.

Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance (Cap 615) (AMLO), which is applicable to financial institutions and money remitters and money exchangers. Effective from 1 March 2018, AMLO was amended also to provide for the regulation of trust and company service providers in Hong Kong (see section 2.5). Schedule 2 of AMLO sets out the customer due diligence requirements that must be complied with by all financial institutions. If a single family office is dealing with any financial institutions in Hong Kong on behalf of the client family, then those financial institutions will be required to collect from the family office the customer due diligence information specified by Schedule 2. If the family office itself is licensed by the Hong Kong Securities and Futures Commission (SFC), then the family office will itself be a financial institution for the purposes of AMLO and will be required to comply with its customer due diligence requirements. If a family office is not licensed by the SFC, the family office and its staff and executives will still be required to comply with the Organised and Serious Crimes Ordinance provisions mentioned above, where applicable.

2.5 Regulation of trust and company service providers

On 1 March 2018 a new licensing regime came into operation for trust and company service providers. Anyone that carries on or wishes to carry on a trust or company service business in Hong Kong must apply for a licence from the Register of Companies and satisfy a 'fit and proper' test. Anyone that carries on a trust or company service business in Hong Kong without a licence commits an offence and is liable on conviction to a fine up to HK$100,000 and imprisonment for up to six months. To facilitate implementation of the new licensing regime, the Companies Registry set up a new office called the Registry for Trust and Company Service Providers.[23] The registry maintains a public register of licensed trust and company service providers on its website.

A 'trust or company service business' means the business of the provision in Hong Kong by a person to another person of certain specified services, which include:[24]

- forming corporations or other legal persons;
- acting or arranging for another person to act as a director or a secretary of a corporation;
- providing a registered office, business address, correspondence or administrative address for a corporation; and
- acting or arranging for another person to act as a trustee of an express trust or as a nominee shareholder.

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23 For more information see the registry's website at www.tcsp.cr.gov.hk.

24 For the full definition, refer to Part 1, Section 1 of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (Cap 615).

If a private trust company is considered to be in the business of the provision of trustee services, it will need to be registered as a trust or company service provider.

2.6 Register of significant controllers

Where the family office is a Hong Kong incorporated company, from 1 March 2018 the Companies (Amendment) Ordinance 2018 introduced a requirement to maintain a significant controllers register. Under the amendment ordinance, all companies incorporated in Hong Kong (except listed companies) must identify the person or persons with significant control over the company and maintain a significant controllers register, which will be accessible by law enforcement officers upon demand. Each company must also designate at least one person as its representative to provide assistance relating to the significant controllers register of the company to law enforcement officers.[25]

2.7 Family office regulation in Hong Kong

Although Hong Kong is a prime location in Asia to set up a family office, there are no explicit family office laws and regulations. Regulatory exemptions are applicable only if the international investment fund vehicles of the family and the family office are structured correctly.[26]

The SFC is responsible for regulating the securities and futures markets in Hong Kong. The SFC works to ensure orderly securities and futures market operations, to protect investors and to help promote Hong Kong as an international financial centre and a key financial market in China.[27]

The SFC is responsible for the licensing and supervision of intermediaries that engage in regulated activities as defined in the Securities and Futures Ordinance (Cap 571). There are 10 types of regulated activity,[28] as follows:

- Type 1: dealing in securities;
- Type 2: dealing in futures contracts;
- Type 3: leveraged foreign exchange trading;
- Type 4: advising on securities;
- Type 5: advising on futures contracts;
- Type 6: advising on corporate finance;
- Type 7: providing automated trading services;
- Type 8: securities margin financing;
- Type 9: asset management; and
- Type 10: providing credit rating services.

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25 For more information on the significant controllers register, see www.cr.gov.hk/scr.

26 See Ogier, "Structuring it right – Asian family offices", 27 March 2017, www.ogier.com/publications/structuring-it-right-asian-family-offices.

27 Securities and Futures Commission website; see www.sfc.hk.

28 Schedule 5 to the Securities and Futures Ordinance.

If a single family office is formed in Hong Kong, it must review its planned activities carefully, including whether it will have an in-house investment management team and the relationship between the family office and the investment-owning vehicles of the family, to ensure that the family office will not engage in any one or more of the regulated activities. A licence is not required for Type 4, Type 5, Type 6 or Type 9 regulated activities if the relevant advice or services are provided solely to wholly owned subsidiaries, a holding company which holds all of the provider's issued shares or other wholly owned subsidiaries of that holding company.[29]

2.8 The ownership of the Hong Kong family office

A Hong Kong company may be incorporated as a company limited by shares or by guarantee. There is no prohibition on the ownership of a Hong Kong company by a foreign company, and in practice this is a common arrangement.[30] The Hong Kong Trustee Ordinance does not permit the creation of a non-charitable purpose trust under Hong Kong law.[31]

3. Providing support for family governance

If a family office has been created to help preserve family wealth, then it is critical that the family office is providing support for the family governance activities undertaken by the family. The long-term preservation of family wealth, in all of its forms, comes down to whether the family can adopt a successful system for making joint decisions together with respect to the jointly owned family wealth.[32]

Family offices in Hong Kong are often responsible for arranging periodic family meetings and there are even some examples of family offices that have the primary purpose of providing support for the family governance structures and processes of a family.

3.1 The family constitution

One way in which the family office can help with family governance is to ensure that the family has spent time in creating its own written family constitution. The concept of a formal written family constitution is now starting to become accepted among both families with significant financial wealth and business-owning families in Asia. Family constitutions have a number of benefits. One such benefit is simply that it helps to bring all family

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29 Source: SFC website, "Do you need a license or registration? / Exemptions". Other exemptions are also summarised; www.sfc.hk/web/EN/regulatory-functions/intermediaries/licensing/do-you-need-a-licence-or-registration.html#3.

30 One practical benefit of this approach is that subsequent restructurings of the share ownership of a foreign holding company are not subject to Hong Kong stamp duty.

31 Also see section 8.2.

32 *Family Wealth: Keeping it in the Family*.

members on to the same page. It helps to clarify the different roles that exist within the family enterprise system. A family constitution will normally also address how conflicts among family members are to be dealt with.[33] However, a family constitution will not be of help unless it is implemented. Implementation is more important than development.

3.2 What is the best family governance model?

When a family develops a family constitution, the question it must address is: what is the best system of governance for the family? What model will help to preserve family harmony, avoid destructive conflicts, maintain positive family relationships and otherwise ensure that it continues to be a successful family?

The family governance model that the Asian patriarch often has in mind is one of leadership based on hierarchy or on competency, with limited scope for participation in decision making by other family members, who are treated as outside shareholders. However, research into the lifecycle of Chinese-owned family firms has found that such firms tend to fail by the third generation, if not before – primarily because the family members at the ownership level cannot make joint decisions, and also because the family member 'outside shareholders' stop supporting the family members who are managing the family firm; the family's emotional commitment to the family enterprise breaks down.[34] When that happens, family members or family branches that are not involved in management roles will be left looking for a way to exit; and if this is not available, then frustrations will arise.

The conclusion is that the patriarchal family governance model does not help to sustain the family enterprise beyond the first generation, and does not help to preserve family harmony and positive family relationships and prevent family conflicts. The family governance model for the family must change[35] in the second generation if the family wants its family enterprise to survive beyond the third generation. From this point of view, the most important task for the Hong Kong family office is to help ensure that the second-generation family members can work together as collaborative decision makers, at least with respect to ownership-level decisions.

Important elements of an effective family governance model include:

- establishing a clear understanding of the different roles and responsibilities (in particular, establishing the ownership/beneficiary role);
- distinguishing between who has the right to make key decisions and

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33 For more information on family constitutions in general, see Barbara R Hauser, *International Family Governance, Avoiding Family Fights & Achieving World Peace* (Mesatop Press).

34 Wong Siu Lun, *Family Business Review*, Volume VI, Number 3, Fall 1993.

35 The only exception to this is if a single beneficial owner can consolidate all of the share ownership in the family enterprise; in that event, the sole beneficial owner can run things in a patriarchal manner.

who should be given a voice (but not a vote) in relation to those decisions;
- adopting the principle of fair process in decision making;[36] and
- cultivating family emotional commitment.

3.3 The hybrid family office

Professors Roger King and Winnie Peng from the Hong Kong University of Science and Technology have written on the "Family Office as Family Glue for Chinese Families",[37] specifically considering the potential for the development of the family office for mainland Chinese families. They argue that success for Chinese families does not lie in copying Western assumptions about how a family office (or a Chinese family) should be established and governed; rather, more effort must be made to develop a model based on the right mix of Chinese culture tradition and values, and useful Western practices (which are cherry picked, rather than adopted wholesale).

They argue that in a Chinese family, it is important to give priority to hiring qualified family members to fill key roles in the family office, rather than assuming that hiring non-family professionals will automatically be the best approach. Another example provided is that while the family governance system might include a family assembly, unlike for a Western family, for a Chinese family the family assembly would not be a body with any voting authority; it would meet only for family bonding activities.

3.4 The role of family elders[38]

It is very common to see family constitutions that refer to both a family assembly – which is generally an annual meeting of all family members – and a family council, which is a smaller committee with authority to represent the whole family. However, families that are developing their own family constitution should also consider including a committee or council of family elders, which then becomes the judicial arm of the family governance system.[39]

The idea of incorporating a role for family elders into the family governance system fits well with Asian culture. Family elders should be people who are deeply trusted by both the older generation and the younger. They should be people who will act in the best interests of the family as a whole. They need to bring wisdom to the family. Wisdom includes the ability to see the big picture. Family elders should be people with the capacity to help bridge the

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36 In the family enterprise context, see the explanations of fair process by INSEAD Professors Randel S Carlock and Christine Blondel.

37 See Roger King, Winnie Peng and Christian Stewart, "Family Office: The Eastern Approach", *International Family Offices Journal*, March 2017, Globe Law and Business.

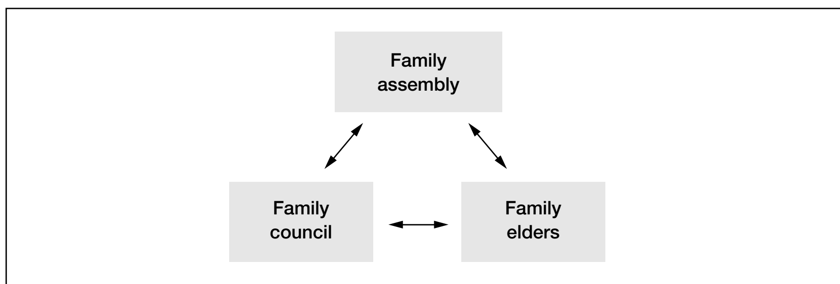
38 For an expanded discussion of the concept of family elders, see Christian Stewart, "The Wisdom of Elders", *The STEP Journal*, July 2014, Volume 22, Issue 6.

39 The idea of family elders was first discussed in *Family Wealth: Keeping it in the Family*.

communication gap between generations. Hong Kong's 'Confucian families' should be looking for their own equivalent of Lao Tzu – the archetypal elder from Taoism – to help guide their family.

Family elders may be given authority in the family constitution to facilitate when there are disputes among family members or may otherwise have responsibility for ensuring compliance with the family's conflict-resolution processes. They may also be given the authority to enforce the terms of the family constitution and any policies that are created in accordance with the constitution.[40]

Figure 1. A more stable family governance structure



4. Helping to mitigate the impact of family conflicts

High-profile family feuds are a common feature in the press in Hong Kong; they usually break out following the death of the family patriarch or matriarch. There is a Chinese saying: "Parents in Heaven; children in court." The conflicts are typically intra-generational, rather than cross-generational.

For Chinese families in Hong Kong, family conflicts are a major risk to family wealth in all its forms.[41] If a family conflict occurs, this is damaging to the reputation of the family and can lead to the destruction of family relationships. If the job of the family office is to help preserve family wealth in all its forms, the family office must be concerned with the issue of the management of family conflicts.

4.1 Causes of family conflicts

The origins of many conflicts among some of Hong Kong's ultra-high net worth families can be explained either purely in terms of a patriarchal family culture or in terms of a conflict between the Confucian ideals and values of the older generation and the Western values of the rising generation, many of whom have been educated overseas:

40 *Family Wealth: Keeping it in the Family*.
41 Barbara R Hauser comes to this conclusion in the context of international families.

- The patriarch will favour setting up family trusts as a vehicle for keeping the family wealth consolidated and for designating one or more successors to have control over the trust structures (not as a trustee, but as a protector or through an investment committee for the trust), and with no easy mechanism for family member beneficiaries to exit if they do not want to be part of the joint family trust structure. If you are a mere discretionary beneficiary, you have no asset that you can sell back to the rest of the family. Therefore, an insistence on keeping the family wealth together when the heirs do not have the skills to collaborate causes conflicts.
- Having no mechanism to allow a beneficiary or shareholder to exit in return for fair compensation causes conflicts.
- Family member successors who fail to hold themselves accountable to the wider family stakeholders cause conflicts.
- Lack of a mechanism for participative family governance, such as a family council, causes conflicts.
- Conflicts can arise between the oldest sibling, who believes he should be entitled to lead the family based on the family hierarchy, and younger siblings who are more competent.
- Conflicts can also arise if the patriarch has multiple wives or concubines, which was an accepted part of Chinese culture until 1971.

4.2 The cross-cultural lens

In their book *Cross Cultures: How Global Families Negotiate Change Across Generations*, Dennis Jaffe and James Grubman[42] set out a framework which is intended to be used in any cross-cultural situation, but is particularly relevant to Asian family enterprises, where the older generation has grown up with traditional Confucian values, while the younger rising generation has usually been exposed to Western individualistic culture. *Cross Cultures* discusses how to help the members of the rising generation negotiate across cultures with their elders. Potential conflict between generations can be reframed as a cultural conflict and not as a result of the personalities involved.

Where there is this kind of cross-cultural conflict in a family, the role of the adviser/family office executive becomes that of a cultural mediator, helping both generations to explore whether solutions can be negotiated that satisfy both the needs of the patriarch (and this family orientation) and the individual needs of the rising generation. *Cross Cultures* outlines the steps in this negotiation process and the role of cultural mediator.

42 2016.

4.3 The role of the family office

The family office can help to prevent, or at least to better manage, family conflicts once the patriarch passes away in the following ways:

- The family office can help by ensuring that all family members have appropriate estate plans in place and, ideally in the case of the patriarch, that these estate plans – including the terms of any family trust structures – have been communicated to the family in advance.
- The family office can help considerably by ensuring that periodic family meetings are held.
- The family office can ensure the adoption of exit plans and mechanisms in all of the family trusts and investment-holding entities, including a mechanism for opting out of the services of the family office.
- The senior family office executives can see their role as that of a cultural mediator, as covered in section 4.2.
- The family office can help the family by getting family members to agree in advance on the process by which they will seek to manage any conflicts should they arise.[43] This might involve committing to attempting first to resolve conflicts through negotiation; failing which through mediation,[44] using an appropriately qualified professional; failing which by arbitration;[45] and only finally, as a last resort, through litigation.

All families are emotional systems. Conflicts among members of a wealth-owning family are often likely to be emotional, rather than rational, in nature. There will be cases where a family conflict may be best resolved by a multi-disciplinary team that includes professionals who can work with the family emotional system, such as qualified family therapists.

It must be acknowledged that implementing the recommendations set out above is easier said than done. Cultural resistance should be expected. The patriarch will say: “My family will never fight”; and “We don’t need things to be so formalised.” However, the fact remains that conflicts are a frequent reality for Hong Kong’s wealthy families on the passing of the patriarch. It is therefore important for senior family office executives – and the family advisers – to be patient and culturally sensitive on the one hand, yet at the same time to keep gently pushing for greater transparency, accountability, planning and more formalised governance on the other.

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43 See Ian Marsh, “Conflict management and dispute resolution”, *Business Families and Family Businesses* (Globe Law and Business).

44 Hong Kong has a Mediation Ordinance, Cap620.

45 Arbitration Ordinance, Cap609.

5. Investing in family human capital

While today, most Hong Kong family offices are focused on quantitative (ie, investment management and technical) issues, it is critical that they can quickly evolve to help the families that they serve address their qualitative issues as well. These include the challenging questions of how to promote both individual and family flourishing in a family of great wealth, while on the other hand avoiding – or at least alleviating – negative family dynamics and the dark side of inherited wealth.

One question that is important for family leaders and family office chief executives to reflect on is how much money is spent each year on managing and investing family financial capital (including manager and custody fees and fees for tax legal accounting and regulatory advice). Then consider the annual budget for the family's investment in developing family human (and intellectual) capital.

5.1 Know thyself

When thinking about individual family members (the family human capital), the kinds of qualitative issues to be considered include whether individual family members know themselves: what their personal dreams are, what work they are called to, whether they can successfully individuate and separate themselves from the shadow of the family wealth, whether they are mature or are maturing, whether they can successfully navigate the transitions in the adult lifecycle, and whether they are free or whether they are suffering from an addiction.[46]

Hughes recommends that five specific issues be addressed for all family members in order to help them to fully participate in their family's joint decision-making system:[47]

- Know how, as individuals, they learn and take in information;
- Know their own unique calling in life;
- Know their individual work style – how they prefer to work in a group;
- Know their own personality type; and
- Learn the skills of having difficult conversations.[48]

5.2 An assessment process

According to the book *Family Wealth: Keeping it in the Family*, a family must undertake multiple qualitative assessments to understand whether its human capital is growing. There are two different dimensions to this.

46 See James E Hughes Jr, Susan E Massenzio and Keith Whitaker, *The Voice of the Rising Generation, Family Wealth and Wisdom* (Bloomberg Press).

47 The first four of these recommended steps are expanded on in the "Tools & Pathfinders" section of James E Hughes Jr, *Family: The Compact among Generations* (Bloomberg Press).

48 See Douglas Stone, Bruce Patton and Sheila Heen, *Difficult Conversations: How to Discuss What Matters Most* (Penguin).

First, there are recommended assessments for each individual member of the family to carry out. The assessments and tests recommended in Chapter 19 of the book *Family: The Compact Among Generations*[49] can be considered as a starting point. These include assessments to enable all family members to understand how they learn, how they work, their vocation or calling, and their personality type. For individuals, this information is critical for them to know themselves and live a life in pursuit of happiness. At the family level, these individual assessments need some leadership and support from the family leaders/family council. There should be a family policy encouraging all family members, once they reach a certain age, to start carrying out these assessments with the financial support of the family. From the family office perspective, the role of a CLO (see section 5.4) would include helping to organise and coordinating these individual assessments, as well as ensuring that a consolidated record is maintained of the results for all members of the family (assuming that they consent to having their personal results shared with the family office).

The second dimension is that this requires the family leaders or the family council – again, with the support of the family office executives – to carry out a periodic survey of the state of the family human capital; to consider whether the family members are flourishing. Qualitative questions for this family survey can be found in Chapter 13 of *Family Wealth: Keeping it in the Family*. The survey questions can also focus on the strengths, dreams and vocations of each family member, as well as the state of the family relationships. This family survey process should provide guidance and direction for the family leaders, who need to be aware of and to consider the trend of the family as a whole.

5.3 Institutionalising access to qualitative advice

Great families need advisers who can help all family members to find their own voice and to integrate the inherited financial wealth into their lives.[50]

If individual and family flourishing requires families to have access to qualitative advice, what is the best way to institutionalise the use of qualitative advisers by a family? One approach is for the family office to retain advisers with expertise in qualitative issues. If the family has a private trust company, the board of that company can include a director with qualitative expertise. Access to qualitative advice can also be institutionalised through the family governance system by creating a family advisory board or a family 'brains trust'[51] of different kinds of family advisers.

Where there are family trusts, a beneficiary relations committee (BRC) can

49 Referred to at footnote 51.
50 See *The Voice of the Rising Generation: Family Wealth and Wisdom*.
51 See Lee Hausner and Douglas K Freeman, *The Legacy Family: The Definitive Guide to Creating a Successful Multigenerational Family* (Palgrave).

be established to advise the trustees on how to exercise their dispositive powers. This is discussed in section 8.3.

5.4 The chief learning officer

James E Hughes Jr[52] proposes that families now need the role of a CLO. Some family offices in Hong Kong have created this position. "Part of the catalyst for the idea is if large government entities and the majority of large publicly traded companies have this position to develop their employees, then why shouldn't family enterprises? Given the current rate of change, complexity, globalization, and competition, for any family to avoid developing the family's capacity is to invite unnecessary risk."[53]

A CLO would be made responsible for overseeing the implementation of the assessment process and helping to advise the family office and family council on human capital development. The CLO should also be responsible for bringing learning organisation principles to the family and its leadership. Where family learning activities are arranged for the family, the CLO role is to ensure that principles of adult learning are incorporated into those experiences.

Is the CLO responsible for family human capital development or for family intellectual capital development? The answer is both, but with the priority being given to human capital development.

6. Growing family intellectual capital

The intellectual capital of a family is another critical topic for a family that wishes to continue its success across generations. It includes the knowledge level and understanding of individual family members, as well as the family as a whole, as to how to be effective owners of the family financial wealth.

What role can the family office play in relation to family intellectual capital? As mentioned in section 5.4, the best starting point is to hire a CLO to help guide the family. In the absence of a CLO, another way to become more organised is through the creation of a family learning committee.

The first task for the learning committee should be the development of a learning and development curriculum for the family and its key trusted advisers. If there is a CLO, then the CLO will be responsible for developing or overseeing the development of the learning and development curriculum, working in conjunction with the family council or learning committee members.

Topics that the family learning and development curriculum might cover could include:

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52 The author *of Family Wealth: Keeping it in the Family* and *Family: The Compact among Generations*.

53 Greg McCann, interviewed by Joe Reilly of the *Family Wealth Report*, http://greg-mccann.com/wp-content/uploads/2016/09/Family-Wealth-Report-with-Joe-Reilly-and-Greg-McCann-on-CLO.pdf.

- how the family can have shared family values while leaving room for each family member to have his or her own individual values;
- education on the family governance system;
- how to be an effective owner of the family's financial wealth;
- trusts or, more specifically, how to ensure that there is a positive trustee-beneficiary relationship;[54]
- development of the skills necessary to be effective joint decision makers; and
- development of leadership skills, including 'vertical leadership development'.[55]

7. Supporting family social capital

The Hong Kong family office will usually play a supporting role in helping to preserve or to enhance family social capital. An important component of social capital will be the charitable and/or philanthropic activities of either individual family members or the family as a whole.

Under Hong Kong law, the term 'charity' currently follows the English common law meaning, as summarised by Lord Macnaghten in the 1891 case of *Income Tax Special Purposes Commissioners v Pemsel*.[56]

The Law Reform Commission of Hong Kong issued a report on charities in December 2013 which included a recommendation that a clear statutory definition of what constitutes a 'charitable purpose' be introduced in Hong Kong. However, as of November 2018, no action has been taken to implement any of the Law Reform Commission proposals.

It is common to see ultra-high-net-worth families and individuals in Hong Kong establish either a charitable trust or their own charitable foundation – that is, a company limited by guarantee incorporated in Hong Kong for charitable purposes. A less-established family office might be very involved in supporting the charitable activities of the family, in which case there are blurred boundaries between the family office and the family foundation; while a more established family office – one where there are more distinct boundaries between the family office and the family foundation – can still be expected to provide at least some degree of administrative support for the charitable activities of the family.

The charitable giving of families in Hong Kong is not driven by local taxation considerations. Rather, the common drivers for charitable giving in Hong Kong tend to include pure altruism, Confucian values and a desire to

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54 A useful text is Hartley Goldstone, James E Hughes Jr and Keith Whitaker, *Family Trusts, A Guide for A Guide for Beneficiaries, Trustees, Trust Protectors and Trust Creators,* Bloomberg Press, 2016. Another is Hartley Goldstone and Kathy Wiseman, *Trustworthy: New Angles on Trusts from Beneficiaries and Trustees*.

55 See Greg McCann, *Awareness and Action: Transforming Family Business via Family Enterprise and Vertical Leadership* in *Sustaining Family Enterprise, Meeting the Challenges of Continuity, Control and Competitiveness*, Globe Law and Business.

56 [1891] AC 531.

preserve or enhance the family reputation or legacy. However, an issue to consider is whether to register the charitable foundation or trust under Section 88 of the Inland Revenue Ordinance.

The Law Reform Commission's report on charities considered whether Hong Kong should establish a charity commission as a sole regulatory body for charities. The Law Reform Commission concluded in its December 2013 report that a charity commission should not be set up "at this stage", but it should be a "long-term goal" for the administration to set up either a charity commission or a centralised regulatory authority. As of November 2018, none of the Law Reform Commission proposals had been progressed. Commentators have noted that the lack of an effective regulatory regime is delaying the growth of a healthy charitable sector in Hong Kong.[57]

8. Managing family trust structures

In Hong Kong, the family office will not usually be the owner of the investments. It is common to see family trust structures set up as the ownership vehicle. Therefore, the family office role typically includes having to coordinate with the trustees of family trusts, as well as with the family's external professional advisers – for example, if it is necessary to consider amendments or changes to the terms of the trusts.

The trustee of the family trusts is likely to be either an external professional corporate trustee or a private trustee company (PTC). One issue for a family office and its advisers to work through is whether to set up a PTC structure for the family or whether to continue to rely on the use of external professional corporate trustees.

8.1 External professional trustees

If the trustee is an external corporate trustee, the family office is likely to have its own staff or executives who will coordinate with the trustee. If the settlor and the beneficiaries are Hong Kong residents, then the trust deed might be drafted so that the trustee retains discretion over distributions of income or capital to beneficiaries (ie, it is a discretionary trust), but that investment decisions for the assets owned by the trust's investment-holding companies are made at the direction of the settlor or of some form of investment committee constituted pursuant to the terms of the trust deed. In this case, the family office will help to coordinate any distribution requests that are made to the trustee from time to time, making sure that the trustee has sufficient information and explanations to exercise independent discretion. When it comes to investment matters, it can be expected that some degree of authority over investment accounts will be delegated to executives from the family office.

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57 "Hong Kong Charities need effective regulation", *South China Morning Post*, 2 July 2018.

Where the trust is set up with an external corporate trustee, it is just as likely that the trustee will be based in a reputable offshore trust jurisdiction as that it will be located in Hong Kong (although it is very common for bank-affiliated international trustees to have trust relationship managers, but not trust administrators, based in Hong Kong). Whether the trustee is Hong Kong based or not, there is also a very good chance that the proper law of the trust will be the law of a foreign jurisdiction.

Hong Kong has incorporated the terms of the Hague Convention on the Law Applicable to Trusts and on their Recognition through its Recognition of Trusts Ordinance (Cap 76), which in general terms means that the selection of a foreign proper law for a trust established by a Hong Kong settlor during his life will be respected.

However, there has been increased interest in the use of Hong Kong proper law trusts with the entry into force of the Trust Law (Amendment) Ordinance 2013 as from 1 December 2013. A number of interesting features were introduced as a result of this 2013 amendment, including the abolition in Hong Kong of the rule against perpetuities and (except with respect to charitable trusts) the rule against excessive accumulations.[58] Unfortunately, the Hong Kong trust law reform included express language dealing with the reservation of investment powers to the settlor of a trust, but was silent as to the grant of investment powers to parties other than the settlor.

8.2 The PTC structure

It is relatively common to see a family that has its own family office establish one or more PTCs. In practical terms, because of the Recognition of Trusts Ordinance, there is an option either to proceed with establishing a PTC in one of the traditional offshore finance centres or to incorporate a company in Hong Kong for the purpose of allowing it to act as trustee of one or more trusts. When taking the offshore option, this typically involves the possibility of setting up a foreign law non-charitable purpose trust to own the foreign-incorporated PTC.

As part of the consultation process leading up to the Trust Law (Amendment) Ordinance 2013, it was considered whether Hong Kong should introduce into the Hong Kong Trustee Ordinance provisions allowing for the creation of non-charitable purposes trusts, which would then allow for the creation of a vehicle that could be used to hold the shares in a PTC or otherwise to create orphan companies; but these proposals were rejected. Therefore, because Hong Kong trust law does not allow for the creation of a non-charitable purpose trust, in practice, if a Hong Kong company is to be used as a PTC, it will be incorporated either as a company limited by shares (in which case the

58 For a full review of the Trust Law (Amendment) Ordinance 2013, see William Ahern, "Hong Kong's New Trust Law", *Trust Quarterly Review*, December 2013 (Society of Trust and Estate Practitioners).

question of who can own the shares must be dealt with) or, more likely, as a company limited by guarantee.

With effect from 1 March 2018, a Hong Kong PTC must be licensed as a trust and company service provider (see section 2.5) if the PTC is regarded as carrying on the business of the provision of trustee (or nominee) services.

Where a Hong Kong PTC is used, again because of the Recognition of Trusts Ordinance, the PTC could be administering either Hong Kong law trusts or trusts with a foreign proper law.

While the family office can help to provide administrative, accounting and secretarial support services to the PTC, it is always critical to remember that the PTC and the family office are separate and independent entities, both legally and in terms of control. There must be clear boundaries between the family office and the PTC.

8.3 The beneficiary relations committee

If you consider a trust relationship as involving investment, distribution and administrative functions, which of these three functions will have the biggest impact on the maturity and success in life of the beneficiaries? The answer is the distribution function. The authors of *Family Trusts: A Guide for A Guide for Beneficiaries, Trustees, Trust Protectors and Trust Creators*[59] suggest that the trust distribution function is an area in need of attention and innovation. The authors point out that in the US context, 80% of the beneficiaries they surveyed saw their trust as a burden, not as a blessing, and the problem of trust 'remittance addiction' is rampant.

Family Trusts provides a model for the governance of family trusts aimed at enhancing the relationship between the trustee and the beneficiary and designing trusts that have a positive impact on the family human capital. The authors say that it is important to see trusts as involving first a human relationship and second a legal relationship.

Under their model, the protector function should be limited to the role of acting as the 'judicial branch' of the system, helping to resolve conflicts between the trustee and the beneficiaries. The protector does not get involved in the administration of the trust unless asked to intervene by either the beneficiaries or the trustee.

One major innovation recommended in *Family Trusts* is that family trusts have a BRC to advise the trustee on distribution requests.[60] The BRC is appointed by the trustee (who can consult with the beneficiaries) and is remunerated out of the trust fund, but the actual distribution decisions are still made by the

59 Hartley Goldstone, James E Hughes Jr and Keith Whitaker, Bloomberg Press, 2016.

60 *Family Trusts* refers to this function as the 'distribution committee'. Since publication of the book, the authors' thinking has evolved and they now consider the term 'beneficiary relations committee' to be more suitable. *Family Trusts* contains drafting suggestions.

trustee. BRC members can develop a closer personal relationship with the beneficiaries and seek to understand how distributions are affecting their growth and development.

In international trusts, in practice, this function of bridging between the trustee and beneficiary is often given to the protector; however, the approach advocated in *Family Trusts* has the benefit of offering greater role clarity, as well as building more checks and balances into the 'trustscape'. In addition, a key point is that members of the BRC will be appointed because of their qualitative skills or experience. Suitable candidates for the BRC role include qualified coaches, counsellors, educators, human resources specialists and therapists.

Where the trustee is a PTC, it will be easy to have the PTC to form the BRC as an advisory committee to the PTC. Where the trustee is an independent corporate trustee, it would be preferable to amend the trust deed to expressly authorise the trustee to create the BRC. Another alternative is for the family office to arrange for the creation of the BRC as a group of advisers who are qualified to advise the trustees or the family council on the needs of, and the potential impact of proposed distributions on, individual beneficiaries.

9. The family financial capital

As has been mentioned, most (but not all) of Hong Kong's family offices have a focus on helping to preserve – if not actually to grow – family financial capital. Most likely, the family office will be organised with an investment committee that has an oversight and approval role, and the office itself may well include its own specialised investment management team. The investments overseen by family offices in Hong Kong can be diverse in terms of asset classes as well as geographically.

Returning to the roadmap that has been the framework for this chapter, the key questions regarding the family financial capital are how to make use of that financial capital to invest in the family human, intellectual and social capital, and how to ensure that family members have access to qualitative advisers who can help them to individuate and integrate the family financial wealth into their own lives.[61] Family members do not have to be taught how to manage family financial capital; but they do have to be taught how to be effective owners and stewards of that financial capital, which includes the ability to make effective joint decisions at the ownership level.[62]

10. The future of the family office in Hong Kong

Many family offices in Hong Kong already understand that their role is much

61 See *The Voice of the Rising Generation* (cited above) and James E Hughes Jr, Susan E Massenzio and Keith Whitaker, *The Cycle of the Gift, Family Wealth and Wisdom*, Bloomberg Press.

62 James E. Hughes Jr.

broader than simply supporting investment oversight of the financial capital. Supporting family governance, philanthropic activities and succession is generally accepted to be a core responsibility of family offices in Hong Kong.

The leading innovative family offices in Hong Kong are now going further than this by adopting assessment processes to systematically invest in and develop family human and intellectual capital (to help family members to know themselves); they are hiring CLOs and developing the CLO role, and they are forming BRCs for their family trusts.

India

Aditya Gadge
Association of International Wealth Management of India (AIWMI)

1. Introduction

India is a country of vast size and diversity:

- As of 2017, it had a population of 1.34 billion, divided into 3,000 castes and 25,000 sub-castes.
- It has 29 states and seven union territories, with 497 cities, 7,935 towns and 649,481 villages (as per the 2011 census).
- More than 19,500 languages or dialects are spoken in India; 121 of those are spoken by 10,000 or more people.

Family businesses in India are equally varied in both nature and approach.

Since the first edition of this book was published in early 2015, the Indian economy and business community have been radically transformed. The current government has introduced new measures to tackle issues such as corruption, bureaucracy and a short-term approach, which have long hindered the Indian economy. Demonetisation and the introduction of goods and services tax have dramatically changed how business is done in the country.

As a result, the Indian market is booming. According to a 2018 report by Karvy India Wealth, India's high-net-worth segment has grown by 10.6%. In 2017, India was the fastest-growing major market globally, with a 20.4% increase in high-net-worth individuals and a 21.6% increase in their wealth.

Family businesses form the backbone of the Indian economy, which is primarily driven by entrepreneurial capitalism. Most of the large corporate houses in India – such as Reliance, Tata, Aditya Birla Group and Adani Group – are family-owned businesses.

In the early 1990s, India began to embrace globalisation, as reflected by the development of an information economy, durable global links and an emerging rural-urban continuum. The state started withdrawing from key areas of welfare, transforming the nature of what used to be called India's 'mixed economy'. Atul Kohli argues that since the 1990s, the state has pursued pro-growth policies in the hope of making the Indian economy, and the family businesses that drive it, more economically dynamic.

2. Traits of successful Indian business families

The Indian families that have survived for more than three generations attribute their success to the following:

- a 'company first' attitude, whereby the interests of the company take precedence over those of the family and its members;
- a culture of ownership as trustees for future generations;
- modesty of the family as a whole;
- a history of unity, rather than quarrelling;
- an attitude of trust with regard to management and staff in general; and
- sound family governance practices.

Learning from both the successes and failures of their peers, Indian family businesses are becoming increasingly sophisticated and more open to the idea of engaging external consultants and professionals to help them resolve their family and business issues.

There follow some case studies of Indian family businesses – both positive and less so.

2.1 Family business success stories

(a) Agarwal and Goenka families (Emami Group)

This is one of India's most exciting success stories, insofar as succession planning and maintaining harmony in family businesses are concerned. Emami was started by two friends, RS Agarwal and RS Goenka. The second generations of both families joined the business a couple of decades ago and all five children of the two unrelated founders have set new benchmarks in terms of family and business harmony. The third generation is now preparing to join the business and discussions are underway to transfer shares to a family trust to avoid future complications and disputes. Succession planning through a private family trust allows the promoter to control the trust and freely transfer assets to the beneficiaries, as set out in the trust deed. The trustee may be a beneficiary, a family member, a relative or even a professional trustee appointed to manage the trust. The Emami group has already set up a family advisory board with representation from the younger generation of both families. Emami is a rare case study in which three generations of two unrelated founder families are successfully managing family and business governance.

(b) Munjal family (Hero Group)

The Hero Group is another success story in terms of succession planning. It was set up in the 1940s by four brothers, whose first venture involved bicycle manufacturing. A few years ago, the four brothers and their respective sons planned succession by evenly dividing various group businesses among

themselves and untangling all cross-holdings. Post the settlement, the BM Munjal family further divided the businesses among its two sons, Pawan and Sunil, thus establishing a clearer structure for all second-generation family leaders, and ensuring more focused approach and better results for investors.

(c) Bajaj family (Bajaj Auto)

One of the oldest and most respected business families, the Bajajs trace their roots back 90 years to freedom fighter and family founder Jamnalal Bajaj. Four of his sons – Rahul, Shekhar, Madhur and Neeraj – continued his legacy and grew the family business into an empire of various related and unrelated businesses. When the third generation took full control of various family businesses, the Bajaj family put together a clear and well-thought-out plan to realign ownership among themselves through the purchase and sale of stock in various listed group companies.

(d) Reddy family (Apollo Hospitals)

The Reddy family, which established India's largest chain of hospitals, has drafted a family constitution to ensure smooth succession of management at a time when the founding family has become larger. Currently, four daughters of founder Prathap C Reddy are involved in the business, along with four of his 10 grandchildren. Each daughter is expected to hold a position for a fixed period in rotation. To ring-fence the family businesses from any external threats, all founder shares have been put in a trust. Members cannot sell shares outside the trust.

(e) Murugappa family (Murugappa Group)

Murugappa Group, started by AM Murugappa Chettiar in 1900, is one of India's leading business conglomerates, with 28 businesses, including 11 listed companies. The group has a workforce of over 32,000 employees. Currently, the fourth-generation members – MM Murugappan, vice chairman of the Murugappa corporate board, and A Vellayan, executive chairman – are leading the business and preparing the fifth generation to take over.

2.2 Less positive family business stories

(a) Reliance Group

India's richest family underwent a fraught division of assets when brothers Mukesh and Anil Ambani fell out after their father Dhirubhai died without a succession plan in place.

(b) Religare Group

The successful pharmaceutical business established by their father was sold off by brothers Shivinder and Malvinder Singh before they started Religare. The

group is now in trouble, with the brothers coming to blows and the businesses crumbling under a host of corporate governance issues.

(c) ***Raymond Group***

Vijaypath Singhania, chairman emeritus of Raymond Group, transferred his 37% stake in the Raymonds Group to younger son Gautam, but the wealth transfer triggered a family feud and the two ended up in court. In a separate case, four children of elder son Madhupati filed suit challenging a 1998 family agreement which they claimed ignored their rights as minors. In a petition filed with the Bombay High Court, the children claimed a right to the Raymond brand, ancestral properties, real estate and other moveable and immoveable assets of the group. Madhupati had signed a family agreement in 1988 before moving to Singapore, relinquishing his and his children's rights to family property.

(d) ***Amarchand Mangaldas***

India's biggest and highest-profile law firm split into two separate groups when brothers Shardul Shroff and Cyril Shroff decided to part ways

3. Emerging practices among prominent Indian family businesses

3.1 Family charter

A family charter (or constitution) is a set of agreed principles and protocols for governance of a family business. It evolves through a participative and systematic process of open discussions among family members and owners. It facilitates the integration of the three dimensions of family, business and ownership. The involvement of an experienced and skilled family business adviser can assist with the discussion of difficult subjects as part of this process.

A further advantage is that the values, family alignment, synergy and trust that are built into the process of establishing a family charter also tend to permeate the governance of the family trust, making it more robust and effective in its implementation.

Progressive and far-sighted family businesses usually agree to establish a charter to symbolise their commitment to governance and cohesion. The journey can be intense and sometimes painful. It involves the participation of all key family members in difficult conversations over the course of several meetings.

Having signed the family charter, most families think the job is done: there is an implicit assumption that the clarity and synergy achieved during the process will last forever. However, this in fact is just the beginning.

Living the charter can be difficult; but the family has to walk the walk as well as talking the talk. Anil Sainani, founder of BAF Consultants, has estimated

the importance of developing a family charter at 1% to 5%, and the importance of living the charter at 95% to 99%.

As everyday life unfolds, the family will be confronted with different challenges and implementation of the charter will become difficult:

- The family's needs and aspirations may override the charter.
- The pressures of a growing and complex business may distract attention.
- The preoccupation of growing family responsibilities may take centre stage.

So how does a family successfully live its family charter? Here are some governance guidelines that support strong leadership and that should be incorporated in the charter where possible:

- View the charter as a guideline for action rather than an instrument of control – dynamic rather than static.
- Design a flexible format – fewer rules, more principles.
- Embed an amendment process – both tenure and trigger based. Tenure is normally five years. Generational transition, sharp changes in the family or business and unforeseen events are examples of triggers.
- Establish an agreed and documented fair process that is acceptable to all.
- Activate an alert mechanism to correct any lack of transparency and asymmetry of information. Make disclosures compulsory.
- Provide a grievance redressal mechanism.
- Install a whistleblowing process under the oversight of a trusted and credible ombudsman.
- Organise regular, facilitated, family offsite retreats – these serve to revitalise relationships, manage differences, increase alignment and build ongoing trust.
- Agree on a robust process for managing differences – deadlock facilitators, relationship reviews and training in conflict resolution.
- Mandate direct communication of differences between the concerned individuals – 'triangulation' breeds politics and ill will.
- Establish a code of conduct for working and non-working members – this will guide their behaviour with stakeholders.
- Promote the 'one voice' principle where two or more family members are in inter-related business roles. The will and skill to build consensus are fostered by applying this principle.
- Where family office services are within the family's means, avail of them and mandate them to assist with the governance of the charter.
- Monitor effectiveness of the family council, the business council and the owners' council.
- Initiate team projects for family members to work together and understand each other more deeply.

Each family charter is underpinned by the values and principles that define that family. Building psychological resilience and maturity in family members helps them to live those values. The two main causes of problems are entitlement and ego. Usually, the more successful the family becomes, the more hubris sets in. Feelings of comparison and discrimination overtake family harmony. Forgiveness and grace plummet, and the dynamic becomes ripe for conflict.

Heightened self-awareness and 'inner excellence' are paramount to keep the ego in check and foster humility.

Strong values and relationships make for good family governance, which in turn promotes good corporate governance. Institution building and perpetuity may then be achievable goals.

4. Family offices

As the Indian economy transitions from scarcity to prosperity, there is increased demand for estate planning, wealth protection, taxation advisory services and more. As wealth managers seek new ways to engage with this growing client segment, the concept of a family office is beginning to gain currency. Family offices offer both the pure investment advice offered by financial institutions and the personal and family services required by high-net-worth individuals.

Every family office is different and is customised to the needs of the family it serves. Some are focused exclusively on managing investments, or on concierge and travel needs. Others provide professional support to the family, such as assisting with governance, financial reporting, project management and trustee and corporate services, and become the family's trusted advisers over time.

4.1 Why establish a family office?

Indian businesses are mostly owned and managed jointly across different generations of families, functioning through a maze of cross-holdings to keep the wealth within the family. Approximately 70% of all listed companies in India are family owned. However, as is true around the world, Indian family businesses find it hard to preserve their legacy beyond the third generation.

As the younger generations go their own ways and the older generations become somewhat outdated in their working approaches, many Indian families are concerned that their businesses will not survive in an increasingly competitive landscape. Unlike in the West, many Indian families retain operational control of their business empires. This can be problematic, as not all family members may have the capacity or inclination to help run the business. There is also a long history of feuds over family wealth, due to factors such as a lack of succession planning, a lack of capability or compatibility among new generations, and an inability to separate the professional management of an enterprise from the emotional attachment to it.

Indian family businesses face the following major issues:

- Most do not survive beyond the third generation.
- Later generations born into prosperity suffer from a sense of entitlement.
- Members of the next generation who are inducted as managers (mostly at senior levels) are not aware of the nuances of a business which the older generation has built from scratch.
- Future exigencies are left to chance – there are no agreed criteria for making decisions on family and business issues.
- There is often a lack of understanding of proper asset allocation and of long-term planning.
- There is often a lack of clear succession planning – a high-profile example is the case of Priyamvada Birla, whose entire estate of Rs50 billion was bequeathed to her chartered accountant, RS Lodha, an outsider to the family.
- There is often a lack of clear division in business roles and responsibilities – the Ambani family dispute is testimony to this, as the absence of a clear succession plan for the business led to the conglomerate being split in two.
- Daughters are usually excluded from any succession plan.
- There is no blueprint for a family constitution or charter.
- The judicial and legal framework is not conducive to speedy resolutions.
- The lack of uniform laws makes it difficult to manage geographically diverse assets.
- Financing growth and retaining control of the business can be problematic.

A family office can provide valuable assistance with many of these problems, serving as a single point of contact for resolving all personal and financial matters of the family.

The need for a family office is usually felt when:

- the family's liquid assets grow to such a size that professional management is required beyond what can be provided by current family business professionals;
- the family's business is sold, creating liquidity that needs to be managed; or
- the family has attempted to manage its own personal financial affairs, but the business has suffered due to the time spent in doing so.

The motivations for setting up a family office include:

- creating a family governance structure, thereby reducing the risk of internal disputes and smoothing wealth transfers between generations;
- professionalising the families' asset management activities;

- the younger generation's increased preference for formalised family office solutions; and
- the prestige associated with the creation of a family office structure, as it indicates a certain level of family wealth.

4.2 What is a family office?

Family offices are product neutral, unlike private banks, which may have conflicts of interest in managing the funds of private clients, in terms of promoting their own products. Family office service providers include private banks, lawyers, trust companies, tax firms, concierge service providers, alternative investment providers and private wealth management firms.

The main advantage of a family office is that it provides peace of mind and the concentration of efforts. Instead of a client dealing with several different advisers for different services, such as investments, tax planning and succession planning, a family office combines all these functions in one place.

4.3 Functions of a family office

Family offices in India generally provide the following services:

- private wealth management;
- a combination of various legal structures aimed at protecting family wealth from personal and legal risks;
- investment in alternate asset classes;
- international investments;
- creation of efficient succession structures and estate planning;
- inter-generational transfer of wealth;
- establishment and management of private family trusts and other holding structures;
- drafting and execution of wills;
- family communications, including the establishment of family governance structures and a family constitution or charter;
- consolidated reporting and monitoring of investments and accounting;
- administrative, legal and tax assistance, both domestic and cross-border;
- advice on philanthropy; and
- value added services, such as property management and concierge services.

4.4 Benefits of a family office

The benefits of a family office are as follows:

- It serves as a central source of information, advice and oversight in relation to all of the family's financial matters (ie, it provides integrated financial services).
- It creates pooled purchasing power across a family group, resulting in

better service for a better price than individual family members could achieve on their own.
- It offers a dedicated team of professionals who are focused on client goals in a confidential manner.
- It ensures continuity from generation to generation.
- It provides access to professional advisers who can educate family members about their responsibilities of ownership and participative governance.
- It facilitates the management of substantial liquid assets generated through the sale of a business.
- It sources customised credit.
- It manages multi-generational needs, especially educating children and grandchildren to be responsible stewards of wealth.
- It serves beneficiaries with diverse requirements and interests.
- It provides access to alternative investments, such as private equity, hedge funds and real estate.

4.5 Types of family office

(a) Single family office

Single family offices usually manage the affairs of a single family. Prominent single family offices in India include those of the Ambani family, the Mariwala family, the Azim Premji family, the Munjal family, the Adani family, the NR Narayan Murthy family, the Burman family, the Lodha family, the TVS group, the Wadias, the Tatas and the Shapporji Pallonji group.

A single family office should manage a net worth in excess of $250 million to make it cost effective.

The key advantages of a single family office are as follows:
- It is dedicated to and completely aligned with the objectives of a single family; and
- It can operate with a high degree of transparency and confidentiality.

The main disadvantages are as follows:
- It is a challenge to recruit and retain quality professionals;
- There is no scope to spread costs and the office will lack pricing power; and
- Managing the family office requires the time of family members and it may suffer from a lack of expertise.

Although they differ in their investment preferences, most single family offices have two things in common: they make long-term investments and they ring-fence deals to ensure proper exit routes. The average total investment

managed by a single family office in India is around $325 million, with some of the bigger offices managing close to $1.6 billion. The average holding period for an investment is around 60 months.

(b) Multi-family office

Multi-family offices manage the wealth of multiple families. These are usually closely held boutique firms servicing the needs of high-net-worth clients. The net worth required of clients ranges from $25 million upwards.

The key advantages of a multi-family office are as follows:

- They offer independent advice without any conflicts of interest, unlike private banks;
- They ensure the rationalisation of costs;
- They are home to a number of professionals with expertise in diverse areas;
- They have better reporting systems and risk management practices in place; and
- The ability to pool investments from different clients means they can get better prices.

The main disadvantages are as follows:

- They cannot provide bespoke services for individual families;
- Staff turnover could have an adverse impact; and
- There may be transparency and confidentiality issues.

Prominent multi-family offices in India include Waterfield Advisors, Client Associates, Credence and Entrust. Prominent wealth management firms such as Avendus, Centrum, Quant, Client Associates, Kotak Wealth, ASK and Edelweiss have also set up family office services to cater to the growing Indian market.

Today, most multi-family offices in India provide a tailored service offering, showcasing the individual services on offer and combining them as necessary to offer integrated wealth management services, whether performed through the office or coordinated and performed by third-party advisers.

These services include:

- financial reporting and accounting (including cost control);
- cash management and budget/bill payments;
- tax preparation;
- estate planning;
- trusteeship;
- investment strategy and oversight;
- insurance;
- family meetings; and
- philanthropy.

According to TP Janani, a partner at Nishith Desai Associates:

> *In India, there are various options for setting up family offices (eg, private company, limited liability partnership and trust). Generally, the trust structure is preferred due to the flexibility it offers. There are also different options available for appointing a trustee. A popular, but slightly expensive option is to use a private trust company (PTC). A PTC is set up by family members with the sole purpose of acting as the trustee for a family office structured in the form of a trust. Since a company has a separate legal personality, having a PTC as trustee offers several benefits, such as ring-fencing potential liabilities that may arise for breach of fiduciary duties as a trustee; and flexibility to onboard independent professional managers for management of the trust (as employees of the PTC), with the family members having overall control over the operations of the PTC in their capacity as shareholders.*

4.6 Family offices in India

The Indian family office market is in its infancy. Unlike in the United States and Europe, much of India's wealth has been created in the last few decades. India has experienced a unique set of problems and opportunities over this time, and against this backdrop the family office has begun to assume a critical role for family businesses. The concept is gaining significant traction, with about 120 single family offices and five multi-family offices now in operation, representing around 20% of the high-net-worth market. It is expected that these numbers will stand at around 500-plus and 50-plus, respectively, by 2022.

Priwexus is a unique Indian membership community of single family offices, prominent business families and individuals of significant wealth: an impartial peer-to-peer networking forum dedicated to serving all key focus areas of successful families, including investment, philanthropy, family governance, tax, legal, estate management and next-generation education.

Between June and September 2018, Priwexus carried out the first-ever family office benchmarking survey in India with 50 of the most prominent single family offices. Some of the major findings included the following:

- Only 57% of these family offices are comprehensive single family offices. Around 28% are purely investment offices.
- 17% have assets under management of $1 billion-plus; while close to 33% have assets under management of $25 million to $100 million.
- 42% are located in Mumbai, followed by 16% in Bangalore and 12% in Delhi.
- 29% are serving at least three generations, 43% are serving two generations and 28% are serving one generation of business families.
- In terms of governance structure, close to 43% have a non-family advisory board and family committee in place, while 29% have a family council in place.

With increased global exposure and more dynamic business needs, India's ultra-wealthy are now seeking specialised advice on business continuity, succession planning and philanthropy, which augurs very well for the family office segment.

(a) Family business/family office education

Prominent institutions such as ISB, IIM Ahmedabad, IIM Kolkata, Human Endeavour, SPJIMP, NMIMS, BAF Consultants and Ojas Group have been doing noteworthy work in the family business education space in India. In the family office education space, the main player is the Association of International Wealth Management of India (AIWMI). Since 2013, the AIWMI has been at the forefront of family office education in India, hosting regular conferences, knowledge workshops, research and certification programmes for advisers. It was recently joined by family office membership community Priwexus.

Family office/family business consultants: Some of the prominent names in family office/family business consulting include Prasad Kumar (Human Endeavours), Sunil Shah (Evergreen Family Business Advisors), Kavil Ramachandran (ISB), Anil Sainani (BAF Consulting) and Tatwamasi Dixit (Ojas Group).

According to Kumar, consultants can assist families in staying together over many generations by helping them to:

- articulate the unarticulated;
- make the invisible visible; and
- own the disowned.

4.7 Features and challenges of the Indian market

India's wealthy have traditionally been reluctant to share information on family wealth. This has led many well-known Indian families to open their own family offices, rather than turning to private banks for wealth management services. India's rich are very hands-on when it comes to managing their wealth and like to have full control over their investment decisions, which is another reason why family offices are preferred over private banks.

Traditionally, Indian families have invested their personal wealth in their own businesses or in low-risk asset classes such as government bonds, fixed deposits, real estate and gold. Over the years there has been a marked shift in these investment preferences towards private equity and venture capital investments, which may be riskier but promise excellent returns. One reason for this shift is that families are increasingly worried about tying their long-term financial future to a single company in a single industry. Reflecting this higher-risk, higher-return model, family offices in India have increasingly been investing in start-ups as well as listed companies. Sectors such as technology,

real estate, e-commerce, healthcare, education and financial services are the preferred choices.

Family offices in India are not recognised as a distinct legal concept. They may operate as a separate entity or a group entity in any one of the following forms:

- a private company, which enjoys the status and tax benefits of a separate legal entity;
- a Hindu undivided family – this term is not defined under the Income Tax Act, but it is defined under Hindu law as a family that consists of all persons lineally descended from a common ancestor, including wives and unmarried daughters. It has tax benefits for a joint family;
- a private trust – there are many types of trusts used by family offices, and many purposes underlying their creation; or
- a limited liability partnership – a corporate business vehicle that enables professional expertise and entrepreneurial initiative to combine and operate in a flexible, innovative and efficient manner, providing benefits of limited liability while allowing members the flexibility to organise their internal structure as a partnership.

The 'must-haves' for Indian family offices include the following:

- Professional expertise – family offices must hire top-notch professionals for different functions, including investment, tax, law and succession planning;
- Discretion – the family office must engage highly discreet professionals who maintain client confidentiality;
- Comprehensive services – family offices should ensure that they fulfil all needs of their client families; and
- Trust – family office professionals will have to win clients' trust before they are trusted with their money.

The Indian family office market presents immense potential; but in order for it to develop, Indian family businesses must shake off some of the deep-rooted cultural and psychological challenges that have become embedded over many centuries. Many families still struggle to separate the management of their personal wealth from their business. For most, the proverbial bottleneck is often the patriarch, who may be reluctant to change, want to retain control and be averse to succession planning during his lifetime.

Other challenges for Indian family offices include the following:

- the unwillingness of Indian families to pay for financial advice;
- the trade-off between an advisory role and a discretionary role;
- capital account restrictions, which mean that investments are predominantly spread within the country;

- a greater focus on wealth generation than preservation;
- different motives in the absence of inheritance tax (India does not have inheritance tax);
- cultural issues, as children may have a natural sense of entitlement to wealth;
- a more trading-oriented and tactical rather than strategic approach among families; and
- in many cases, the absence of daughters from succession plans.

5. Conclusion

Family businesses have traditionally been the backbone of the Indian economy, but family offices are a relatively new phenomenon. Many first-generation and multi-generation business families are now cashing out significant portions of their businesses, leading to unprecedented liquidity events. Most of these families are now setting up family offices to invest their wealth in diversified asset classes while at the same time managing taxation and succession planning.

It is still early days for India's single family offices. Most have lean structures, with six to 10 team members managing primary functions such as asset allocation, compliance, book-keeping, legal and operations. A few exceptions (eg, Premji Invest, the family office of the Azim Premji family) have much bigger teams and a greater focus on both investments and philanthropy.

General elections in India are due in May 2019, and both the business community and the public seem hopeful that the current government will be returned to ensure that the structural reforms which have been initiated deliver the intended results. If this happens, India should continue on its upward economic trajectory. Those Indian family businesses that can afford it should thus consider establishing a family office to position themselves for what may well become a much bigger play.

Israel

Ori Ephraim
O Ephraim Multi Family Office Services
Lyat Eyal
Aronson, Ronkin-Noor, Eyal Law Firm
Alon Kaplan
Alon Kaplan, Advocate and Notary Firm

1. Introduction

In the 70 years since the declaration of independence, Israel has grown from approximately 600,000 Jewish inhabitants to a total population of approximately 9 million (6.7 (74.3%) million of whom are Jewish, 1.9 (20.9%) million Moslem and Christian Arabs and 0.4 (4.8%) million "other").[1] As the sole democratic state in the region, it experienced three massive waves of immigration: at the start of the 1950s, during the 1970s and again during the 1990s. Each such immigration wave significantly increased the number of inhabitants.

Historically, the two powers that ruled over the land during the pre-state period prior to 1948 – the Turks and the British – have left their marks on its legal system, which today is based on Anglo-American traditions. The state of Israel, via the *Knesset* (the Israeli Parliament), has since enacted independent legislation, thereby creating the modern state's legal system as a common law jurisdiction. The highest judicial body is the Supreme Court, with 12 permanent members of the bench. It is responsible, among other functions, for interpreting the legislation passed by the *Knesset*. While Israel does not have a formal written constitution, 13 'Basic Laws' effectively function as one.

While Israel is generally a secular state, there are areas in which religion imposes its influence. Israel has religious courts and judges, such as Jewish rabbinical courts, Muslim *Sharia* courts and *Druze* tribal councils. However, in civil matters these religious institutions generally have the legal status of voluntary arbitrators. An important area in which the secular and religious courts overlap is that of marriage and divorce.

The significant legislation[2] relevant for this chapter includes the Trust Law 1979, the Law of Agency, the Gift Law 1968, the Spouses Property Law 1973, the Succession Law 1956, the Tax Ordinance [New Version], the Banking Law 1981 and the Law Regulating Investment Advisers, Investment Marketing and

1 www.cbs.gov.il/he/mediarelease/DocLib/2018/394/11_18_394e.pdf.
2 Extensive legislation is pending that, if passed, is likely to change much of the existing legislation.

Portfolio Management 1995. Relevant governmental agencies include the Tax Authority, the Anti-Money Laundering Authority, the Israel Securities Authority, the Inheritance Registrar and the district and family courts.

1.1 The economic environment

Since its establishment, Israel has become a developed western country, with a well-developed economy, an advanced industrial sector and many high-level high-tech, biotech and fintech industries when compared with other developed nations.

With respect to expenditure on education (8.1% of GDP),[3] research and development (R&D) (4.5% of GDP) and defence (5.8% of GDP), compulsory conscription is in force in Israel and most individuals between the ages of 18 and 22 serve in the military, where they are exposed to technological systems, given responsibility that in civilian life is reserved for more experienced individuals and, in essence, enjoy an informal education and mature as individuals.

A significant portion of defence expenditure is for military R&D needs and a portion of the military's investment in R&D constitutes the foundation for civilian R&D. This investment is both direct, through military industries, and indirect, in the form of young people who, after their military service, use the technological knowledge they gained during their military service to develop civilian technologies.

These factors result in over 100 Israeli companies traded in the United States and operating in the fields of IT systems, algorithmic trade, firewall systems, cyber-systems, cybersecurity software, optical systems, digital printing, space and medicine. After Canada, Israel has the second-highest number of companies publicly traded in the United States. In addition, the Israeli biomedical industry has expanded tremendously – more so than the chemical and drugs industries, which receive government support.

In 2013 Bloomberg established the Bloomberg Innovation Index, which examines more than 200 countries and sovereign regions to determine their innovation quotient.[4] Innovation is measured by seven factors: R&D intensity, productivity, high-tech density, researcher concentration, manufacturing capability, education levels and patent activity. In 2018 Israel ranked 10th overall, and first for R&D intensity and researcher concentration, fifth for high-tech density and ninth for productivity.[5]

As a result, over the past 20 years, a broad range of professionals have succeeded in advanced technological industries and the associated areas of finance, and have become high-net-worth individuals. It is expected that the size of this population segment will expand in the coming years.

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3 www.cbs.gov.il/en/mediarelease/Pages/2018/National-Expenditure-On-Education-In-2015-2017.aspx.
4 Bloomberg Rankings, "50 Most Innovative Countries, Innovation Index Revealed" (1 February 2013).
5 www.bloomberg.com/news/articles/2018-01-22/south-korea-tops-global-innovation-ranking-again-as-u-s-falls.

Israel is a young economy. Most traditional businesses are still owned by the founding generation, with only a few third-generation businesses. The biomedical and high-tech industries are developing industries and so, based on various indexes, Israel is defined as a developed nation. It exhibits, in practice, the characteristics of a developing nation when it comes to high-net-worth families and the expansion of this population segment.

1.2 Statistics: high-net-worth families

No formal statistics are available regarding the number of high-net-worth individuals in Israel. Several unofficial bodies have collected and published certain data upon which the information below is based.

According to Merrill Lynch's 2010 annual report,[6] a 'millionaire' is defined as a person with over $1 million in liquid assets. A multimillionaire (or ultra-high-net-worth individual) is defined by others – such as UBS and Credit Suisse – as an individual with over $50 million. According to the Credit Suisse Global Wealth Databook 2018, there are 111,000 millionaires In Israel, including 705 ultra-high-net-worth individuals.[7]

According to the Wealth-X and UBS World Ultra Wealth Report 2018, the number and wealth of Israel's ultra-high-net worth individuals grew between 2012 and 2017 by about 48% – a rate higher than the global average. The number of ultra-high-net-worth individuals (over $50 million) in Israel in 2017 was 340 (compared to 230 in 2012).

According to *Themarker* magazine,[8] there are approximately 500 individuals with capital in the aggregate amount of $172 billion, including 106 billionaires with average capital in the amount of $1.07 billion.

In the authors' estimation, there are at least 300 additional families (in addition to those estimated by *Themarker*) with capital in excess of $50 million (most of which made their fortunes primarily in the high-tech, internet and healthcare industries).

We believe that the most interesting group for the multi-family office industry comprises high-net-worth individuals with wealth of between $10 million and $100 million, which includes about 5,350 individuals, according to the Credit Suisse Global Wealth Databook 2018.[9]

It is safe to assume, considering the scope of activity in high-tech markets and innovation, that the number of high-net-worth individuals can be expected to grow at a faster rate than that anticipated in developing markets.

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6 TheMarker.com, 22 June 2011.
7 http://publications.credit-suisse.com/tasks/render/file/index.cfm?fileid=777FDF0E-E060-F608-52DAF97E062CC35B, p125.
8 *The Marker* magazine, June 2018.
9 *Supra* n 6.

2. The family office

2.1 Background

Family office services in Israel are relatively new, having been available for only the past 15 to 20 years, with the exception of traditional single family offices. During the past 10 years – primarily since the start of the financial crisis in 2008 – the family office market in Israel has grown, mainly due to clients' understanding that the field of financial investments is complex, together with the worldwide loss of confidence in traditional private banking services. Today, it is estimated that there are approximately 100 to 150 single and multi-family offices in Israel.

2.2 Macro-economic background

Before the early 1990s, the Israeli industrial sector was closed to activities abroad, due to foreign currency and capital restrictions. In the early 1990s, the restrictions on the foreign currency market were removed, first for the banking and business sectors and later for investment funds. In 1998 foreign residents were allowed to invest in Israel and Israeli residents were allowed to hold foreign currency accounts in Israel and overseas, and restrictions regarding the amount of foreign currency permitted to be transferred abroad were gradually relaxed.

It was only in 1998 that Israeli households were allowed to make financial investments abroad and to invest in real estate abroad. At the start of the 2000s, the Israeli shekel became a tradable currency and restrictions on long-term pension investments by financial institutions were gradually removed. In addition, as mentioned above, the development of high-tech industries resulted in the creation of a new and large group of high-net-worth individuals.

The removal of restrictions on the export of foreign currency from Israel and the ability to easily execute foreign currency transfers through banks, along with globalisation, signified the start of the development of the family office market.

2.3 Development of family offices in Israel

Because of the factors outlined above, the private banking arms of the world's leading banks identified the potential in Israel and set up Israeli desks, with the first banks beginning to establish offices in Israel from the late 1990s onwards. Since then, the scope of their activities has increased significantly. The development of the family office market in Israel followed the establishment of Israeli desks within the banking sector.

There are a number of reasons for establishing a family office:

- clients' need for professional guidance relating to the bigger picture, such as finance, investments, asset allocation, tax issues, estate and

intergenerational transfer planning, and assistance with the management and monitoring of their assets;
- clients' need for consultation and advice regarding investment – particularly international investment, which in itself is a complex area;
- the need to manage many assets, including financial assets, real estate assets and other non-liquid assets;
- the complexity of the world of investments in the third millennium;
- the need to make investments of liquid assets in the United States and Europe, partly due to the limitations of investment of liquid assets in Israel, resulting from low returns;
- most financial investments being made through banks in general and especially foreign banks. Banks suggest various types of investments in different currencies, some of which are complex and difficult for the client to understand. Clients prefer to work with a number of banks and, as a result, each bank sees only part of the client's assets. The role of the family office is to oversee the client's complete investment portfolio and synchronise the various elements;
- banks ceasing to be neutral advisers with a view to the client's best interests and instead becoming purveyors of products and financial services. The result is that the burden of making investment decisions now falls on the client. This has generated a need for a professional intermediary between the client and the private banking relationship manager; and
- the complexity of domestic and international tax and anti-money laundering laws, which has led to requirements to file many reports with the authorities.

2.4 Professional background of family offices

The professional backgrounds of most of those active in the family office market are set out below:

- former bankers who have worked as relationship managers in the private banking departments of international banks or in institutional investment bodies in a variety of positions, such as investment or risk management;
- traders who have worked in bank trading rooms in Israel or abroad;
- chief financial officers (CFOs) of public companies;
- certified public accountants and lawyers who have changed from their traditional professional areas to that of family office services;
- accountancy firms whose main activities are in the traditional areas of the profession, such as auditing, but which have begun to assist their clients in the area of investments, eventually leading to the establishment of family office departments; and

- law firms dealing with private client law – including trusts, inheritance matters, wills, family law issues (including nuptial agreements) and individual taxation – that have expanded their areas of interest to family office services.

The family office market can be divided into two main categories:

- the single family office; and
- the multi-family office.

2.5 The single family office

(a) The traditional single family office

Traditional companies that have developed over many years of activity will have financial managers or company accountants who have been working with the company owners for many years. They may also provide, alongside their activities for the family-owned companies, private financial services for the owner's family. They are the owner's business confidants and there is a long-lasting familiarity and relationship of trust. The financial advisers provide family members with a great deal of assistance with the family's financial activities, both business and private.

At present, there are many business owners working in this manner. In some cases the company has become a public company, requiring the separation of the company's management and the owner's private financial management. As a result, some financial advisers have begun focusing on private activities and, in essence, have created a single family office: an office for the management of the family's wealth.

Many high-net-worth families – usually those with a fortune of hundreds of millions of dollars – have set up single family offices to provide services directly to and solely for one family. The structures differ from family to family, but usually include a professional with financial or legal expertise who coordinates the family's wealth activities, occasionally with the assistance of investment, real estate and intergeneration transfer advisers. This professional can also act as a coordinator between external service providers such as lawyers, accountants and others. In a limited number of cases, several professionals specialising in different fields may provide services to the family in a manner which is reminiscent of a company board.

(b) The single family office as a business

Some high-net-worth families have converted the wealth management office into a business venture providing investment management services for other high-net-worth families.

2.6 The multi-family office

The multi-family office market began to develop about 15 to 20 years ago and has gained momentum over the past 10 years.

Multi-family office clients are, primarily, families with assets of between $10 million and $150 million. Each family has different needs, which results in the provision of a wide range of services by the multi-family office. Some families are interested solely in liquid asset advisory or managerial services; while others seek broader services resembling those provided by CFOs of large corporations, such as consultation on all investment areas, cooperation with various professional advisers, reporting and accounts (including filing the necessary reports with the authorities) and monitoring.

In Israel, there is no clear definition of a 'family office', as the term is not a legal one. In fact, many professionals use the term as a marketing tool to attract clients. As a result, a wide range of service providers define themselves as family offices and a number of different models exist:

- portfolio managers which define themselves as multi-family offices;
- manager selection services;
- asset managers;
- family CFO services; and
- multi-family offices operating within the broader framework of financial management and marketing.

(a) Portfolio managers/investment managers

Portfolio managers and investment managers are legal concepts. Both require a licence issued by the Israel Securities and Exchange Commission[10] to practise. Many portfolio management firms also manage investment funds in the Israeli market.

Over the past few years, portfolio management firms managing investment portfolios of between tens of thousands and millions of dollars per client have advertised themselves as family offices. These bodies manage, for the most part, a portion of each family's financial assets and thus have limited understanding of, and exposure to, all of the client's assets.

Some large portfolio management firms in Israel managing portfolios of millions of dollars which also manage mutual funds of billions of dollars have established family office departments which are, in effect, premium departments for their clients.

10 The law defines those areas in which portfolio management or investment management services can be provided without a licence. One example is that of a client which is defined as an 'eligible' client: for details, see the Regulation of Investment Advising, Investment Marketing and Investment Portfolio Management Law 1995, discussed in section 5.3.

(b) ***Manager selection service providers***

A number of companies operate in Israel as manager selection service providers. Manager selection service providers advise clients, once they have understood the client's needs and preferred risk avenues, as to the manner in which to distribute its assets between the various investment types (ie, advising on asset allocation, including currency allocation). Once this determination is made (it is updated periodically), the manager selection service manages the client's assets by placing them with portfolio managers – some at Israeli banks, but primarily abroad, through recognised international banking institutions. The manager selection service allocates the available funds among the managers based on the relative advantages of each investment opportunity according to global investment areas determined by the asset allocation. The arrangement may be set up so that investments are made according to agreed risk definitions and in agreed types of investments at the manager's discretion, or in such a manner that the portfolio manager requires approval in principle for each investment type by the manager selection service. Often, the manager selection service instructs the banks as to specific investments.

The manager selection service collects and consolidates investment figures and results over a certain timeframe and provides the client with a consolidated report. Part of the reporting and the control mechanism includes supervision of asset allocation and risk evaluation as assessed for all of the managed financial assets. In addition to consultation regarding financial investments, some manager selection services provide advice regarding real estate investments and locate supplementary consultants for issues such as estate and intergenerational transfer planning.

Most clients of manager selection services are high-net-worth individuals. Nonetheless, in many instances the manager selection service may also manage some of the funds held by institutions such as universities and large companies.

(c) ***Asset managers***

In Israel, those primarily involved in multi-family offices are asset managers which either manage or advise high-net-worth individuals with regard to the majority of assets, liquid and non-liquid, destined for investment. The asset manager is usually the client's trusted confidant and is familiar with the scope of assets intended for investment. The investment manager advises the client, after completing the 'know your client' process.

Once this determination is made (and it is updated periodically), the role of the asset manager is to manage the client's assets as an investment manager or adviser to the client in relation to investments, while regularly analysing the client's portfolio and evaluating available investment opportunities. On occasion, some of the financial assets are transferred to the management of an external portfolio manager or private bank while the asset manager monitors

performance. The asset manager coordinates communications between the bank and the client through the private bank's customer relations manager, and benefits from the advice and investment ideas provided by the private bank. In addition to liquid investments, the asset manager examines various investment opportunities, including in real estate, private equity and start-up companies.

The asset manager provides the client with a consolidated investment and results report for a certain period as determined with the client. Part of the reporting and control mechanism includes supervision of asset allocation and risk evaluation for all of the managed financial assets. The main difference between the asset manager and the manager selection is that the former independently manages most or all of the client's investments, or advises the client and executes its decisions regarding investments.

In some cases, the asset manager recommends external consultants – mainly in relation to estate and intergenerational transfer planning, trusts, wills and management of the family's future activities. Most asset managers operate from their offices within practice areas that require professional and independent consultation, and are compensated by the clients.

(d) Family chief financial officer services

Family CFO services operate in a similar fashion to single family offices. Their activities include managing and advising high-net-worth individuals with regard to all assets destined for investment, as with asset managers and manager selection services. They also act as the coordinator between the client's accountants and lawyers, and assist in reviewing solutions relating to tax planning – both in general and specifically when using consultants in the fields of bookkeeping and the preparation of draft financial reports for tax purposes – and in informing the client. They are also involved in the client's various legal agreements, in both business and private matters, and in most of the client's asset issues, including private companies. Issues relating to estate and intergenerational transfer planning, taxation, wills and trusts are dealt with by experts in the relevant fields. Additional issues can include dealing with reports that family members with dual citizenship (eg, Israeli and US) are required to submit, such as Reports of Foreign Bank Accounts and annual tax returns. Thus, the activities of the family CFO resemble those of a company CFO.

Usually, and as opposed to the other types of service providers discussed, the family chief financial officer will know all the family's liquid and illiquid assets and communicate with few members of the family and their advisers.

(e) Multi-family offices as part of wider financial management and marketing activities

Numerous organisations in Israel operate in a wider financial area: investment management, portfolio management, the sale of financial products to private

and institutional clients, fund management, hedge fund management, complex financial products or derivatives. In addition to their main activities, these bodies may provide family office services to interested clients.

2.7 Remuneration

There are a number of compensation methods in Israel:

- a percentage (usually between 0.15% and 0.65%) of the managed assets. This may, in limited circumstances, include success payments should the return be greater than the originally agreed percentage;
- commissions from banks, fund managers or portfolio managers (these should be approved by the client), when the family office receives manager selection services; and
- a monthly retainer, derived from the scope of the assets and other services provided. This is acceptable primarily where the service provided is that of a family CFO.

3. Banks

Most commercial banking activity in Israel is concentrated in two large and three medium-sized banks. Israeli banks successfully survived the most recent financial crisis and at no stage was their stability in question.

A major crisis in the banking industry in the 1980s resulted in the establishment of several governmental commissions and in various legislative changes, changes to industry and the formulation of operating procedures. The main result for the purposes of this chapter was the separation of the management of retail banks from the management of investment funds, pension funds and portfolio management. Today, banks only provide advice and do not manage funds. As a result, most of the population's money management services – such as pension funds and portfolio management – are provided by insurers.

3.1 Private banking

There are no independent private banking institutions, as in North America and Europe. Private banking activities are managed as a unit of commercial banks. In each of the five major Israeli banks, specialised departments serve high-net-worth individuals with a minimum deposit of between $1.5 million and $2 million. Some banks have a single central unit operating in Israel, while others have several centres spread around the country. Over the years, bank trading rooms have been upgraded and have achieved excellent trading levels in world share markets, interest-bearing bonds, options, currencies and commodities, as well as in the field of product pricing. Working hours are very convenient, covering the close of trading in Asian markets and all trading hours in Europe and the United States.

Private banking in Israel has developed tremendously since 2000, due to the removal of prohibitions on foreign currency transfers and exposure of the capital markets to foreign investment. However, as mentioned above, banks may only provide advice relating to securities, with restrictions regarding foreign funds.

Departments providing advisory services in relation to international markets, as opposed to local markets, have limited manpower and resources for analysis. The benefit lies in the objective advice that they provide. At the same time, the level of advice and the potential scope of investments covered by Israeli banks are relatively low. As a result, most high-net-worth individuals put a major part of their liquid assets in foreign private banking financial institutions.

Israeli banks charge competitive commission rates in comparison to the accepted standards of foreign banks. As a result, foreign banks have reduced their securities trading commissions, which are now closer to those of Israeli banks.

Due to global governmental regulations to prevent money laundering and tax evasion, the 'confidentiality premium' charged by some international banks for investment management was removed. As a result, it is expected that prices in Israel will continue to fall and that Israeli banks will be forced to invest in and improve their investment advisory departments abroad.

3.2 International private banking

In the late 1990s, the private banking departments of the world's leading banks identified the potential in Israel and established Israeli desks. Over the years, this activity has increased significantly, and due to the rise in the number of high-net-worth individuals, most of the world's leading banks active in this area have established an Israeli desk, with some even opening a branch in Israel. In addition, some international fund managers have established an Israeli branch or market locally. Foreign banks view Israel as having great potential, for several reasons, including the tendency of many Israelis to expend a significant proportion of their liquid assets on foreign investments. Israeli clients are characterised as having a more international outlook than is common elsewhere in the world, due to several factors, including:

- the active approach of Israeli clients;
- the restricted size of the Israeli economy;
- the geopolitical risk;
- the desire to reduce existing risks in the banking system; and
- the desire to spread liquid assets between several banks.

Israeli clients seek a high level of professionalism and aim to find it in these banks.

International banks understand the need to forge a long-term relationship with their clients and the importance of intergenerational money transfers. Therefore, in addition to advisory service departments, banks hold conferences and seminars specifically aimed at the next generation. Topics include investments, market risks, models for family behaviour and intergenerational asset transfers.

3.3 Special considerations for high-net-worth individuals in Israel

The problems facing high-net-worth Israeli families are similar to those around the world. These include:

- planning for the family's future;
- involvement of the next generation in the management and preservation of wealth;
- relationships between generations; and
- family alienation from the third and fourth generations onwards.

These are all studied and addressed in Europe and the United States, where professional and academic literature, methodologies and a wide-ranging industry of service providers are available.

However, professionals claim that Israeli clients also exhibit a number of unique characteristics, resulting from the infancy of the state and the economy. Below are a few such characteristics:

- Most high-net-worth individuals are members of first and second wealthy generations, and are characterised by their enterprise as being more involved in increasing capital than in its preservation and transfer to future generations.
- Israel is a small country (both geographically and culturally). Families are large and members maintain close relationships. Meetings are exceptionally informal and a planned, formal meeting is a concept foreign to the Israeli experience.
- Israeli high-net-worth individuals are globally oriented: they travel often, own assets and reside in a number of jurisdictions, requiring advice on cross-border issues involving estate planning and succession laws.
- The number of divorces has risen significantly over the past decade, resulting in the need for professional advice for unmarried couples, second marriages, children from different relationships and equality in intergenerational transfers with large gaps in the ages of the beneficiaries.
- Formality and governance are less relevant. Therefore, concepts such as the family council or family representatives are less familiar to Israelis.
- Awareness of the need to use some of the associated services has

traditionally been low. That said, it is reasonable to assume that within a few years, awareness of associated services will increase.

- Israelis – especially the founding generation – tend to think that as they created the wealth, they also have the know-how to preserve it and to pass it on to future generations. Therefore, they feel that they do not require a family constitution or professional assistance.
- The speed of change in Israel is fast. However, Israelis are exposed to what is happening globally. It may thus be expected that they will adopt a major portion of these influences, including family and multi-generational behavioural patterns.

As a result, we believe that in the coming decade, the needs of high-net-worth individuals for intergeneration solutions will increase the need for multi-family office services and professional experts in international succession planning such as trusts and family governance.

4. Succession planning

Inheritance matters are governed by the Succession Law 1965, which applies to individuals who were residents of Israel or who owned assets in Israel at the time of their death. The fundamental principle guiding this legislation is to confer upon legally competent persons the right to bequest assets as they deem appropriate, based on a last will and testament, in accordance with legal formalities imposed by the Succession Law. An individual's freedom of testament is further evidenced by the lack of forced heirship laws and even further expressed by the tax laws, which do not impose inheritance, estate or gift taxes.

Notwithstanding this guiding principle, the Succession Law grants certain rights to a surviving spouse, children (under 18 years old) and other dependants of the deceased, with a limited degree of protection where these dependants relied on the deceased for support during his or her lifetime.

Individuals residing in one jurisdiction and owning assets in others should plan accordingly, possibly signing separate wills in each jurisdiction in which they own assets, to govern the distribution of those assets upon their demise.

Israel does not recognise foreign probate court orders and a petition for a court order must be filed with the competent authority in order to distribute estate assets located in Israel regardless of the jurisdiction in which the deceased resided prior to his or her death or to probate processes abroad.

4.1 Trusts

(a) The Trust Law

The Trust Law 1979 governs the area of trusts. This law defines a 'trust' as the

duty imposed on a party to hold or to otherwise deal with assets under its control for the benefit of another or for some other purpose.

A trust is constituted under the Trust Law in circumstances where:

- assets are held by a trustee;
- there is a clear purpose, whether for an individual's benefit or for the attainment of certain goals; and
- a trustee, who is empowered to deal with the assets, is committed to act for the achievement of the goal of the trust.

A trust may be created either by contract or by deed.

A trust created by contract requires an agreement between the settlor and the trustee, with no specific procedure necessary for its validity. Trusts created by deed must be in writing and be signed in the presence of a notary public. A testamentary trust that is to be effective upon the settlor's death must comply with the formal requirements under the Succession Law for the signing of wills. These include signing in the presence of a notary public.

(b) Underlying companies

Legislation on the taxation of trusts enacted the concept of an underlying company. In Israel, this is viewed as a significant advantage, especially in light of global changes as well as by contrast to previous legislation relating to Israeli companies.

An 'underlying company' is a company established by a trustee of a trust (or council of a foundation), in Israel or abroad, for the purpose of holding and administering the trust assets for the trustee. As the trust is not a separate legal entity in common law jurisdictions, unlike a foundation, assets may not be registered in the name of the trust. An underlying company is a separate legal entity, transparent for tax purposes, that holds the trust's assets for the trustee.

5. Advising Law and qualified client

5.1 General

The Regulation of Investment Advising, Investment Marketing and Investment Portfolio Management Law 1995 (the 'Advising Law') was enacted following conclusions issued by two governmental committees. The purpose of the Advising Law is to regulate the investment advising market, portfolio management and investment marketing, which were unregulated until the enactment of this legislation.

5.2 Advising Law: principles

The Advising Law is designed, as is globally accepted, to protect customers by regulating the relationship between the professional and the customer,

including imposing ethical rules and obligations on reporting to the customer, determining the licensing process and requiring professional training, as well as imposing a governmental monitoring system operated by the Israel Securities Authority and the Israeli Anti-money Laundering Authority.

Under the Advising Law, a licence is required to conduct portfolio management, investment advising or investment marketing.

5.3 Occupations that do not require a licence

Notwithstanding the above, the Advising Law sets out limited circumstances in which a licence is not required. These include the following:

- a maximum of five clients – investment advising or investment portfolio management for no more than five clients during the course of a calendar year, by an individual who does not engage in investment advising or investment portfolio management in the framework of a licensed corporation or a banking corporation;
- family member – investment advising or investment portfolio management for a family member;
- accountant, lawyer, tax adviser – investment advising or investment portfolio management by certified public accountants, attorneys or tax advisers, when such activities accompany a service provided to a client within the field of their respective professions; and
- investment advising, investment marketing or investment portfolio management for a qualified client

A 'qualified client' is defined in the First Schedule to the Advising Law and includes:

- joint investment funds, fund managers, management companies or provident funds as defined in the Provident Funds Control Law, insurers, banking corporations, licensees, stock exchange members, underwriters and most corporations with equity exceeding ILS50 million (approximately $13 million);
- individuals who satisfy at least two of the following criteria:
  - own cash, deposits, financial assets and securities with a total value of ILS12 million (approximately $3.2 million);
  - have expertise and skills in the capital market field, or have been employed for at least one year in a professional position that requires capital market expertise;
  - have executed at least 30 transactions, on average, in each quarter during the preceding four quarters; for this purpose, the term 'transaction' does not include a transaction executed by a portfolio manager for an individual who has entered into a portfolio management agreement with him or her; or

- have consented in writing in advance; or
- corporations that are wholly owned by investors who are among those listed above, or corporations incorporated outside Israel whose activities have characteristics similar to those of a corporation listed above.

This exception allows an unlicensed company to manage portfolios or to provide investment advice. In recent years, banks in Israel have requested that clients sign as qualified clients to facilitate the advice process.

As a result, qualified private clients are treated as institutional clients, which allows them to make investments that are defined as suitable for institutional clients, including participation in the institutional stage of private issuances, allowing them to purchase securities under better conditions.

5.4 Investment advising, investment marketing and investment portfolio management by foreign service providers

The Advising Law went one step further. Since Amendment 23 of the Joint Investment Trust Law 5754-1994 came into effect, a foreign fund manager may offer funds to the public In Israel, without a licence, if it has obtained a permit and meets the conditions in the law, as set forth in the Joint Investment Trust Regulations 2775-2015.

The logic of this provision is to improve the quality of the services and the know-how available to Israelis by allowing them access to the top international investment houses.

5.5 Definition of a 'qualified client' under the Securities Law 1968, for participating in private placements

In 2016 an amendment to the First Schedule to the Securities Law 1968 expanded the number of offerees in private placements (without a memorandum), which does not include the limitation of 35 offerees and defines a 'qualified client'. Under this amendment, the definition of 'qualified client' is different from that in the Advising Law. An 'eligible customer'[11] is defined as an individual who meets one of the following three conditions:

- The total value of liquid assets owned by the individual exceeds ILS$8 million (approximately $2.1 million);
- The individual's income in each of the preceding two years exceeded ILS1.2 million (approximately $325,000), or the income of such individual's family unit exceeded ILS1.8 million (approximately $485,000); or
- The individual's total liquid assets exceed ILS5 million (approximately $1.35 million) and his or her income in each of the immediately

11 Definition of 'eligible customer' as amended in March 2016.

preceding two years exceeded ILS600,000 (approximately $162,000), or the income of such individual's family unit exceeds ILS900,000 (approximately $245,000).

6. Tax

6.1 The Israeli tax system

This section outlines the Israeli tax system in general for the benefit of professionals such as family offices, tax advisers, attorneys and accountants, and of high-net-worth individuals. It refers specifically to Israeli residents or to those who have activities in Israel. Israeli tax law, together with international tax laws and the changes to the laws in the last decade, has become very complex.

In 2003 the tax system was revised to become a global system. As a result of this amendment to the tax system, Israeli residents are subject to tax on their worldwide income and foreign residents are subject to tax on certain Israeli source income. Nonetheless, Israel encourages foreign investments, and grants tax benefits and exemptions to foreign residents. These include exemptions from capital gains taxes on part of interest payments or on the sale of shares of Israeli corporations.

6.2 Sources of income

The Income Tax Ordinance differentiates between income and capital gains. This differentiation is very important, as the tax rates and loss deduction rates differ as set out below. In recent years courts have held that income from sources such as dividends, interest and currencies is from different sources, and have thus limited the ability to offset between income and losses. In addition, the Tax Authority has limited the definition of 'non-business income activities' (with a limited tax rate) versus business income with a high tax rate that might exceed 47% (more than ILS496,920 (approximately $135,000)).

(a) Personal income tax

The individual income tax rate is progressive, with a maximum marginal rate of 48% of taxable income (excluding capital gains) over ILS501,960 (approximately $130,000). However, some sources of income (dividends, interest and rent) carry a lower tax rate of between 15% and 30%, subject to certain conditions and the source of the income. Since 2013, individual rates have included an additional 3% tax (until 2016, 2%) on taxable income in an amount over ILS640,000 (approximately $170,000 (until 2016, approximately ILS810,000)). Nonetheless, there are no estate taxes in Israel and gift taxes are imposed only in limited circumstances.

(b) *Corporate taxes*

The current corporate tax rate for Israeli companies is 23% for taxable income, including capital gains, interest income and dividend income that stems from income produced or accrued abroad, as well as from dividends that originated abroad.

Income from a distribution of profits or from dividends that stem from income produced or accrued in Israel, received from another body of persons that is subject to corporate tax, is not included.

Corporate tax at a rate of 23% is imposed on the taxable income of a body of persons from dividends that stem from income produced or accrued abroad.

(c) *Capital gains tax*

As mentioned above, Israeli residents are subject to tax on a worldwide basis and foreign residents may be subject to capital gains from Israeli sources. The tax rates are calculated in shekels (the local currency), regardless of the currency of the transaction.

An individual is subject to tax on capital gains (including securities) at a rate not greater than 25%. Capital gains from the sale of securities of a body of persons, where the seller is an individual who was a substantive shareholder during the 12-month period prior to the sale, is at the rate of 30%. The Tax Ordinance defines a 'substantive shareholder' as a person who, directly or indirectly, holds at least 10% of the means of control of a body of persons. In addition, capital gains from the sale of debentures, commercial securities, state loans and loans that are not index linked are taxed at a rate of no more than 15%, or 20% in respect of a substantive shareholder.

A body of persons (corporation) is subject to corporate tax on capital gains at a rate of 23%.

(d) *Real Estate Taxation Law*

The taxation of capital gains from the sale of real estate in Israel is governed by the Real Estate Taxation Law, which follows the same general principles and tax rate.

Generally, individuals are entitled to an exemption from capital gains taxes with respect to the sale of one residential property (with a value of no more than ILS4.5 million). Nonetheless, purchase taxes are applicable to purchasers.

Non-residents are subject to capital gains taxes on the sale of real property and to purchase taxes applicable to the purchase of real property in Israel.

(e) *Value added tax*

Israel imposes value added tax (VAT) (currently 17%) on business income and services provided in Israel.

(f) Public offering expenses

The expenses of a public offering for company shares or partnership participation units traded on the Tel Aviv Stock Exchange from 2018 to 2020 may be deductible for tax purposes.

(g) Special tax rate

Subject to the Organisation for Economic Cooperation and Development (OECD) Base Erosion and Profit Shifting (BEPS) Instructions and the Nexus formula, Israel amended its tax rules to encourage start-up and high-tech activities in Israel. The Encouragement of Capital Investments Law (2017) added two new tax rates for 'preferred technology' (7.5% to 16% and dividend tax of 20%) and 'special preferred technology' (7.5% and 12% and dividend tax of 4% for foreign holders (if holding over 90%)) entities.

6.3 Taxation of trusts

Legislation on the taxation of trusts legislation, which came into effect as of January 2006, was passed following the major revision to the Israeli tax system in 2003 from territorial taxation to worldwide personal taxation. The taxation of trusts legislation was revised again in 2013, with effect mainly as of 1 January 2014.

The legislation distinguishes five types of trusts, as follows.

(a) Foreign resident trust

A 'foreign resident trust' is a trust settled by a non-resident for the benefit of non-resident beneficiaries. This trust is subject to reporting and tax obligations in Israel only to the extent that it receives Israeli source income.

(b) Israeli resident beneficiary trust

An 'Israeli resident beneficiary trust' is a trust established by a non-resident of Israel where at least one of the beneficiaries of the trust is a resident of Israel.

Two additional criteria must be met for the trust to be classified as an Israeli resident beneficiary trust. First, the settlor and beneficiaries must be immediate family members (ie, the settlor is a spouse, parent, grandparent, child or grandchild of the beneficiary), in which case it is known as a family trust. Alternatively, a broader family relationship (ie, siblings, nieces, nephews, aunts, uncles) will permit classification of the trust as an Israeli resident beneficiary trust upon the submission of evidence to the assessment officer of the Tax Authority that the trust was settled in good faith and the beneficiary did not provide consideration for the settlement in his favour. Second, the settlor must still be alive.

If either of these additional criteria is not met, the trust is to be classified as an Israeli resident trust (see below).

An Israeli resident beneficiary trust or family trust is subject to tax as follows:

- Distributions to beneficiaries will be taxed at the rate of 30% of the distribution amount, unless the trustee provides evidence that the distribution consists of separate portions of income and of principal. Where the distribution is comprised solely of principal and no income, it is not taxable.
- The trustee may opt, under certain circumstances, to subject trust income allocated to an Israeli resident beneficiary to tax at the rate of 25% in the tax year in which the income is produced. This option requires the preparation of balance sheets, annual reporting and annual tax payments on realised gains. Once these requirements are met, the distributions to the beneficiary are not taxable. This route, once chosen by the trustee, is irreversible.

(c) Israeli resident trust

An 'Israeli resident trust' is a trust established by a resident of Israel for the benefit of Israeli resident beneficiaries. The trust is subject to reporting obligations and is taxable as an Israeli resident on worldwide income, in accordance with the tax rates applicable to individuals.

The reporting and tax payment obligations are imposed by the legislation on the trustees regardless of the jurisdiction in which they conduct their business activities or have their residence. Once taxes have been paid, distributions are made to beneficiaries with no additional tax obligations.

(d) Foreign beneficiary trust

A 'foreign beneficiary trust' is established by an Israeli resident for the benefit of foreign resident beneficiaries. As the settlor is an Israeli resident, there are reporting obligations, both upon settlement and annually, to ensure the identity of the beneficiaries as non-residents of Israel. This trust is taxed in a similar way to a foreign settlor trust – that is, there is no Israeli taxation where no assets are located in Israel and no income is derived from Israeli sources. The assets and income of this form of trust are regarded as external to the Israeli tax system if the following criteria are met:

- The trust is not considered an Israeli resident trust under the legislation;
- The trust is irrevocable;
- All beneficiaries are identified and are non-residents of Israel; and
- At least one settlor is an Israeli resident.

(e) Testamentary trust

A 'testamentary trust' is established under an individual's last will and testament in accordance with one of the categories outlined above.

6.4 Tax benefits to new immigrants and returning residents

In 2008, for Israel's 60th birthday, Israel revised the Tax Ordinance in connection with tax benefits granted to new immigrants and Israelis returning to reside in Israel. As Israel is an immigration-friendly state, benefits have always been granted to such individuals, but the 2008 amendments were extraordinary and, in hindsight, resulted in an immigration wave to Israel.

The law distinguishes between:

- new immigrants – those who have never previously resided in Israel;
- long-term returning residents – those who have resided abroad for a period of at least 10 years prior to returning to Israel; and
- returning residents – those who have resided abroad for a period of at least five years prior to returning to Israel.

The law provides that the income of a new immigrant or of a long-term returning resident is exempt from taxes in Israel for a period of 10 years, from the time that individual becomes an Israeli resident, where it is derived from sources such as interest, dividends, royalty, rent or pension payments, capital gains or business income, as long as it originates abroad.

Under this revision, for the capital gains tax exemption to apply to new immigrants and long-term returning residents, assets need no longer have been purchased prior to becoming Israeli residents.

Returning residents enjoy the following benefits in connection with assets purchased during their residence abroad once they were no longer residents of Israel:

- a tax exemption for a period of five years on passive income derived from assets abroad;
- a tax exemption for a period of five years on interest and dividend payments derived from 'preferred securities', which are defined as securities traded on foreign exchanges purchased while the individual was non-resident of Israel; and
- a tax exemption for a period of 10 years on capital gains derived from the assets mentioned above, provided that those assets do not themselves grant, directly or indirectly, rights over assets located in Israel.

Consideration should be given to the laws of the new immigrant's country of origin. New immigrants from the United States, for example, remain subject to US tax laws as the country's tax system is based on citizenship rather than residence. For new immigrants from many European countries, advice should be sought in their country of origin to ensure that they have severed their ties with such country and are no longer subject to its tax laws. This notwithstanding, as mentioned above, the new immigrants remain subject to taxes in Israel on any and all Israeli source income.

6.5 Foreign residents

As mentioned above, certain tax exemptions and reliefs are granted to foreign residents:

- an exemption from tax on interest, discount and linkage differentials paid to a foreign resident on debentures traded on the Israeli Stock Exchange issued by an Israel resident body corporate (under certain conditions);
- an exemption from tax on capital gains from the sale of securities of Israeli companies traded on an exchange in Israel or an exchange abroad, provided that the capital gain is not realised by a permanent enterprise in Israel;[12]
- an exemption from tax on capital gains earned upon the sale of a security of an Israeli resident company (not a real estate corporation), or upon the sale of a right in a foreign resident body of persons whose main assets are rights in assets located in Israel (subject to some conditions, including that the capital gain may not be realised in a permanent enterprise in Israel which at the time of the sale of the security is not traded on an exchange in Israel);[13] and
- for individuals working in Israel and holding the status of 'overseas expert', deduction of expenses.

6.6 Double tax treaties

Israel is a party to double tax agreements with more than 50 countries. The agreements are based on the OECD model, which includes double tax prevention in income categories including capital gains, interest, dividends and royalties.

Once an agreement to afford double tax relief has been ratified, the obligation to maintain secrecy imposed by the law shall not prevent disclosure to an authorised officer of the reciprocating state of any information that is to be disclosed under the agreement. Many of these treaties (those negotiated and/or amended recently) provide for the automatic exchange of information between the countries that are party to the treaty (see section 6.7(a)).

6.7 BEPS project

In 2015 the OECD published its final reports on the Base Erosion and Profit Shifting (BEPS) project.[14] The report states:

International tax issues have never been as high on the political agenda as they are

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12 This provision does not apply to capital gains from the sale of a share in a real estate investment fund and short-term (under 13 months) state of Israel bonds or treasury bonds.

13 This exemption does not apply to the capital gain if most of the assets held were real estate rights or real estate association rights.

14 www.oecd-ilibrary.org/taxation/beps-project-explanatory-statement_9789264263437-en.

today. The integration of national economies and markets has increased substantially in recent years. This has put a strain on the international tax framework, which was designed more than a century ago. The current rules have revealed weaknesses that create opportunities for the BEPS Project, thus requiring a bold move by policy makers to restore confidence in the system and ensure that profits are taxed where economic activities take place and value is created.

(a) Multilateral Instrument

One of the main aims is to reform the international tax system, through tax treaties and through the tax rules of individual member states. One of the recommendations is Action 15, which created the Multilateral Instrument (MLI). Israel is one of 68 countries that signed the MLI, which will reform about 1,200 tax treaties over the next 10 years. The MLI establishes three main ways to prevent abuse of the convention:

- the Principal Purpose Test (PPT);
- simplified limitation of benefits (LOB); and
- detailed LOB.

Israel chose the PPT. This MLI will be influenced, from the international tax perspective, by issues such as residency, entity transparency, permanent establishment, dividend, capital gain and transfer pricing. Israel is expected to approve the MLI at the end of 2018 or in early 2019.

(b) Common Reporting Standard Treaty

Israel has signed the Common Reporting Standard Treaty between OECD members on the transfer of financial information between tax authorities.

(c) Anti-money laundering

Anti-money laundering laws and regulations were enacted between 2000 and 2003. Additional revisions passed in 2014 were added to impose liability on professionals (attorneys and accountants) providing business services to their clients. The anti-money laundering regime defines, without limitation, drugs offences, prostitution, IP offences and organised crime, as well as severe tax offences,[15] as predicate offences under the law. 'Severe tax offences' are defined as follows:

- Income Tax Ordinance – if the taxable income exceeds an amount of ILS2.5 million within a four-year period or ILS1 million in one year;
- VAT Law – if the amount exceeds ILS480,000 within 48 months or ILS170,000 within 12 months, or if fictitious invoices were prepared, under severe circumstances; and

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15 From 2016.

- Land Taxation Law – as:
  - failure to report a real estate transaction;
  - failure to report the actual value of a purchase or sale of real property in an amount exceeding ILS1.5 million; or
  - fraudulent reporting of the parties to a real estate transaction.

Pursuant to a long and rigorous process, Israel was appointed a member of the Financial Action Task Force in December 2018.

7. Conclusion

The family office market is still evolving in Israel and has much room to grow and become more defined and focused. The role of family office advisers in their various capacities and forms is increasingly crucial as high-net-worth individuals marry, divorce, raise children, manage businesses, invest assets and plan the transfer of their businesses, assets and wealth to future generations.

Italy

Nicola Saccardo
Maisto e Associati

1. The notion of 'family office'

In Italy, the expression 'family office' is often given different meanings (which leads to conflicting statistics on the number of family offices in Italy), so it is worth defining what is meant in this chapter by a 'family office'.

The purpose of a family office is to manage, plan and control the wealth of a highly affluent family (or families) by assisting such family (or families) with a diverse range of needs, including financial, legal, tax and personal needs. These services can be provided by many different players in the wealth management industry, but only some of these players can be properly referred to as 'family offices'.

In order to qualify as a family office, two requirements must be met:

- the absence of a conflict of interest regarding the management of the assets of the family or families; and
- a holistic approach.

Regarding the first requirement, family offices are the counterpart of asset management and private banking structures, and act in the sole interest of the family or families that they serve. As a consequence, they tend to aim at the long-term protection and growth of the family wealth through generations.

As far as the second requirement is concerned, family offices deal with the management of different asset classes (eg, financial assets; real estate; special assets such as works of arts, yachts and aircraft), rather than only financial assets, and adopt an interdisciplinary approach by combining, for example, asset management expertise with legal and tax expertise.

Family offices provide a wide variety of services, which may include the following, among others:

- strategic wealth management planning (eg, drafting of the family constitution, development of family boards and family councils, development of intergenerational wealth transfer plans);
- investment planning (eg, asset allocation, selection of investment managers and negotiation of their terms of business, monitoring of their performance, accounts consolidation and consolidated performance reporting);

- insurance services (eg, ensuring that adequate insurance cover is in place to protect wealth and assets);
- provision of in-house legal and tax counsel or, more often, coordination of the outsourcing of legal and tax advice;
- education of family members, particularly the next generations;
- assistance with crafting and implementation of the family's philanthropic plans;
- administrative services; and
- lifestyle and concierge services (eg, travel arrangements, domestic help screening, hiring and payroll).

For the sake of clarity, this list of services does not imply that all family offices offer a basic set of services. No two family offices are the same, because the needs of families are different.

2. Family offices in Italy

Italy is renowned as the home of many successful family businesses and of many wealthy families, but few family offices have been created thus far. Indeed, according to the Italian association of family officers (*Associazione Italiana dei Family Officer* (AIFO)) – which was set up in 2005 by Ms Patrizia Misciattelli delle Ripe and which has provided a master's in family offices since 2015 – in 2017 there were approximately 60 family offices in Italy, including 23 single family offices.[1] The limited number of family offices seems to be due to several reasons.

First, some families used to allocate private wealth management functions to trusted employees of the family business, such as the chief finance officer and/or the in-house legal and/or tax counsel.

Second, some families relied on specialist trusted advisers (often linked to the family business) – such as lawyers, tax advisers or banks – or entrusted certain private wealth management functions to family members, rather than adopting a multidisciplinary approach.

Third, the Italian environment was characterised by a low degree of delegation between generations, with older generations anxious to retain control of the family wealth and unwilling to involve new generations in the management of the family wealth. In this respect, the creation of a family office may have been perceived by older generations as a threat to their exclusive control over the family wealth.

However, the environment has been changing and the number of family offices in Italy has been increasing in recent years, for several reasons.

First, families have started to understand the importance of segregating the

1 "Italy starts to emerge as a centre for family office activity", *Family Capital*, 26 April 2017.

management of the business from the management of private assets. Failure to do so may present the following risks, among others:

- the distraction of business executives (executives may spend time on non-core matters);
- favouritism among family members (family members involved in the business may have greater access to business executives);
- poor investment performance (managing a business is different from wealth management);
- privacy risks (ie, the risk that confidential information may be disclosed to other employees of the business); and
- legal risks (if the business holds non-core assets, these can be at risk if the business incurs a significant legal liability).

Second, increased diversification of investments, increased autonomy of banks to provide wealth management services, increased specialisation in financial services and increased globalisation – combined with a heightened desire for control – now favour the adoption of an interdisciplinary advisory model. The family office may provide professional expertise that assists in allocating the wealth among specialist advisers and in controlling their performance.

Finally, many Italian families have sold their businesses in recent years. These liquidity events (as well as, potentially, the repatriation of funds following the voluntary disclosure that became possible in 2015) triggered increased interest in the establishment of family offices in Italy.

That said, family offices may afford significant benefits in a 'family-first' country such as Italy. A systematic approach to family governance – based on a professional family office, the involvement of unaffiliated independent directors and the drafting of a family constitution – may introduce a degree of discipline that can be absent in cultural environments where family obligations supersede a 'business-first' focus.

The family offices operating in Italy tend to be either single family offices or multi-client family offices (ie, entities controlled by professionals, rather than by families, and providing services to a wide range of families which might not have sufficient wealth to make the creation of a single family office a viable alternative). Multi-family offices are less common.

Finally, in terms of investments by Italian family offices, the average asset allocation of Italian ultra-high-net-worth families[2] highlights significant investments in family business (42%) and real estate (24%), followed by investments in liquid asset portfolios (17%), direct private equity (6%),

2 According to AIFO data reported by Misciattelli delle Ripe in her presentation "Family offices and private equity" at the BDO M&A forum, 23 May 2017.

alternative private equity investments (3%) and art and collectibles (3%). Other features of the Italian average asset allocation include limited investments in hedge funds and venture capital, due to a risk-averse approach, increased co-investments with other families and impact investing. As far as impact investing is concerned, in 2015 the Italian legislature introduced 'benefit corporations' (first introduced by the United States in 2010) – that is, companies with a dual purpose. A benefit corporation is a corporation that, in addition to the traditional corporate goal of maximising profits for shareholders, pursues one or more public benefit purposes in favour of other stakeholders, typically linked to the improvement of the social and/or ecological environment in which it operates. It is hoped that family offices will utilise this instrument both to achieve their targets in terms of financial return and for philanthropic purposes.

3. The Italian legal framework for family offices

Italy does not have a special register for family offices; nor does it have ad hoc legislation that governs this model. A family office can be set up in the form of, for example, a limited liability company, a joint stock corporation or a partnership, depending on the activities to be carried out and on the basis of the general legislation. Often, family offices are regulated as a *società di intermediazione mobiliare* – a company established for the purpose of acting as intermediary in the securities market – or as a nominee company (*società fiduciaria*), so that they can render a broader scope of services.

The archetypes around which the structure of a family office is generally modelled include the following:

- the ownership of the assets by family members, either directly or through an investment vehicle, and the provision of services by the family office to the family members or to the vehicle;
- the establishment of an investment vehicle in which the family members participate, and which receives the assets and acts as a family office; and
- the transfer of ownership of the assets held by family members to a family office in the form of a trust (Italy recognises foreign law trusts, having ratified the Hague Convention on the Law Applicable to Trusts and on their Recognition).

These three models have different legal and tax ramifications – for instance, in terms of:

- deductibility of expenses incurred by the family office (the deduction of such expenses may be prevented if they are passed through to family members or trusts for their benefit);
- realisation of latent capital gains upon its establishment (the transfer of assets to an investment vehicle will generally qualify as a capital gain

event, while the settlement of assets in a trust will not generally trigger any capital gain, but may trigger the levy of gift tax); and
- tax efficiency.

4. Tax strategies

The family office plays an important role in the planning and implementation of tax strategies. For families that control a business, a key Italian planning strategy involves availing of the exemption from Italian inheritance and gift tax for the generational transfer of business to certain family members. The exemption is intended to prevent the business from being affected by the family's need to draw down funds from the business, or the family from losing control of the business, in order to pay inheritance and gift tax.

The exemption from inheritance and gift tax applies to the transfer of businesses and participations in companies that carry on a business to spouses or descendants. For participations in companies, the exemption is subject to the additional condition that the recipient receive or reach a controlling shareholding. Control must be retained for five years following the transfer; otherwise, the exemption will be clawed back.

The use of a trust or the transfer of a controlling shareholding in co-ownership to spouses and descendants may allow individuals to avail of this exemption from inheritance and gift tax. Indeed, the tax authorities (Circular 48 of 6 August 2007, Ruling 110 of 23 April 2009 and Circular 18 of 29 May 2013) have clarified that the exemption may apply (provided that the trust is properly structured) to the settlement of a controlling shareholding in a trust for the benefit of the spouse and descendants, and to the transfer of a controlling shareholding in co-ownership to the spouse and descendants.

A structure that aims to avail of this exemption must also take into account the Italian forced heirship rules (see below).

5. Estate planning strategies

The family office also plays an important role in the definition and implementation of estate planning strategies. In this regard, Italian succession law provides for tight forced heirship rules (Articles 536 and following of the Civil Code). The reserved quota of the estate, which is reserved to forced heirs (including spouse and children) and therefore cannot be freely disposed of, depends on the composition of the family of the deceased upon death. For instance, if the spouse and three children are the forced heirs:

- 50% of the estate of the deceased is the reserved quota for the children, to be divided in equal shares;
- 25% of the estate of the deceased is the reserved quota for the spouse; and
- the remaining 25% of the estate can be freely disposed of.

For the purposes of calculating the reserved quota, the value of the estate of the deceased is equal to the value of all assets owned at the time of death, net of any debts, plus the value of all assets that were gifted by the deceased during his lifetime. The settlement of assets in a trust is considered a gift from a succession law perspective; therefore, it is relevant to the calculation of the value of the estate of the deceased for the purpose of calculating the reserved quota.

The planning is complicated by the fact that succession agreements (including dispositions by an individual of his or her rights under a future succession) are null and void under Italian law (Article 458 of the Civil Code). Such a ban on succession agreements allows only one exception. Under a 'family pact' (regulated by Articles 768-*bis* and following of the Civil Code), a business or a qualifying participation in a company carrying on a business can be transferred to descendants under an agreement (in the form of a public deed) between all living forced heirs, whereby the forced heirs who do not receive their share of the business or of the qualifying participation may either be granted a cash amount or other assets or renounce their reserved quota, in whole or in part.

Family offices may therefore be required to play an important role in ensuring that the wealth transfer plan complies with forced heirship rules or in coordinating the preparation and execution of a family pact.

6. Relevance of lump-sum tax regime and impatriate tax regime

Italian tax law includes two regimes that may be relevant to the development of the family office industry in Italy. One regime, introduced in 2016, is intended to attract high-net-worth investors to Italy and is relevant since such individuals may require the establishment of a family office to serve their needs or the provision of family office services. The other regime is intended to attract employees (or self-employed individuals) to Italy and is relevant since it may allow employees to move to Italy in order to be involved in the creation or expansion of a family office under a favourable tax regime, so that the tax efficiency of the family office can be optimised. The two regimes are briefly described below.

Italian tax law provides for two mutually exclusive regimes for individuals transferring their tax residence to Italy:

- a €100,000 annual substitute tax on foreign income and foreign gains ('lump-sum tax regime');[3] and
- a 50% exemption on Italian source employment income ('impatriate tax regime').

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3 For a detailed analysis of the Italian lump-sum tax regime, see N Saccardo, "The new Italian special tax regime for High Net Worth Individuals moving to Italy (the Substitute tax regime) and the new Italian tax rules for qualifying carried interest schemes", *Trusts & Trustees*, 2017.

As mentioned, the lump-sum tax regime is intended to attract high-net-worth investors to Italy. It is an optional regime that is available to individuals who have been non-resident in Italy for Italian tax purposes in at least nine of the last 10 years. It provides that:

- all foreign-source income and gains are subject to a substitute tax equal to €100,000 per year;
- foreign assets are not subject to wealth taxes; and
- foreign assets are not subject to inheritance and gift tax.

The regime is available for up to a maximum period of 15 years.

The impatriate tax regime is intended to attract skilled employees (or self-employed individuals) to Italy. The regime provides for a 50% exemption on Italian-source employment income for the tax year in which the transfer of residence occurs and the following four tax years. It applies to different categories of individuals, subject to different conditions. For instance, individuals who are citizens of the European Union or of a state that has concluded either an income tax treaty or a tax treaty on the exchange of information with Italy, and who transfer their tax residence to Italy, can avail of an Italian employment benefit from the impatriate tax regime, provided that they:

- have a university degree;
- have continuously worked (and been tax resident) in a foreign country in the previous 24 months; and
- retain their Italian tax residence for at least two years.

It is hoped that the impatriate tax regime will assist in further developing the family office industry in Italy by attracting additional expertise to Italian family offices.

Netherlands

Raimund Kamp
Marijke Kuijpers
Guidato

This chapter begins by looking at the demographics of the Dutch market for services for high-net-worth individuals. The second section focuses on the Dutch family office landscape. The tax implications for entrepreneurs and ultra-high-net-worth individuals coming to the Netherlands are outlined in the third section. The final section focuses on opportunities in the Netherlands for commercial multi-family offices and wealthy foreigners.

1. Millionaires in the Netherlands

Annual research conducted by the Central Bureau of Statistics (CBS)[1] affords great insight into the prosperity, income and wealth of the Dutch. In 2016 1.5% of households (approximately 112,000 households) had wealth of €1 million or more. The definition of 'wealth' is the difference between assets and liabilities. In contrast to previous CBS research, in the latest research dwellings and corresponding mortgages were not included in calculating wealth.

The number of millionaires has increased since 2009; however, when corrected for inflation, the figure has been stable since 2010. In 2015 the median wealth of millionaire households was about €2.9 million – more than 55 times the wealth of non-millionaires.[2] Approximately 106,000 households have investible assets[3] of €1 million or more. Of these, 62% have wealth of between €1 million and €2 million. Around 23% of households own €2 million to €5 million. Only 3% of millionaire households (approximately 3,000 households) have wealth of €10 million or more.

The five foremost branches in which millionaires have built up their fortunes are agriculture/fishing/forestry, financial services, trade, specialist business services and healthcare.

Wealth is unevenly distributed across Dutch households. The 1.4% millionaire households together own 44% of the total assets in the Netherlands. In addition, the 10% most affluent households own more than three-quarters

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1 CBS, August 2018, Koos Arts, *Miljonairs in cijfers 2018 Onderzoek naar miljonairshuishoudens van 2006-2018.*
2 CBS, June 2017, Koos Arts, *Rapport over miljonairs naar vermogenspositie en levensstijl 2015.*
3 CBS definition: excluding the value of pensions, homes and secured mortgages.

of the total wealth (79%). In the Netherlands, income differences are smaller than wealth differences. The Dutch fiscal regime plays an important role. Wealth is relatively mildly taxed, while income is taxed progressively and taxes on income are used to insure the social security system.

1.1 The Dutch rich list

Business magazine *Quote* publishes the *Quote* 500, an annual rich list of the wealthiest Dutch individuals. Its information is based on various public sources – for example, published annual reports and the value of floated stock. By no means is the list comprehensive and most Dutch millionaires fear having their names published. The average wealth of the top 500 millionaires amounts to €326.7 million.

The 2018[4] ranking included 29 billionaires. For many years Charlene de Carvalho-Heineken, the heir of Dutch brewer Freddy Heineken, topped the table, with €12.8 billion. Frits Goldschmeding, the founder of quoted employment bureau Randstad Uitzendbureau, has also held a leading position for many years, with an estimated wealth of €4.8 billion. Famous media entrepreneur John de Mol was ranked fourth in 2018 and is another of the 'usual suspects' on this list.

A few years ago, the rich list started to distinguish between individuals and families. Since the list was launched, the entrepreneurial Brenninkmeijer family – founders of the C&A retail company and serial investors – have held first position, with an estimated wealth of €22 billion in 2018.

1.2 Is the Netherlands attractive to millionaires?

At present, nearly 17.262 billion people live in the Netherlands.[5] Based on World Economic Forum research, the Netherlands holds sixth position in the top 10 of the Global Competitiveness Index (GCI) 2018/2019.[6] In previous years it ranked fourth. This year's GCI performance of the European region – which includes the EU28, the Balkans, Iceland, Norway, Switzerland and Turkey – is stable overall relative to last year. The region's top performers remain at the competitiveness frontier, with five European countries in the top 10: Switzerland (4), the Netherlands (6), Germany (3), the United Kingdom (8) and Sweden (9). However, there is little sign of the region's Southeast closing the gap with the Northwest. Iceland, Estonia and the Czech Republic continue to occupy the middle ground between these two blocs.

2. Dutch family businesses

Family businesses play a very important role in the Dutch economy. Based on

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4 *Quote* 500, November 2018.
5 CBS, October 2018.
6 Global Competitiveness Report 2018, published 16 October 2018, World Economic Forum.

research conducted by Nyenrode Business University,[7] there were around 260,000 family businesses in 2010 – almost 70% of all businesses in the Netherlands. At that time, they created jobs for 4.3 million people – representing 50% of the total employment. Family businesses accounted for 53% of the actual earnings of companies (after the deduction of purchase costs and write-offs), resulting in a figure of €56 trillion.

2.1 Recent family business research

In 2016 the Erasmus Centre for Family Business (ECFB) published[8] a report of its in-depth international research focusing on the achievements of family businesses after the transfer to the upcoming generation.[9] The most important conclusions of this survey show that:

- after the transfer, family businesses run more than average high risks;
- return on investment falls after every change of generation; and
- only 30% of family businesses survive the first change of generation; 13% survive the transfer from the second to the third generation; and just 3% are still standing after the transfer to the fourth generation.

During the transfer to the next generation, emotional, financial (tax), technology and organisational shifts may coincide over time. When the leadership is transferred, very often the ownership will also change. This may trigger tax issues (eg, gift or capital gains) and funds must be in place to meet those tax obligations. Also, legal structures to transfer the ownership require the attention of executives. These topics cover the financial aspects of the transfer and may distract the executives' focus from the day-to-day business decisions that need to be made.

A transfer from the founding entrepreneur to the second generation often happens 20 to 25 years after a company is founded. In many cases the key technology of the company may not be up to date or to a high level, and may therefore be subject to revision. When the horizon of the founder/chief executive is shorter, the willingness and appetite to make riskier investments decrease. This is the technology shift that the researchers observed.

The organisational shift is that often, IT, HR and customer relationship management facilities and systems are not ready for the next stage. Previous research shows that management information systems of family businesses fall short in comparison with those of quoted companies. To facilitate expansion

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7 RH Flören, L Uhlaner and M Berent-Braun, *Ondernemerschap en het familiebedrijf*, 2011.

8 *ECFB ism BDO en Rabobank*, *Strategieveranderingen na generatiewisselingen in familiebedrijven*, 2016.

9 This research is based on two international quantitative studies in cooperation with ECFB. The first study focused on quoted family businesses in the United States and the second on privately owned family businesses in Australia, Canada, China, Finland, Italy, Norway, the United States and Switzerland. Both studies are co-called 'meta analysis'. Both studies predominantly look at strategic and governance choices within family businesses and the impact on the financial results.

and entrepreneurship of the next generation, these organisational systems need to be improved.

Two interesting patterns are worth mentioning. The first is that the departing generation often has difficulty letting go and not enough confidence in the competence and judgement of the new generation, and therefore puts legal protection structures in place. These structures are implemented before the point of transfer (of leadership). As a consequence, the previous generation still leads the family business (power of control) and the upcoming generation does not have much room for entrepreneurship; it can only make decisions with parental approval. It is not difficult to imagine how the new leaders feel about this.

The second pattern is after the transfer: the upcoming generation tends to be less entrepreneurial than the founding generation. This is evidenced in various ways. Most second generations take considerably less risks and invest less money in research and development and innovation. Most successors make different choices and invest their assets in safer activities that generate stable cash flow. They bet on a guaranteed return on investment to meet increased dividend obligations. The main reason for this strategy is a larger group of next-generation family member shareholders who do not work in the company, but have a financial claim (to support their lifestyles).

According to the researchers, both the departing generation and the upcoming generation proactively need to sort out a smooth transfer. This can be done by spreading the coinciding shifts of emotional, financial, technology and organisational aspects, making financial and fiscal arrangements and mapping the required competencies. Drafting a family charter can also be helpful in creating trust. In addition, it is important that the entrepreneurship of a company continues – protecting R&D investments, limiting dividend distributions and encouraging the next generation to continue to take risks in the business.

3. The family office landscape

There is no legal or statutory definition of a 'family office'. The job title 'family officer' is also not a qualified protected title, such as 'medical doctor' or 'lawyer'. As a result, anyone in the Netherlands can start an enterprise and call it a family office.

If you ask most people in the Netherlands whether they have ever heard of a family office, the answer will very likely be no. Possibly they might think the term relates to family business or family planning. The answer to this question will be different if you ask wealthy individuals and entrepreneurs. Due to increased attention in (financial) newspapers and advertising campaigns by financial institutions, the family office concept has become better known in the Netherlands. Although awareness among the target audience has grown in the

last few years, it would be interesting to research the actual understanding of and insight into the services rendered by family offices.

The Dutch landscape consists of various types of family offices: single family offices and multi-family offices.

3.1 Single family offices

Some entrepreneurial families set up a single family office to manage the family wealth separately from their operating (family) business or after the (family) business has been sold. The wealth requires professional financial management which the owners prefer to arrange through a single family office.

The typical single family office is not always in line with how it perceives itself. Most often, the legal entity is called an 'administration office', based on the Dutch legal structure known as *Stichting administratiekantoor* (STAK). In practice, most of them are low profile and operate under the radar. Some were founded more than 100 years ago and manage the investments of old-money families. Others were established more recently and operate more in the public space, such as De Hoge Dennen and Navitas. These companies are professionally run investment vehicles for new-money entrepreneurs and even have websites.

One of the best-known entrepreneurial Dutch families is the Brenninkmeijer family, which has a single family office. Its governance structure has its origin on one A4 page setting out the core (business) family values of the two founders, Carl and August Brenninkmeijer. The family office supports the executives of the family business and family members who are not actively involved in the daily business. It has evolved into a large organisation with lawyers, notaries, investment specialists and psychologists to serve the needs of national and international family members.

For the first time in history, a member of the Brenninkmeijer family agreed to be interviewed by a Dutch newspaper – *NRC*[10] – last year. The key topic of the interview was the family's philosophy on its philanthropic activities. According to *NRC* research, the C&A family is ranked first in the philanthropy list in the Netherlands. The decision to agree to an interview was a family affair and not within the mandate of Maurice Brenninkmeijer, who is the chief board member of Cofra Holding AG. This top holding company is based in Zug, Switzerland; however, strategic decisions are made by the so-called *Sneekerkring*, a gathering (committee) of 58 family members who jointly own the worldwide business group. When asked about their decision-making process, they stated: "When possible and practical, we take important decisions together. We never vote but look to reach a consensus."

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10 *NRC Handelsblad*, 5 May 2017, *"Praten over ons zelf is iets wat we niet graag doen"*, interview with Maurice Brenninkmeijer.

The family is more open about its corporate giving than its private philanthropy. Maurice Brenninkmeijer stated:

There is a difference between corporate giving and private philanthropy. We are not looking for recognition, but corporate giving may be visible for the audience. Our private philanthropy is something we do in private. It needs to be low profile. A tag line of apostle Matheus applies: "if you do well, do not let your left hand know what your right hand does." This is the philosophy behind our philanthropy. We do not talk about numbers and what our charitable giving entails. This was always the situation in the past and still is in current times. In addition, most personal initiatives of family members are private for privacy reasons.

Brenninkmeijer explained that one of the key drivers for success and keeping the family business together is that all family member-shareholders are obliged to sell their shares to the company when they retire at the age of 55. The shares cannot be inherited by the next generation, although the proceeds from the sale of the shares can be inherited by the children. According to Brenninkmeijer, it is a combination of a strong culture, mission and (financial) successful businesses. When you have a shared goal and mission, it is possible to stay together for six generations.

3.2 Multi-family offices

Over the last decade, quite a few multi-family offices have been founded by professional advisers. Most of the founders are trained investment advisers, bankers or qualified (tax) lawyers and accountants. The companies are usually privately owned, although based on their business philosophy, some multi-family offices issued loyalty shares to key clients who played an important role at the start of the business.

Occasionally, a single family office has transformed into a multi-family office and commercially exploited their investment resources, know-how and experience with other families. Of course, the financial crisis had an impact on investment returns and therefore on the cost of running a professional organisation.

The family office concept has also been adopted by a few large financial institutions. Private bank Van Lanschot created the private office concept to attract and introduce bespoke services for its rich clients. Deloitte also introduced a tailored family office service some years ago. At the end of the 20th century, PwC was known for its advanced one-stop shop private client strategy and packaged its services in a family office concept; however, it has since abandoned this approach.

Looking at the marketplace in more detail, the business models of multi-family offices can be divided into two core areas. The first and primary business model for most multi-family offices is asset management. The fees that clients pay equal a percentage of the assets under management. Clients might often

pay an extra fee for additional services such as administration or consolidated reports of their total assets.

A minority of Dutch multi-family offices have chosen a different business model: the provision of fee-based independent advice to clients. The most common activities are consolidation and structuring of accumulated wealth, selection of banks/asset managers, strategic asset allocation advice, estate planning and drafting of annual accounts. More specialised family-oriented services – such as financial education, preparation of the next generation and transfer of the family business – are also offered. These multi-family offices charge a retainer, a fixed fee or an hourly rate, and do not receive extra income from third parties.

Based on the two approaches, the form of ownership and the type of services, we can picture the Dutch multi-family office landscape in a matrix. The horizontal X axis represents the type of ownership of the family office, either privately owned or part of a large corporate institute. On the vertical Y axis, the services offered play a central role. Is the core business model investment services or other types of services?

The four types of family offices are set out in Table 1.

Table 1. Four types of family offices

Type 1 Privately owned multi-family office Core business: not investment management	Type 3 Owned by large corporation Core business: not investment management
Type 2 Privately owned multi-family office Core business: investment management	Type 4 Owned by large corporation Core business: investment management

The process of setting up a multi-family office in the Netherlands is not subject to any specific mandatory legislation. The Dutch financial markets supervisory authority (the *Autoriteit Financiële Markten*) requires only a permit for qualified investment management services, such as investment advice and asset management. A simple permit is required when a multi-family office advises clients as to which bank they should open a bank account with and transfer their moneys to.

Certain future developments can contribute towards opportunities and growth for family offices focusing on ultra-high-net-worth individuals and their families.

3.3 Developments in the marketplace and public debate

Over the last couple of years, some Type 1 'independent' family offices moved towards Type 2 family offices and are now offering investment management services (and/or have set up their own investment funds). In practice, clients may ask: "Could you look after my investments (in more depth)?"

Another development is that in recent years many private banks made quite a few bankers redundant. Some of these bankers are now sole traders and call themselves family offices. Their business model is mostly advising former private banking clients and negotiating the conditions and fees that banks and asset managers charge. It will be interesting to see how these advisers will develop and sustain their professional activities.

The baby boomer generation will continue to transfer capital to the next generation. This means that all sorts of assets, including (family) businesses, will change ownership. Based on our research entitled "Wealth transfer in the Netherlands", we conclude that future heirs need proper preparation to manage their inheritance and to deal with the emotional impact of becoming a wealthy individual. Sustaining family wealth requires a proactive strategy prior to the actual transfer. This requires that future heirs become self-reliant by giving them the opportunity to make sound financial and legal decisions over a part of the family wealth. Also, having experience of joint decision making with siblings contributes to sustaining wealth. In short, services that help wealthy families prepare the next generation will very likely be a growth area for family offices.

Looking at the number of millionaires in the Netherlands, it might seem as though there are many potential clients for a multi-family office. However, a millionaire is not necessarily a prospective client for a multi-family office, because the need for advice and service usually comes down to the complexity of the financial and family situation. Complexity is one of the foremost criteria to hire the services of a multi-family office.

For most people, financial affairs, markets and the industry are not very appealing. Many individuals have a low level of interest in their own financial situation. Apart from the odd person, few high-net-worth individuals are keen on spending time on managing their investments. Due to the financial crisis, however, even those less financially interested high-net-worth individuals have needed to address the implications of their accumulated wealth. At the same time, the attention given in various media to scrutinising the business models of (private) banks has caused banking clients to become more critical. The need for a trusted adviser has increased – but where can they be found? A negative financial attitude might prevent some high-net-worth individuals from hiring a financial adviser or a multi-family office, even if their business models are different from those of the (private) banks.

4. Tax implications for entrepreneurs and ultra-high-net-worth individuals coming to the Netherlands

This section outlines the most common and important tax topics for entrepreneurs, ultra-high-net-worth individuals and their families who decide to live and work in the Netherlands. It also considers the impact of various high-profile media leaks in recent years.

4.1 Residency and domicile

Dutch legislation does not distinguish between the concepts of residency and domicile. A wealthy immigrant will become subject to income tax and inheritance tax as of the date of becoming a Dutch resident. There is no clear statutory definition of 'residency'. For tax purposes, this is based on an evaluation of all the individual's facts and circumstances, including his place of work, the centre of his family and social life and the location of his dwelling. The criteria for establishing residence for inheritance (and gift) tax purposes are similar to those for income tax purposes.

4.2 Immigration of wealthy individuals

A wealthy immigrant who is considered a Dutch resident will be subject to income tax on worldwide income. For individuals who are still earning an income from employment, there is an attractive income tax regime, the 30% ruling, which can reduce the tax bill through application for the expat regime. Certain strict conditions must be met: for example, the person's skills must be scarce on the Dutch labour market. The tax benefit is a deemed 30% deduction from the Dutch salary, but the main advantage is the possibility to opt for deemed non–residency status for other sources of income. Through this election, income from portfolio investments and non-Dutch substantial interest shares can be exempt from Dutch taxation. This favourable tax regime applies for an eight-year period. On Budget Day, it was planned to reduce this period to a five-year period effective from 1 January 2019. However, this new plan has been postponed and it will thus likely apply as of 1 January 2021.

Non-resident individuals generally become subject to tax only on certain Dutch-sourced income, such as employment income, income derived from a substantial interest (at least 5%) in companies and income from real estate.

Dutch inheritance tax is levied on worldwide assets of a decedent who was a resident (or a deemed resident) of the Netherlands at the time of death. The tax is levied on the beneficiaries of the estate and the estate itself is not taxed.

There is no net wealth tax in the Dutch tax system, but income tax is levied on the value of the net wealth at an effective tax rate of 1.2% annually. An exemption applies for dwellings and substantial interests in companies.

4.3 Companies: an attractive participation exemption regime

The Netherlands is well known for its attractive tax exemption regime for participations in companies and its large number of tax treaties. Quite a few shareholders in family-owned businesses structure their international business through a Dutch holding company. Capital gains and dividends received from qualifying participations are exempt if the regime applies, which it generally does if the following main conditions[11] are met:

- The Dutch holding company holds at least 5% of the total nominal value of the shares of the company concerned;
- The subsidiary is not held as a mere portfolio investment; and
- Either:
  - the subsidiary is subject to a reasonable effective tax rate based on Dutch tax principles (subject to tax test); or
  - less than 50% of the assets of the subsidiary consist of 'passive' assets, based on the fair market value of the assets (asset test).

Double tax treaties generally reduce the 15% withholding tax on profit distributions by the holding company to nil. That said, based on the international pressure on international legal structures, the Dutch government is looking at special rules for taxation of dividends, interest and royalties.

4.4 Planning opportunities for entrepreneurs and wealthy individuals

Dutch-resident entrepreneurial families can transfer their business to the next generation in a manner that is advantageous from a tax perspective through the application of business property relief. This special business succession facility applies when business property is donated by means of a gift or bequest. This facility also applies to the acquisition of shares that constitute a substantial interest (5%, whether held directly or indirectly) in an active trading company. The total value of the business is fully exempt up to €1,045,611, and for the remainder of the value of the business assets an exemption of 83% applies. One important condition of this facility is that after the acquisition of the shares or the business property, the business must continue and the shares must be kept for at least five years. Additionally, in the case of bequests, the deceased must have been an entrepreneur for 12 months prior to death. For gifts, this is a five-year period.

4.5 Trusts

The Anglo-Saxon concept of a trust is unknown in Dutch civil law. Dutch law is familiar with the distinction between real rights and personal rights, but is unfamiliar with a distinction between legal interests and beneficial interests in property.

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11 www.belastingdienst.nl; Deloitte Netherlands tax highlights 2018.

Although the Netherlands has ratified the Hague Trust Convention, the Dutch tax authorities often used not to recognise trusts for tax purposes. This often resulted in situations of 'floated wealth'. Since 1 January 2010, new legislation has been in effect, and irrevocable discretionary trusts and other similar entities such as family foundations are now recognised for the application of income, gift and inheritance tax.

4.6 Foundations

For family estate planning purposes, the opportunities to use a Dutch foundation are limited. The concept of a Dutch foundation is known, but a provision in the Civil Code states that an individual who sets up such a foundation cannot benefit from it; nor can any person who belongs to the board of directors of the foundation. Other individuals can benefit from the foundation only if the distributions from the foundation have a social character or are acknowledged to have an idealistic motivation.

In Dutch and international tax structures a Dutch incorporated foundation (STAK) is frequently used as an asset protection vehicle. The STAK holds shares or other assets, and at the point of transfer of these assets to the STAK, the former holder receives depositary receipts issued by the STAK. The main reason for this structure is to realise a clear separation between the voting rights (at the board level of the STAK) and the beneficial ownership of the assets by the holders of the depositary receipts. The STAK is considered transparent for Dutch corporate income tax. Any tax is levied only at the level of the depositary receipt holders.

4.7 Impact of the various Leaks affairs

The Lux Leaks and the Panama and Paradise Papers affairs were worldwide news. These developments put pressure on Dutch politicians to come up with ideas and concrete actions to address the role of the Netherlands from an international fiscal perspective. The Panama Papers led to a parliamentary inquiry, investigating the practices of more than 20 Dutch tax advisers, bankers and trust professionals. This was the first time in Dutch history that this new political instrument of mini-investigations was used. The parliamentary inquiry – with participants giving evidence under oath before a formal investigation committee – was used because it was not possible to gain insights into the industry informally (ie, through roundtable sessions). In a report entitled *Paper Reality*, the committee summarised its most important findings.[12] Tax advisers, civil law notaries, trust professionals and bankers closely work together in an international setting. The primary negative side effect of this structure is that, as a whole, nobody bears responsibility. As a consequence, tax evasion

12 5 July 2017, Kamerstuk 25 087, nrs 138, 153 and 169.

frequently takes place in practice. The (tax) law is interpreted differently by various advisers. During the inquiry, it became clear that the trust sector and tax advisers have different views on the question of which international structures are (morally) wrong. Tax advisers and trust professionals further said that it is up to the Dutch legislature to draw the line on undesirable structures. Based on a recent debate on the findings of the committee,[13] the Dutch state secretary announced that the tax authorities will receive an extra budget of €17 million to investigate tax structures. The new public debate can best be described as 'legally right, but morally wrong', and also has an impact on tax, legal and accountancy advisory firms. It will be interesting to see where this leads to in the future.

4.8 Opportunities in the Netherlands for commercial multi-family offices and wealthy foreigners

The existing multi-family offices in the Netherlands will probably succeed in increasing awareness of the benefits of their services. A change in culture relating to paying for financial services will take some time to effect, but should ultimately be feasible. Looking at the size of the Dutch market for services to high-net-worth individuals, there seems to be little room for new entrants. Only when a new entrant has a new business model or another competitive edge that is new to the Dutch market will it have the opportunity to set up a viable business.

For foreign ultra-high-net-worth individuals and their families, the Netherlands has a very competitive fiscal climate. The key challenge is to overcome the current collision between Anglo-Saxon entities and Dutch civil and fiscal law. Obviously, this needs to be addressed prior to any possible immigration to the Netherlands.

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13 5 September 2018, *Tweede Kamer 105, plenaire vergadering.*

Singapore

David Chee
Drew & Napier LLC

1. Introduction

The number of family offices in Singapore is projected to increase in the near future. With the country established as a leading international banking, finance and wealth management hub, the growth of family offices is anticipated. As Singapore upholds its reputation as a safe, politically stable and investor-friendly nation with a strong economy, it is likely to remain a preferred location for high-net-worth individuals and ultra-high-net-worth individuals to set up a family office.

While family offices may exist as either a single family office or a multi-family office, this chapter focuses on single family offices. The chapter begins by outlining Singapore's status as a wealth management hub and international centre for banking and finance. Next, specific fiscal tax incentives and licensing exemptions for single family offices are examined. Lastly, Singapore's offer of permanent residency through the Global Investor Programme is discussed, before the chapter concludes.

2. A wealth management hub and international banking and finance centre

In 2018 Singapore was ranked as Asia's leading premier wealth management hub and the second globally.[1] Singapore has an open and free market economy with a strong banking sector (ranked fourth in the world),[2] which has allowed the city-state to serve as a regional gateway for asset managers and investors keen to tap into Asia's growth potential and opportunities. As many financial institutions and banks have established a presence in Singapore, this has created an inflow of international transactions and investments. With approximately US$79.2 trillion of assets under management, 78% of which originates from foreign sources,[3] Singapore is a popular destination among foreign investors for asset and wealth management opportunities.

1 *The Deloitte International Wealth Management Centre Ranking* (2018), Monitor Deloitte.
2 *Global Financial Centres Index* 23 (March 2018), China Development Institute & Z/Yen, p32.
3 *Singapore Asset Management Survey* (2017), MAS, p3.

Moreover, Singapore's strong adherence to the rule of law, high-quality workforce and global legal and accounting standards make it a reliable and efficient location in which to conduct business and grow one's wealth. The city-state's advanced operational infrastructure and easy access to professional services (domestic and international) make it a convenient base for investors to manage their assets across jurisdictions. In particular, Singapore's multicultural composition and strategic location in Southeast Asia and close to China (but not so close as to hinder its relative neutrality) make it the preferred Asian destination for business.[4]

While these factors make Singapore economically attractive, its strict regulatory system, political stability and secure environment promote investor confidence. The Monetary Authority of Singapore (MAS) is a respected regulator that is known to be highly efficient and to apply strict but effective regulations. It also promotes dialogue with market participants in order to stay relevant in the face of changing market trends. This also enables it to understand the objectives, needs and concerns of the industry, and subsequently to apply the appropriate regulations or exemptions (as the case may be). The granting of several regulatory exemptions for certain activities carried out by single family offices is one such example.

In 2018 Singapore topped Gallup's Law and Order Index for the fifth year running, affirming Singaporeans' trust in the government's ability to ensure safety and security within the country. Politically, the Singapore government has a proven track record and reputation for stability, transparency and cooperation with financial institutions. The strong and facilitative reputation of the Singapore government adds to investor confidence, which further encourages high-net-worth individuals and ultra-high-net-worth individuals to choose Singapore as a preferred regional and international location for setting up family offices.[5]

Domestically, there have been significant responses to the increase in family offices. In 2012 the Singapore Management University launched its Business Families Institute in response to the growing needs of business families in Asia. Its aim is to help Asian business families to develop, harness and leverage their family and financial capital across generations.[6] In addition, the number of family offices in Singapore quadrupled between 2015 and 2017, sparking a hiring spree of financial professionals to cater to family office clients.[7]

4 "The Role of Singapore as an Offshore Management Hub" (2018), *Asian Private Banker*, p11.

5 "Singaporeans feel safest in the world as country tops law and order index", *The Straits Times*, www.straitstimes.com/singapore/courts-crime/safe-singapore-tops-world-law-and-order-index.

6 "About BFI@SMU", Business Families Institute, Singapore Management University, www.smu.edu.sg/newsletter/138066.

7 "Asia's ultra-rich fuel family office boom in Singapore and Hong Kong", *International Investment*, www.internationalinvestment.net/internationalinvestment/news/3505902/asia-8217-ultra-rich-fuel-family-office-boom-singapore-hong-kong.

Furthermore, with the establishment of the Singapore International Commercial Court and the Singapore International Arbitration Court, single family offices that oversee investments and hold assets in multiple jurisdictions have the ability to settle cross-border disputes in Singapore.

In the context of single family offices, the two main issues are the taxation of investment gains and profits and the regulation of fund management activities. These are discussed in the following sections.

3. Domestic income tax system

Generally speaking, Singapore's income tax system is attractive to investors. Section 10(1) of the Income Tax Act (Cap 134) imposes income tax on income accruing in, derived from or received in Singapore. Singapore's income tax is imposed on a territorial and receipt basis, which means that income from investments outside of Singapore is not taxed. Currently, the corporate income tax rate in Singapore is 17%[8] and there is no capital gains tax or estate duty in Singapore. Under the one-tier corporate tax system, corporate profits are taxed at the corporate level and dividend flows from the profits to shareholders are not taxed. Likewise, Singapore does not impose withholding tax on dividends.

3.1 Double tax agreements

Double tax agreements (DTAs) are bilateral agreements which provide clarity on the taxing rights of each country on all forms of income flows between two countries and, more importantly, which eliminate instances of double taxation that can arise from cross-border trade and investment activities.

Singapore has concluded over 70 DTAs which have reduced withholding tax rates or introduced tax exemptions with treaty countries, making the city-state an especially attractive location for single family offices. The many DTAs available in Singapore are a key factor that encourages high-net-worth individuals and ultra-high-net-worth individuals to base their single family offices in Singapore. The only requirement for entities looking to rely on DTAs is that the entity be a Singapore tax resident, evidenced by a certificate of residency (COR) issued by the Inland Revenue Authority of Singapore (IRAS). A company is a tax resident in Singapore when it is controlled and managed in Singapore. Consequently, decisions on strategic matters, such as company policy and strategy, should be made in Singapore.

Generally, IRAS considers foreign-owned investment holding companies (FOIHCs) to be non-residents, as they usually manage passive sources of income and receive income from foreign sources. However, they may still be treated as Singapore tax residents if they can satisfy IRAS that their place of control and

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8 Inland Revenue Authority of Singapore, "Corporate Tax Rate", www.iras.gov.sg/irashome/Businesses/Companies/Learning-the-basics-of-Corporate-Income-Tax/Corporate-Tax-Rates—Corporate-Income-Tax-Rebates—Tax-Exemption-Schemes-and-SME-Cash-Grant/.

management is in Singapore, and that they have valid reasons for setting up in Singapore. Examples of valid reasons are if the FOIHC has related companies in Singapore which are Singapore tax residents or have business activities in Singapore, or if the FOIHC has at least one key employee (eg, chief executive officer, chief financial officer or chief operations officer) based in Singapore.[9]

Similarly, non-Singapore incorporated companies and Singapore branches of foreign companies are not usually entitled to apply for a COR, as they are largely controlled and managed by their overseas parent company. Nonetheless, IRAS may issue a COR if such companies can demonstrate that their Singapore branch controls and manages the entirety of the company's business and that the company has valid reasons for not incorporating in Singapore. However, IRAS has the discretion to request additional information on the company before granting a COR.[10]

As these examples illustrate, IRAS adopts a flexible yet principled approach with respect to the issue of granting tax residency in Singapore. IRAS aims to encourage entities such as single family offices to set up shop in Singapore and, in exchange, to be able to benefit from lower taxes on income derived from foreign jurisdictions that are treaty partners.

3.2 Tax exemptions for funds managed by Singapore fund managers

Singapore's fund management industry continues to grow and the city-state is regarded as a leading investment fund hub in the region. The Singapore government aims to maintain the vitality of the fund management sector and has implemented several tax incentive schemes along with streamlining the application processes. Sections 13R, 13CA and 13X of the Income Tax Act (Cap 134) provide tax exemptions for fund managers. As long as a fund manager is based in Singapore, any income derived from funds is exempt from taxation. Single family offices that manage funds are therefore eligible under these schemes.

The resident corporate fund exemption (Section 13R) applies to funds that are located in Singapore (ie, the fund administrator is located in Singapore). This scheme exempts specified income received by an approved company in Singapore from tax where such income is derived from designated investments in funds managed in Singapore by a licensed or exempt resident fund manager. However, the scheme is not applicable if all of the approved Singapore company's issued securities are beneficially owned by Singapore persons. In addition, where a Singapore resident non-individual investor in the company is above the investment limit (ie, where it owns more than a prescribed percentage

9 IRAS, "Applying for COR", www.iras.gov.sg/irashome/Businesses/Companies/Working-out-Corporate-Income-Taxes/Companies-Receiving-Foreign-Income/Applying-for-COR/-Tax-Reclaim-Form/.

10 *Ibid.*

of the fund vehicle), it will be liable to pay a penalty. The fund manager is also required to incur at least S$200,000 in global business expenses a year and eligibility for the scheme is subject to specific approval from MAS.

The non-resident fund exemption (Section 13CA) applies to funds that are located offshore, but managed by a fund manager based in Singapore. Under this scheme, income derived from a 'foreign investor' is exempt from tax. A 'foreign investor' may include non-Singaporean citizens, foreign companies and non-resident trustees of a trust fund. The income must be derived from funds managed in Singapore by a fund manager in respect of designated investments. The fund cannot be a Singapore tax resident or fully owned by investors which are Singapore tax residents. This exemption does not require specific approval from MAS.

The enhanced tier fund scheme (Section 13X) applies to both onshore and offshore funds and provides a tax exemption for income and gains on designated investments. This scheme is applicable to the specified income of an 'approved person', where such income is derived from funds managed in Singapore by an 'approved fund manager' in respect of designated investments. The 'approved person' may be a Singapore company, a Singapore limited partnership or a Singapore trust. The 'approved fund manager' must be approved by MAS, have at least three investment professionals as employees and incur at least S$200,000 in local business expenses annually. Along with these requirements, this scheme requires a minimum of S$50 million of fund assets under management at the time of application to MAS. In the absence of an extension by the Singapore government, the enhanced tier fund scheme will expire on 31 March 2019. All funds that are on the scheme will continue to enjoy the tax exemption after 31 March 2019, subject to them meeting the relevant qualifying conditions.

In the author's experience, the enhanced tier fund scheme has proved the most popular with high-net-worth individuals and ultra-high-net-worth individuals with respect to setting up single family offices. The higher requirements have not affected its attractiveness. Additionally, the scheme's extension to feeder funds and special purpose vehicles of the master fund, which affords more structural options to single family offices, is another attractive feature.

3.3 Licensing exemptions

Fund management[11] and financial advisory[12] activities are regulated activities under the Security and Futures Act (Cap 289) and Financial Advisers Act (Cap

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11 Paragraph 5(1)(b), Second Schedule to the Securities and Futures (Licensing and Conduct of Business) Regulations.

12 Section 27(1)(b) of the Financial Advisers Regulation.

110), under which a capital markets services (CMS) licence is required to conduct such activities. However, certain licensing exemptions are available to single family offices, to help achieve the government's aim of increasing the number of single family offices in Singapore. Generally, there are two ways that single family offices can obtain a CMS licence.

One way is for the single family office to satisfy the related corporation exemption, which exempts entities that carry on business in fund management for another related entity within the same corporate group structure from the obligation to obtain a CMS licence. This also means that none of the assets under management can be beneficially held for third parties. This related corporation exemption is typically used by applicants.

Alternatively, single family offices can apply to MAS for an exemption on a case-by-case basis.[13] This method caters to single family offices which are in substance managing funds on behalf of a single family, but which do not fall within the scope of existing class licensing exemptions. However, this requires assets to be injected by, and managed exclusively for, the benefit of the family members. If non-family members subsequently join as shareholders, this will not invalidate the exemption if the initial assets and additional injection of funds are funded exclusively by a single family.

3.4 Permanent residency (Global Investor Programme)

Under the Global Investor Programme[14] introduced by the Economic Development Board of Singapore, foreigners may apply for Singapore permanent resident status by starting up a new business or investing in Singapore. High-net-worth individuals and ultra-high-net-worth individuals who invest at least S$2.5 million in a new business entity or in the expansion of an existing business operation are eligible for the Global Investor Programme. A 'new business entity' or 'existing business operation' includes a single family office. At present, this is one of Singapore's more distinctive propositions to attract investors.

4. Conclusion

The increasing number of high-net-worth individuals and ultra-high-net-worth individuals based in Singapore means that demand for wealth management services is growing. As is evident from the tax incentives, the licence exemptions and the Global Investor Programme, the Singaporean government is keen to keep the wealth management industry vibrant and attractive to investors. Most importantly, however, the increased scrutiny on tax havens and

13 Section 99(1)(h) of the Security and Futures Act (Cap289).

14 Economic Development Board of Singapore, Global Investor Programme, online: www.contactsingapore.sg/en/investors-business-owners/invest-in-singapore/global-investor-programme.

substance requirements taking on greater significance in tax developments worldwide have increased Singapore's attractiveness as a location for a single family office.

The author would like to thank Nathaniel Loh Jun Jie, a third-year law undergraduate at the National University of Singapore, for his assistance in the preparation of this chapter.

Switzerland

Andrea B Bolliger
Tobias F Rohner
Baker McKenzie Zurich

For Switzerland, as a global wealth management centre, recent years have been characterised by ongoing upheaval. The last few years have seen expanding global trends towards transparency in the financial industry – trends which persist today.

In this chapter, we discuss some of the recent developments that are influencing Switzerland's wealth management sector, including family offices across the nation. With a disproportionate number of family offices based in Switzerland, it is especially important to understand the changes that have occurred and to be prepared for those on the horizon. These developments include Switzerland's adoption of the Organisation for Economic Cooperation and Development (OECD) standard regarding mutual administrative assistance in tax matters. In recent years, Switzerland has also seen several domestic legislative proposals regarding lump-sum taxation and a possible national capital gains tax. Further, we address the revised Corporate Tax Reform (CTR) bill. Finally, we discuss recent developments regarding Switzerland's so-called 'white-money' strategy.

1. Exchange of information agreements

In recent years Switzerland has taken various steps to implement new standards on the international exchange of tax information. In December 2015 the Swiss Parliament ratified the Multilateral Competent Authority Agreement on the Automatic Exchange of Information of Financial Account Information, as put forward by the OECD, and approved the Federal Act on the Automatic Exchange of Information in Tax Matters. To date, Switzerland has approved the automatic exchange of information with approximately 60 states and with the European Union and its member states. The first exchange of such information (pertaining to 2017) with certain states (the European Union, Australia, Norway, Canada and Japan, Iceland, Guernsey, Jersey, the Isle of Man and South Korea) occurred in Autumn 2018. With other states, information exchange will occur as of 2018 or 2019.

Accordingly, under the Common Reporting Standard, Swiss financial institutions, custodians, brokers, insurance companies and others which will

have to implement the OECD common reporting standard on the automatic exchange of information must carry out due diligence on existing client relationships (both individual and entity accounts) in order to identify reportable accounts. Financial information must then be reported and transmitted to the relevant client's jurisdiction of residence on an annual basis.

2. Taxation

2.1 Lump-sum taxation

Another recent upheaval in the Swiss wealth management field was a national proposal in 2014 to repeal the lump-sum taxation rules. Various cantons in Switzerland have laws in place under which wealthy individuals intending to reside in Switzerland can negotiate a fixed tax (known as a '*forfait*' or lump-sum tax) in lieu of paying ordinary income tax each year. Local residents have protested against this policy in a number of cantons. Although the proposal did not pass (59.6% of voters rejected it), it exemplifies the ongoing changes in a section of Swiss public opinion towards lump-sum taxation. Currently, lump-sum taxation is available in the entire country, except in the cantons of Zurich, Schaffhausen, Appenzell-Ausserrhoden, Basel-Stadt and Basel Land. At the end of 2016, 5,046 were taxed under the lump-sum taxation regime.

To increase public acceptance of the *forfait* tax regime, the federal government introduced stricter requirements, which entered into force in 2016. Income taxes under the forfait tax regime are now based on a notional, fictitious net income, determined primarily by reference to the individual's or family's living expenses, which must amount to at least seven or 10 times (depending on the canton) the annual housing expense (annual rental payments for the apartment or house in which the foreign national will reside in Switzerland; if the foreign national owns the real estate, the annual real rental value is taken as the basis for this calculation).

However, the following other income elements must also be considered when calculating the total tax liability:

- Swiss source income; and
- income for which a partial or total reduction of foreign taxes is requested under one of the double tax treaties concluded by Switzerland.

More particularly, the expense-based income tax base is compared with the sum of some actual income items (so-called 'control' or 'shadow' calculation). Those actual income items include:

- any revenues from Swiss sources (eg, dividends and interest received from Swiss companies or borrowers or Swiss bank accounts); and
- certain foreign revenues in respect of which the taxpayer claims relief from foreign withholding taxes by reference to a Swiss international tax treaty.

The higher of the expense-based income tax base and the shadow calculation provides the applicable income tax base.

2.2 National estate and gift tax

In 2015 a legislative proposal for the implementation of a national gift and inheritance tax was rejected by Swiss voters. Under that proposal, transfers of property at death or by gift would have been subject to a flat tax of 20% of the actual value at the time of the transfer, with an exemption for the first Sfr2 million. Transfers among spouses and registered partners would have been exempt, but no exemption would have been applied to others, including direct descendants. Cantons and communes would no longer have had the ability to levy gift or inheritance taxes.

Some 71% of all Swiss voters and all cantons voted against the proposal. Accordingly, the right to levy estate and gift tax remains at the level of the cantons. Nearly all Swiss cantons levy inheritance and gift taxes. The only exceptions are the canton of Schwyz, which does not levy any inheritance and gift taxes; and the canton of Lucerne, which levies inheritance tax, but no gift tax. In some cantons (Lucerne, Fribourg, Graubünden and Vaud), the communities can also levy inheritance and gift taxes.

2.3 Capital gains tax

Currently, no tax is imposed on capital gains from the sale of privately held assets, with the exception of real property. However, the non-taxation of capital gains has always been a highly controversial topic in Switzerland; the last time it was discussed was during the parliamentarian discussions on the CTR in 2016. Under the current bill of the CTR (see below), the taxation of private capital gains is no longer a topic of discussion.

2.4 Corporate Tax Reform

On 12 February 2017, by a majority of 59.1%, Swiss voters rejected a first proposal for a comprehensive CTR. With the CTR, the Swiss government and the Swiss Parliament intended to increase the Swiss corporate tax system's international acceptance and to enhance Switzerland's attractiveness for multinational corporations.

Despite its rejection, the need for reform remains undisputed and relevant. Consequently, two weeks after the rejection of the first CTR bill, the Federal Council affirmed its determination to prepare a revised bill. That revised bill was eventually submitted to Parliament in March 2018 and was approved with some modifications on 28 September 2018. The current bill contains several features of its predecessor. Accordingly, it provides for the introduction of a mandatory patent box and for a research and development super deduction, and allows high-tax cantons to introduce a notional interest deduction on a voluntary

basis. Furthermore, the preferential cantonal tax regimes, such as the holding and administrative/mixed company regimes, are abolished. However, holding companies may still benefit from participation relief and, as a result, companies in the legal form of a corporation or a limited liability company need not pay corporate income tax on dividend income received from qualifying participations.

Although the bill has been approved by Parliament and is supported by all major parties, it is expected that the bill will be subject to a referendum. In that case the public vote will be held on 19 May 2019. The previously discussed capital gains tax for private capital gains – which are currently tax free – and the introduction of an 'exit tax' are not included in the proposed bill.

As a direct consequence of the CTR, almost all cantons will lower their corporate income tax rates by between 11.8% and 19% (effective tax rate including federal tax) in order to strengthen their fiscal attractiveness and competitiveness in an international environment. Unlike the canton of Vaud, whose cantonal reform will come into force in January 2019, most cantonal reforms will come into force in 2020 or 2021.

3. White-money strategy

A 'white-money' strategy is an approach taken by various institutions and countries to address the use of such institutions or countries by non-residents as a means of circumventing their home country tax laws. In essence, white-money strategies compel financial institutions to obtain a declaration from clients that the funds at issue are properly taxed in the clients' jurisdictions of residence. Historically, such policies have been needed only in jurisdictions in which the evasion of foreign taxes is not a crime.

In jurisdictions in which foreign tax evasion is a crime under anti-money-laundering rules, there is no need for a separate white-money strategy because the existing anti-money-laundering rules serve the same function. For example, within the European Union, the Third Anti-Money-Laundering Directive, effective from July 2006, made foreign tax evasion a money-laundering predicate offence. Thus, there is no need to implement a separate, formal white-money strategy in the European Union.

However, in jurisdictions that do not have separate anti-money-laundering rules that criminalise foreign tax evasion, white-money strategies are necessary to ensure that local financial institutions are not being used to hide undeclared funds. As a result of the global trend that started in 2008 towards increased attention on international tax evasion, and the change in attitude towards the issue of transparency and undeclared funds, many jurisdictions and financial institutions have decided that they will attempt to ensure that at least new funds, and possibly pre-existing funds, are accepted only from declared sources. Switzerland is one of these jurisdictions and has been exploring the possibility

of implementing a white-money policy on the federal level since 2010. Below we discuss the developments regarding this policy in recent years.

In 2012 the Swiss government – specifically, the Federal Council – began exploring a strategy for a tax-compliant and competitive financial centre. Part of this strategy aimed to prevent the acceptance of untaxed assets by requiring enhanced due diligence requirements, sometimes referred to as the 'financial integrity strategy' – essentially, a white-money strategy. This was in part motivated by Switzerland's acceptance of the 2012 revised Financial Action Task Force recommendations, which in part require jurisdictions to implement measures to identify the beneficial owners of legal entities and enhance transparency.

Under the current law, which entered into force in 2016, a qualified tax offence (and thus a predicate offence to money laundering) will be constituted if it involves forgery of documents and evaded taxes of more than Sfr300,000 in any tax period.

The extension of the scope of predicate offences for money laundering has led to a consequential amendment to the scope of Article 350*ter*, paragraph 2 of the Swiss Criminal Code, to enable financial intermediaries to file a suspicion report with the Money Laundering Reporting Office Switzerland in case of observations indicating that assets originate from a crime if the duty to report pursuant to the Anti-money Laundering Act is not triggered. As of 1 January 2016, suspicion reports may also be filed in case of indications of a qualified tax offence.

Qualified tax offences as predicate offences for money laundering can also be committed with respect to taxes payable outside Switzerland, provided that:

- the relevant conduct constitutes an offence in the relevant country and amounts to a tax fraud from a Swiss perspective; and
- the evaded tax amount exceeds the equivalent of Sfr300,000.

The amount of evaded taxes is calculated in accordance with the laws of the country where the tax fraud occurred.

4. Conclusion

There has been a big push globally for greater transparency in the financial industry, and in wealth management in particular. Recent years have seen these global changes continue to have a practical impact in Switzerland. One trend observed in 2014 was the increasingly active role that the Swiss government had begun to take in these matters. That year also saw advances in several proposals and projects to which the Swiss government actively agreed, such as the non-prosecution agreement programme for Swiss banks, the multilateral competent authority agreement on the automatic exchange of information in tax matters and the continued development of Switzerland's own white-money strategy.

Additionally, the willingness of the federal authorities to make proposals such as the automatic exchange of information, a capital gains tax and an exit tax illustrates a shift in attitudes regarding taxation, moving more towards the prevailing global outlook. It seems that global developments and changing attitudes towards bank secrecy and tax evasion are also influencing Swiss attitudes. However, the results of popular votes on tax matters generally suggest that changes to tax rules are difficult to effect and therefore constitute a political challenge for those who would like to see them implemented (be they authorities, lobbies or political interest groups). These developments are forcing major changes for the wealth management sector, including private family offices, in terms of their legal obligations of disclosure and the extent of the discretion they can offer clients. Regardless of where a family office is located, all family offices using Switzerland for investment purposes must be aware of these extensive changes that have been taking place in the Swiss wealth management sector.

While the changes taking place in Switzerland that affect the wealth management sector will be a challenge for the next few years, this is not the first time that a major industry in Switzerland has gone through such change. Major upheavals occurred in the pharmaceutical sector in the 1950s and the watch industry in the 1970s. However, both of these industries not only adapted, but thrived thereafter. The wealth management industry too will no doubt overcome these challenges.

United Kingdom

Grania Baird
Emily Jamieson
Marianne Kafena
Simon Rees
Farrer & Co

Someone's sitting in the shade today because someone planted a tree a long time ago
– Warren Buffett

People who create or inherit substantial wealth tend to want to preserve and grow it, to secure their families' future and, often, to fulfil philanthropic desires. Invariably, they also wish to maintain a distance between personal and business matters, while controlling their affairs flexibly and maintaining maximum confidentiality. The family office arrangement is one way of meeting these aspirations.

1. The United Kingdom and family offices: history and context

In the United States during the 19th century, financier and art collector JP Morgan and the Rockefeller family each established a family office with the express aim of managing family assets. The expertise was subsequently extended to other families and the legacy of these two early family offices lives on today. According to the *Financial Times*, in an article published on 20 October 2017, the Rockefellers' family office now manages or advises on more than $16 billion of assets.[1]

In contrast, the family office concept in the United Kingdom has grown incrementally over centuries. Looking far further back than the 19th century, medieval royalty and wealthy families would employ a steward to manage their domestic staff, household affairs and wealth, including land. The steward's duties included preparation of accounts for review by the master of the house. This ethos of stewardship endures today in the management of private family wealth across the United Kingdom, whether or not that function is expressly labelled a 'family office'.

Running parallel to this history of stewardship, London in particular has a long history of forming trade associations whose common themes are money, business and philanthropy. The origins of the livery companies of the City of London, for example, are rooted in medieval guilds and their remit extends far

1 Source: "Family offices: a history of stewardship", *Financial Times*, 20 October 2017.

beyond aspects of training, maintenance of industry standards and regulation of the various trades they represent: "Each of them is a remarkable philanthropic fellowship… every Company has in its own way made its charitable work manifest either by supporting education, research and welfare or by nurturing the skills of those actively involved."[2]

Together, traditions of stewardship, the organisation of trading assets and an understated ethos of philanthropy still inform much of the advice provided by professionals to family offices in the United Kingdom today. The market is diverse and includes families with relatively recently forged UK links, as well as those born and raised in the United Kingdom.

2. The UK market today

2.1 What is a family office?

Once you've seen one family office, you've seen ONE family office.[3]

No doubt every chapter of this publication will seek to answer this question and it will be interesting to compare, once compiled, the ambit of definitions by jurisdiction. In this section, we keep the definition brief.

The core activities of a family office involve the centralised management of wealth derived from one family, or a few, in an environment where family influence affects decision making. Each family will add services to this core activity, in line with its requirements and ability/willingness to meet the costs associated with those services.

2.2 Third-party providers

There is a range of providers of loosely defined 'family office services' in the United Kingdom. Their remit varies according to their nature and expertise, and can broadly be summarised as follows.

(a) Banks

Banks extend their expertise in investment and financial advisory services to third-party family offices. Some have in-house private investment offices acting as multi-family offices. In addition to investment management, services offered to families can include:

- financial planning;
- insurance planning;
- risk management;

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2 Source: *The Livery Profile* leaflet, produced by the Mercers' Company and published on the City of London website.

3 Attributed to Patricia M Soldano, chair of GenSpring Family Offices' western region, in *Forbes*, www.forbes.com/sites/toddganos/2013/08/13/what-is-a-family-office/.

- compliance and regulatory support;
- access to sophisticated banking platforms;
- global custody and consolidated reporting; and
- review and management of family investment philosophy and suitability of investments.

(b) Consultancy firms

This group tends to support wealthy families by providing independent advice, often supported by research. Services include:

- acting as the main or trusted advisers;
- financial reporting;
- evaluation and consolidation of information provided by other service providers, such as accountants and wealth management firms; and
- selection of money managers.

(c) Law firms, accountancy firms and trust companies

Each of these groups of professionals engages with wealthy families and their family offices through the provision of services encompassing:

- advice in connection with establishing a family office;
- implementation of effective family governance;
- tax advice and reporting in relation to personal and business assets situated in the United Kingdom and overseas;
- trust and family office administration;
- advice in establishing a charity or philanthropic foundation;
- managing charitable donations;
- accounting and audit;
- expenses management;
- advice in relation to regulatory and compliance obligations of the family office;
- facilitating inter-generational change;
- immigration and employment law advice for family office staff and family members;
- wealth planning and matrimonial advice for family members; and
- review of overseas structures holding family wealth.

(d) Independent advisers and boutique firms

These firms provide specialist services, including:

- concierge services;
- lifestyle management;
- reputation management;
- security services;
- property finding;

- advice on schools in the United Kingdom;
- health services;
- insurance; and
- coaching.

2.3 Single-family offices and multi-family offices

As is well rehearsed elsewhere in this book, the nature, purpose and structure of family offices are dictated by the needs of the families they serve. Single family offices and multi-family offices are also defined elsewhere, so here we focus on the main characteristics of each by reference to the UK market (see Table 1).

Table 1. Characteristics of single family offices and multi-family offices

	Single-family office	Multi-family office
Client(s)	• One family	• A number of families
Structure	• The structure can be as informal or formal as a family requires. • Staff tend to be employed either directly by the family or by a family-owned vehicle (eg, a company or partnership). • The family remains primarily responsible for aspects such as premises, IT and managing staff. • Family affairs tend to dictate the level of activity and nature of the work carried out. • Changes in staff can disrupt service levels disproportionately.	• These are organisations independent of the founding family/families. • Family members may hold offices within the organisation, but its services are provided at arm's length. • Service levels are less disrupted by changes in staffing. • Day-to-day management of premises, IT and staffing is the preserve of the organisation, not the family.
Account-ability	• The closeness to the family can engender high levels of trust, a deep sense of responsibility for actions	• In serving a number of families, staff must bear in mind diverging interests. • Potential conflicts of

continued on next page

	Single-family office	Multi-family office
Account-ability *continued*	and a highly personal level of service. • The same closeness can result in tension and conflict if poorly managed and staff can become over-identified with the family they serve. In turn, this can lead to behaviour aimed at pleasing the family, rather than focusing objectively on best interests. Longevity of service can present a particular challenge here: resistance to change must not be the price of continuity.	interest between founding families and other clients must be carefully managed where a multi-family office has recently evolved from a single-family office. • Conflict resulting from over-identification with one family is less likely.
Costs	• Costs are borne by one family. • International families tend to want to base their London family offices in areas where the fixed costs of premises are high. This, in addition to other fixed costs, can be difficult to manage against unpredictable income. • On the other hand, where asset management is carried out in-house, the high level of exclusivity, privacy and customisation can enhance returns in the absence of a product push.	• Costs are shared among all the clients. • Efficiencies of scale are easier to achieve. • Situation of premises tends to be less of a personal choice for one family. • Despite efficiencies on costs in other areas, some multi-family offices create and push their own financial products to help meet the cost of running the organisation.

In terms of numbers, it is very difficult to say with any authority how many family offices there are in existence in the United Kingdom. This is partly because, as set out above, there is such a variety of arrangements falling within the concept (many of which may not identify themselves as family offices, though they function as such), and also because one of the attractions of family offices is their discretion.

Recent research published by EY states that "Family offices are arguably the fastest-growing investment vehicles in the world today… there are at least 10,000 single-family offices in existence globally and at least half of these were set up in the last 15 years".[4] Although this is not specific to the United Kingdom, it gives insight into the level of activity in this market in recent years and represents an increase of over 300% in the last five years, demonstrating the continued proliferation of the family office model.

In terms of the split between single family offices and multi-family offices, the UBS/Campden Wealth Global Family Office Report 2018 reported that 75% of respondents were single family offices.[5] In terms of pure numbers, therefore, single family offices appear to be the significant majority. However, the distribution of wealth paints a slightly different picture, with average assets under management of $1.2 billion for single-family offices and $922 million for multi-family offices.[6]

Adding to this picture, a third concept has emerged in recent years to sit alongside the traditional single family office and multi-family office: the virtual family office. In practice, the virtual family office is not really a rival to the traditional forms. Rather, it usually describes a situation where a family is starting to organise its wealth using technology and is not yet ready to commit to the cost of premises. It is, effectively, the business start-up phase of the traditional family office. Family members often figure prominently, and the extent of success in transitioning to greater organisation and delegation of functions over time is often determined by the range and quality of their business skills.

2.4 Staffing the family office in London

One of the attractions of establishing a family office in London is the availability of people able and willing to take on the role of running it. There is also a thriving network of family offices where exchange of information and shared experience contribute to the maintenance of standards and a sense of context.

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4 *EY Family Office Guide*, https://familybusiness.ey-vx.com/pdfs/1003023-family-office-guide-v3-lr.pdf.

5 *The Global Family Office Report 2018* published by UBS and Campden Research, a division of Campden Wealth, www.ubs.com/global/en/wealth-management/uhnw/global-family-office/global-family-office-report-2018.html.

6 *The Global Family Office Report 2018* published by UBS and Campden Research, a division of Campden Wealth, www.ubs.com/global/en/wealth-management/uhnw/global-family-office/global-family-office-report-2018.html.

Staffing the family office may therefore seem like a relatively straightforward proposition. In terms of roles, a relatively well-established family office providing administration and financial services is likely to comprise people fulfilling some or all of the following senior staff functions (although the job titles may be different in practice):

- Chief executive officer (CEO) – often someone with an accounting, legal or financial services background whose role is to run the family office, taking account of the family's wishes on one hand and his or her legal, taxation, regulatory and corporate responsibility obligations on the other (the two often diverge);
- Chief financial officer (CFO) – core responsibilities include control and management of financial risk;
- Chief operations officer – tends to be responsible for the day-to-day management of the family office. This role can be combined with that of CEO or CFO, depending upon the size of the family office; and
- Chief investment officer – responsible for the investment aspects.

One of the relatively new challenges for staff in a family office concerns media and public relations. Social media and the ubiquity of mobile phones (and therefore cameras) in public and private places together mean that privacy is under attack more than ever. Threats to the reputation and private lives of wealthy families are no longer largely limited to those from professional paparazzi. Senior staff would be well advised to include security (including more particularly information security) and reputation management in their strategies.

This group of senior staff members requires administrative support from secretaries as well as colleagues providing general administrative support. This includes:

- payment processing;
- the effective marshalling and filing of information (particularly in terms of anti-money-laundering records and information exchange requirements); and
- general coordination and communication between family office staff, the family and external third parties, such as bankers and trustees.

In a family context, it is surprisingly easy for someone's role to grow wider and more challenging than the initial description envisaged. It can also seem artificial to impose formal boundaries around a person's role in a context that feels personal and involves a family's most sensitive, private information. Nevertheless, an absence of objective management and failure to focus on best interests often leads to employment-related disputes that can occupy a disproportionate amount of family and staff time, and can be very disruptive to the operation of the family office.

It is therefore every bit as important that the family office team works well together as that each individual has the appropriate qualifications and skills to fulfil his or her role. Overlaid with family-centric interests, a good team is more likely to maintain objectivity and resist over-identification with the family than a dysfunctional team, where individuals can put self-interest or pleasing the family before doing the right thing.

As Casey Stengel once said in relation to baseball: "Finding good players is easy. Getting them to play as a team is another story."

2.5 Family businesses in the United Kingdom

According to the Institute for Family Business Research Foundation,[7] family businesses based in the United Kingdom:

- paid £149 billion in tax in 2016, representing over 20% of the government's revenue that year;
- employ more than 12 million people in the United Kingdom, representing 47% of private sector employment and around 35% of all UK employment;
- account for more than one-quarter of overall UK gross domestic product; and
- make up more than 85% of all private sector firms in the United Kingdom.

The same source also reveals that:

- only 9.5% of family-run small and medium-sized enterprises are in their second generation of family ownership; and
- fewer than 5% of the same class of businesses are in their third generation of ownership by the same family.

3. Trends

The financial crisis of 2007 and 2008 caused a loss of capital severe enough to cause wealthy families all over the world to start taking control of managing their own assets. The tremendous growth in the global number of family offices, as reported in section 2.2, bears out this trend over the last 10 years. In 2007 and 2008 many looked to London to establish family offices, with the *Financial Times* reporting, in August 2008: "More than 300 ultra-rich families with assets over £100m each have set up their own private offices in London to protect and enhance their wealth in the financial services sector's newest trend."[8] The Global Family Office Report 2018 states that 38% of family offices that

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7 "The State of the Nation – The UK Family Business Sector 2017-2018", published by Oxford Economics and the IFB Research Foundation, www.ifb.org.uk/media/3685/ifb_rf_report_2017_lr.pdf.

8 "London lures family offices of super-rich" *Financial Times*, 4 August 2008, www.ft.com/content/5439b820-6244-11dd-9ff9-000077b07658.

completed its survey were headquartered in Europe and London is certainly benefiting from that.

A parallel trend is the move away from one relationship with a private bank towards using multiple financial service providers. This in itself prompts a need for tailored administrative support, coordination of information and expertise in the oversight of those financial service providers, with a focus on the particular family's requirements. A family office arrangement tends to grow in response to these needs, whether or not the family is conscious of it happening.

Looking at shorter-term movements in the family office world, 2017 saw the best investment performance of global family offices since sector performance was first measured five years ago, with average portfolio return of 15.5%.[9]

Moving away from a focus on investment performance, another increasingly prominent trend at the forefront of the family office sector is a focus on impact investing. According to John Goldstein of Goldman Sachs, reported in the *Financial Times*, family offices have increased the amount of impact investing they do from 5% to 10% of their portfolio to 25% to 50%.[10] We discuss this further in section 7.

4. Why establish a family office in the United Kingdom?

Subject to its family's needs, a family office can fulfil a number of functions and can be tasked with providing some or all of the functions listed under the section on third-party providers above. The key requirement in a family office environment is that those services are delivered in a manner which, at its best, provides (among other things):

- centralised, highly tailored asset management;
- centralised management of assets such as art collections, yachts, real estate in multiple countries and private jets;
- effective coordination of third-party advisory relationships, often in different countries;
- a high level of confidentiality in relation to family information;
- streamlined reporting and quick decision making;
- an environment in which a family with wealth can adapt to change privately – for example, if the sale of a business yields significant additional wealth or a bad business decision erodes wealth;
- effective family governance support and implementation; and
- a means of facilitating generational change with little risk of dispute among family members.

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9 "Family offices have a 'remarkable' year", CityWire, 25 September 2018, reporting on *The Global Family Office Report 2018* published by UBS and Campden Research, a division of Campden Wealth, https://citywireamericas.com/news/ubs-family-office-portfolios-had-a-remarkable-2017/a1158515?ref=international-americas-latest-news-list.

10 "Impact investing crosses generation gap", *Financial Times*, 23 September 2018, www.ft.com/content/659b9b8c-786f-11e8-af48-190d103e32a4.

The United Kingdom remains one of the world's leading centres for international services connected with wealth management and planning. The legal and accounting professions, in particular, are accustomed to advising families with inherited and business wealth situated in and outside the United Kingdom. For international families transacting business across continents, the United Kingdom can also be a particularly convenient place to do business in terms of time zone and proximity to European financial centres.

The wealth of experience and expertise available to family offices within the United Kingdom is a strong predictor for their success.

The United Kingdom is not, however, an entirely straightforward jurisdiction in terms of tax planning and financial regulation. International families frequently benefit from assets held within trusts and other non-UK structures. Most often, these structures have been established with succession planning in mind, not the avoidance of taxation. Basing a family office in London tends to involve liaison between family office members and trustees of such non-UK trusts and their underlying companies. Unless this liaison is closely monitored and controlled, it can unwittingly bring a family's non-UK wealth within the UK tax net. In addition, family offices carrying out investment advice are likely to be subject to UK financial regulation and associated compliance obligations.

The next section summarises some of the essential considerations around good governance, UK tax and regulation. Appropriate professional advisers should be involved if these issues are relevant.

5. Good governance

There are two aspects to good governance: putting in place a sound process for decision making and then facilitating implementation of those decisions.

In a family office context, good governance affects both the family itself and the family office. In relation to a family, there are various names given to a document that sets out the family's history, values and goals with the intention of minimising disputes and preserving wealth. It can be called a family charter, a family constitution or a family contract, for example. These kinds of documents are often not legally binding. They nevertheless share certain features with legal contracts and should be drafted with care. Their power lies in the family's collective will to abide by the terms to which they sign up.

Separately, there are more technical issues of governance where members of a family office situated in London interact regularly with trustees or directors of family trusts and companies that are not UK resident. These issues can be complex. The summaries below highlight the main concerns in this area.

5.1 Management and control of non-UK resident companies

Every member of staff within the family office, including family members, must

understand and remain within the limits of his or her role. As mentioned earlier, in a family context, it can seem artificial and awkward to insist on the clear delineation of authority in this way. It is, however, very important to get this right.

Over time, as working practices become more and more familiar, it can be easy to forget who has the authority to do what, how and where. There is a risk, for example, that decisions that should properly be made outside the United Kingdom start being made within the United Kingdom, because someone within the United Kingdom has become used to calling the shots.

Mohamed Al-Fayed (the former owner of the renowned Harrods department store in London) found out the hard way why calling the shots in the UK in relation to non-UK companies is not a good idea. Her Majesty's Revenue and Customs (HMRC) benefits from wide powers to require taxpayers to provide information for the purpose of checking a taxpayer's position. In 2004 Al Fayed tried to avoid having to complete his tax return, on the basis that he had a special agreement with HMRC. One of the central issues in HMRC's case was 'management and control' and how that affected UK taxation. HMRC's affidavit stated: "Mr Al-Fayed's perceived autocratic manner… directed my attention to the locus of central management and control of offshore companies. If the offshore companies are centrally managed and controlled in the UK, then it has taxing rights on profits." Outcome: Al Fayed failed and HMRC was granted the right to launch a full investigation into his tax affairs.

While this story is more than 10 years old, it is a cautionary tale which still applies; and there are numerous other more recent, if less high-profile, cases concerning the management and control of non-UK resident companies. The main risks that they highlight in a family office context are as follows:

- If decisions concerning the management and control of an offshore company are made in the United Kingdom, the company will be taxable in the United Kingdom;
- Those responsible for the administration of that company will be accountable for the tax; and
- Anyone who deliberately misleads HMRC in relation to the management and control of a company may be guilty of tax fraud.

These risks can be controlled in a variety of ways. It is wise for family offices to put in place protocols that limit the risk of tax breaches. These tend to be practical, setting out a framework for how and where important decisions should be made, and most importantly, by whom. Advisers with appropriate expertise should draft these protocols.

In addition to putting in place documented protocols, it can be useful to ensure that staff and family members receive training, so that protocols are implemented properly in the day-to-day management of office business. This

often helps members of a family office to maintain a higher level of vigilance, so that conscious attention is paid to the location of management and control of non-UK resident companies.

5.2 The residence of trusts

It is common for international family wealth to be held within non-UK-resident trust (and other) structures. These assets are often intended to benefit a number of family members and they may hold a range of assets, such as residential property, valuable art, wine, yachts, aircraft or operating businesses. The trustees, directors and other professionals who run these structures are key decision makers. They are also often understandably eager to maintain their relationships with families.

As any experienced trust professional will tell you, a good trustee is not necessarily the family's friend, acquiescing to all demands. A trustee's primary duty is to manage and exercise control over assets put in its care, with the beneficiaries' best interests in mind. This is not the same thing as agreeing to everything that a beneficiary (or settlor) wants.

The family office would do well to remember that, unlike a company or foundation, a trust does not have its own legal identity. It is a legal relationship whose flexibility brings many benefits to families planning wealth over generations. Equally, this flexibility makes trusts vulnerable to poor governance. The immunity of a trust from UK tax – indeed, its very existence – can be undermined by the behaviour of families and their advisers.

A non-UK-resident trustee can be treated as carrying on trust business in the United Kingdom through the agency of someone resident in the United Kingdom, if that UK resident person is allowed to make decisions on behalf of the trustees in the United Kingdom.

Again, such risks can be controlled with effectively implemented protocols that have been prepared with the help of appropriate advisers. The protocols need not be complicated; when drafted properly, they are tailored to specific family needs and are intended to provide practical know-how for the family office.

There are two final aspects of good governance that a family should consider and address: marital contracts and non-disclosure agreements. Failure to address the effect of a marriage, or its eventual dissolution, on overall family wealth is a common mistake; as is the failure to control the dissemination of private information. Even when these issues are addressed, they have often been forgotten and are considered too late, with adverse consequences.

One of the most common failures of good governance is less a legal issue than a practical one: remembering that the purpose of the family office is to serve its family. Regular (at least annual) reviews are necessary to ensure that everyone involved stays in touch with the family's overall requirements. It is

important to aim to balance required or advisable change against the reason that a family office was set up in the first place. Asking leading family members what a family actually wants seems obvious, but tends not to happen regularly enough in practice.

6. Regulatory considerations in the United Kingdom

As noted above, family offices are all different and whether they will be caught by the UK financial services regulatory regime depends on the nature of the activities in which they are involved and the services they provide. Indeed, family offices may escape regulation altogether. If, for example, their services are limited to general administration, coordination and lifestyle management – as might be the case for some single family offices – these activities will not be within the scope of the UK financial services regulatory regime.

If, on the other hand, the range of services provided by the family office includes financial services, such as investment advice and discretionary investment management services in relation to regulated investments, these are regulated activities. If these services are provided by way of business to third parties, the family office may need to be authorised by the Financial Conduct Authority (FCA) in order to carry out the activity.

The FCA is one of two financial services regulators in the United Kingdom and, together with the Prudential Regulation Authority, is responsible for authorising and regulating businesses which carry on regulated activities in the United Kingdom. The FCA also has responsibility for protecting the people who use financial services and it achieves this through wide-ranging powers derived under the Financial Services and Markets Act 2000. These powers extend to supervision, investigation, rule making and a range of enforcement tools which include public sanctions, fines and the ultimate sanction: withdrawing authorisation.

Common regulated activities that family offices may be involved in and for which the FCA's authorisation may be required include:

- arranging for investments to be bought or sold;
- advising on the merits of buying or selling an investment;
- dealing in investments;
- managing investments belonging to another person where the management involves the exercise of a discretion; and
- managing (or operating) a fund.

The regulated activities are set out in the Financial Services and Markets Act Regulated Activities Order 2001 and the activities being carried on must be assessed against the specific activities as set out in the order, and any potential exclusions, which are also set out in the order.

Where a family office is conducting regulated activities, authorisation or

exemption is required only where the activity is carried on by way of business. The 'by way of business' test is generally a judgement which takes into account a number of factors, including:

- the degree of continuity;
- the existence of a commercial element;
- the scale of activity; and
- the proportion which the activity bears to other activities.

Each case must be considered on its circumstances.

Unless a relevant exclusion applies, carrying on a regulated activity in the United Kingdom by way of business and without authorisation is a criminal offence. A family office that is involved in any potentially regulated activity should therefore consider, at an early stage, whether the UK financial services regulatory framework will apply to it. If the UK financial services regulatory regime is applicable, it may be possible to restructure the family office and/or its activities to avoid coming within the regulatory framework. Alternatively, the family office may have to arrange to be covered by the regulatory authorisation of another authorised firm and therefore be exempt from direct authorisation in its own right.

For a single family office, there are typically two routes which may lead to the family office becoming subject to FCA regulation:

- organic growth, where, for example, a single family office extends its asset management expertise to a broader family group or to assets held separately, perhaps under trust arrangements; or
- where the family office makes a conscious decision to establish an independent asset management arm.

In each of these cases, the entity proposing to carry on the regulated activity must either be exempt or apply to the FCA for authorisation before it can carry out the activity in the United Kingdom.

In contrast to single family offices, most multi-family offices are likely to be carrying on a range of financial services by way of business for the families that they serve and will thus need to be regulated by the FCA.

A family office authorised by the FCA will be subject to continuing fees and monitoring by the FCA. It will also have to file annual reports to the FCA. Additionally, certain individuals within the family office carrying out key functions must be approved by the FCA.

7. Philanthropy and impact investing

The desire to do good is a common aspiration for families with wealth. Often, that desire is expressed in the establishment of family foundations or charities, such as the Sainsbury Family Charitable Trusts and the Esmée Fairbairn Foundation.

Sitting alongside this, over the last decade there has been an increasing social emphasis on the importance of ethical business. At the heart of this, and pushing the agenda of more ethical and sustainable business practices, are investors – including family offices – that see the need to harness the power of business and investment to do good, as well as generate a profit.

Social impact investing is not a form of philanthropy in its traditional sense. There may be common impulses between philanthropists and impact investors, including the desire to contribute financially towards social change; but importantly, there is a necessarily commercial edge to impact investing, on the part of both the investor and the recipient entity, which distinguishes it from traditional philanthropy.

The main points arising in this area can be summarised as follows:

- Most families struggle to balance their wish to do good with making a profit. This is not an easy balance for the investment manager to achieve, in a context of tension between public and private markets; but impact investing can neatly combine the desire to do good with commercial investment.
- Together, the nature of family wealth and families' aspirations tend to mean that investing is undertaken more patiently. This sits well with impact investing, which can be more illiquid and of long duration. Family wealth dedicated to philanthropy tends to be characterised as patient capital, where horizons for returns can stretch to between five and 10 years.
- This longer-term investing sits well with stewardship.

A family giving serious consideration to investing with philanthropic aims should address these issues with appropriately experienced investment advisers.

8. Costs

It is obvious that the costs associated with running a family office will be linked to the range of services provided, the location and size of any premises, and the number of staff, among other things.

Advice on costs must be obtained from the right professionals, with particular circumstances in mind. Each family office arrangement must weigh the comparative costs of fulfilling a function in-house against the cost of outsourcing it appropriately. This analysis must be done against the background of the family context. In other words, the family office is not like any other small business. There are multi-generational time horizons that necessitate a longer-term approach to cost management. This is a particularly important balance when it comes to deciding whether to recruit staff or outsource certain functions.

According to John Davis, founder and chairman of the Cambridge Family

Enterprise Group, the high expense of single family offices is one factor behind the rise of multi-family offices. To set up a single family office today, in his view, a family might have to have $500 million worth of assets; whereas 30 years ago, the same could be accomplished with only $100 million ($215 million adjusted for inflation).[11]

It remains important to strike a clear balance between controlling immediate cost and assessing the longer-term impact of intelligently incurred cost, for the benefit of the family over time.

9. Sink or swim

If a family office is to succeed, no matter where it is established, everyone affected by it must recognise and accept that it has a key role in protecting, as well as serving, its family/families. In its latest *FOX Foresight* report, the Family Office Exchange flagged the importance of risk management processes within a family office, emphasising the importance of a governing board in serving as an 'accountability checkpoint' and working to mitigate exposure to potential risks.[12]

A number of risks should be anticipated and controlled by any family office that is serious about protecting the family it serves. It is strongly recommended that family offices address these risks, to the extent that they have not already done so:

- absence of a shared vision for the future;
- lack of effective processes around decision making;
- absence of transparent communication within a family;
- inappropriate ownership structure of assets;
- lack of asset diversification; and
- poor focus on key family risks.

Ultimately, the success or failure of a family office depends largely on the behaviour, expertise and capabilities of the people within it, balanced against buy-in from the family and the willingness of family members to accept change and guidance, where needed. This is particularly true when coping with generational change.

10. Conclusion

Family offices in the United Kingdom continue to thrive and there is no sign of contraction in the market. In fact, since publication of the last edition of this

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11 "Family offices: a history of stewardship", *Financial Times*, 20 October 2017, www.ft.com/content/403a2cb4-a9cb-11e7-ab66-21cc87a2edde.

12 *FOX Foresight: What's on the Minds of Members*, published by the Family Office Exchange in 2018, www.familyoffice.com/sites/default/files/public_resources/Family_Office_Practices_FOX_Foresight_Report_2018.pdf.

book, the pace of growth has only increased. Each arrangement should suit the needs of the family it serves and all involved would be well advised to remain conscious of the limits of their roles.

Returning to where this chapter began: a family office arrangement is best implemented as a function of a family's circumstances. It makes sense only when a family has properly assessed its needs and the costs of meeting them. It is as important to know when a family would not benefit from one as when it would. There must be a vision shared by the family and implemented dynamically over time by anyone advising or working with the family.

Frank Stangenberg-Haverkamp is the chairman of the executive board of E Merck KG. He is also a member of the 11th generation of the family that controls the company. Here is what he has to say about family offices: "When a family has invested everything in their company and there is no money lying around in need of an investment, then you are not in need of a family office."[13]

13 Source: online.wsj.com/articles/SB10001424052748704002104575290462495992430.

United States

Mary Duke
Independent adviser to families

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1. Introduction

I have had the honour of working with families from all over the world, navigating many complex situations: an Asian family struggling with fairness between children in the family business versus those who chose careers elsewhere; Indian and Saudi families managing the dynamics of a new generation with educated and capable daughters; a Latin American family struggling with the hard decision to 'prune' the family tree; European families embroiled in textbook generational disputes; and many families challenged with the liberating yet somewhat rudderless feelings that they face following the sale of the family's operating business.

As Jay Hughes has always emphasised, the issues that these families face are truly universal. So while this chapter focuses on the US family office model, I am compelled to come back to this overarching message: the issues are the same. That said, there are most definitely cultural, religious, legal and social norms which influence how the solutions to these universal issues are derived. And the family office offers a powerful platform for developing these solutions.

Families need to develop a system for tackling these universal challenges. When properly conceived, organised and run, a family office can ease a family's transition from the first-generation wealth creator to the second generation of siblings, the third generation of cousins and on through successive generations, helping to ensure that each family member flourishes as an individual and that the family manages its wealth as a springboard of opportunity and social good.

So while the discussion that follows relates to a comparison of structural and organisational models of family offices prevalent in the United States, it is important to remember that, regardless of which model the office assumes, the best and most suitable family office structure cannot overcome the lack of a clear mission and agreed objectives among the family's members.

2. US background

The family office community in the United States is distinguished by the number and variety of family office models that have developed over the last several decades. The following discussion provides an overview of the most

common models and an assessment of the inherent and potential strengths and weaknesses of each.

Each model has inherent attributes that make it more or less suitable for the needs of an individual family. It is important to take these into consideration and plan accordingly. Awareness of the potential pitfalls of a model allows the family and its advisers to build in controls and countermeasures to offset them. For example, internal controls can often be lacking in a single family office. Knowing this, the family can work to ensure that more robust checks and balances are adopted in office procedures and will appreciate why enforcing them is important. (Remember, it is often the family members themselves who enjoy the loose operating model and who might bristle at the idea of formal sign-offs or procedures.)

This analysis is intended to provide insights into the considerations to be made before:

- establishing a family office;
- opening an existing single family office to outside clients; or
- engaging a multi-family office.

2.1 The family office explosion of the 1990s

The functional grouping of resources known today as a family office has existed for as long as there have been families with significant, complex wealth. In the United States, capitalists of the gilded age – such as Carnegie, Astor, Rockefeller and Vanderbilt – all amassed extraordinary wealth in an era before the country had a tax code or anti-monopoly laws. Each had a private office to manage its attendant financial affairs. But it is worth noting that the term 'family office' is relatively new in the vernacular and came into common use in the United States in the 1990s. This was a time when economies were expanding and the US capital markets favoured public offerings of private companies. A vast number of families and entrepreneurs sold their operating businesses into the public market, creating what are euphemistically referred to as 'liquidity events' that left previously illiquid families flush with cash and with lots of complexity to manage. Et voila: an explosion in family offices.

Having a family office became a status symbol. A family office, a private jet and exotic private investments were proof that one had truly arrived. But family offices were (and remain) very expensive, and only the wealthiest could afford to set up a true single family office which necessitated hiring the staff and committing the resources required to serve the family's needs exclusively. Suddenly people whose wealth did not rise to the level of supporting a family office wanted one, so the wealth management market stepped in to meet that need. It is at this point that the United States saw a proliferation of new types and styles of family offices being operated by very different players.

3. Family office functions

The United States is often cited as having a highly evolved and sophisticated family office community. But there is also an amazing universe of family offices in all regions of the world. And regardless of the regional variations in cultural, religious, social and political dynamics, the issues that all family offices address fall within a surprisingly uniform framework. Family offices are tasked with unifying the wealth creation, wealth preservation and lifestyle management of a family under a defined family strategy.

Things were a bit simpler in the days of Vanderbilt and Rockefeller. There were fewer laws, fewer investments, fewer reporting requirements and essentially no regulators. It was perfectly reasonable to expect that one well-educated and experienced lawyer, hired by the family and loyal to its service, could take care of all aspects of the family's needs. But as family wealth grew and the world became exponentially more complex, family offices had to expand in their capabilities, sophistication and size.

Today, typical activities include:

- managing the financial aspects of the family's wealth – usually relating to ownership and management of operating companies, interests in trusts, real estate and pooled and individual investments;
- managing the tax, legal and regulatory implications of the above;
- managing cash flow and budgeting for the family's lifestyle;
- shielding private aspects of these interests from the public;
- managing generational transfer of wealth and preparing the next generation to act as good stewards, and fostering entrepreneurship;
- implementing governance systems for the business and family priorities;
- managing philanthropy and social works of the family;
- managing family risk and security;
- handling activities which are often labelled 'concierge services' – taking care of any needs of the family, from the proverbial walking the dog to medical care, household staff management, insurance claims, school applications, vacation planning and so on; and
- supporting the growth of the family's human capital. This growing trend responds to the rising awareness among families of the magnitude and speed of change taking place in our world, and the belief that building competent and resilient family members is critical to successfully navigating the unknown. This also mirrors a major upswing in the world's corporate organisations which have invested deeply in learning and development for their employees for exactly the same reasons. Investing in family human capital often includes offering coaching and leadership development, providing experiential learning for individuals and in groups, facilitating opportunities for experimentation and failure, and encouraging collaboration with developmental networks.

Two significant factors that set US family offices apart are regulation and taxation. While most countries have some form of taxation and regulation, the United States can claim bragging rights for some of the most complex, exhaustive (and exhausting) regulatory and tax compliance regimes in the world. These two factors create a level of complexity that influences the role and focus of the US family office. The US family office invariably has a significant focus on tax planning – income, estate and gifts – and an increasing focus on regulatory compliance as new and shifting regulatory bodies and rules draw more and more families into compliance reporting requirements. (And those families which remain outside regulatory regimes must document and prove their exceptional status – which takes resources and expertise as well.)

There is a clear trend in the world today as countries seek to address their daunting economic realities. As a result, new and expanded tax and regulatory requirements are being added daily in other countries and it is expected that family offices in the rest of the world will continue to add resources to address them – through either direct staffing or the use of professional accounting and legal resources. The bottom line is that tax and regulation will be an increasing focus in the United States and the rest of the world, and an increasing cost of running a family office.

3.1 Definition of models

A review of the common models of family offices and the terminology associated with them is a helpful foundation to analysing their relative strengths and weaknesses.

(a) Single family office

The 'Rolls Royce' of family offices, these are tailor made to serve the needs of one just family. They are very expensive and very private. A high premium is placed on discretion and confidentiality in the single family office world. Operating under the radar and shielding the family from public attention are defining attributes. The entire financial services world is looking for these families and targeting their family offices. Many families shun the term 'family office' in their organisation's name and do not refer to their office as such, preferring 'private investment company' or 'holding company' or a non-descript, generic name instead. Remaining elusive has become harder and harder for careful family office executives.

It is not unusual to find single family offices in an incubator stage, often referred to as a 'co-located family office'. This model is a natural evolution of a single wealth creator with a privately operating company, where it is quite easy for the business owner simply to utilise the corporate staff to handle personal financial, tax and investment details, commingling business and personal matters. The company accountant pays the bills and handles household payroll

and benefits. The finance team handles home mortgages and investments. This situation usually becomes untenable when privacy, a second generation or proper segregation of duties becomes an issue, often in anticipation of the sale of the company.

(b) Multi-family office

A multi-family office is a family office that serves more than one family. A single family office may decide to open to other families. But this is not the only point of origin for multi-family offices. We also see professionals – such as lawyers, investment advisers or accountants – who work with large, complex family clients and develop expertise in their needs organising themselves into multi-client family offices. In addition, financial service providers – banks, trust companies, investment advisers and brokers – move into this space to extend their brand. The origins of a multi-family office have a significant impact on its business model and are explored in detail later.

As multi-family offices have evolved, some have moved towards a segmented multi-family office model, where multiple office locations are required due to the geographic dispersion of family members, but expensive expertise (in areas such as investments, tax and philanthropy) is centralised in one location. Leveraging technology to communicate, execute and protect data security makes this type of model feasible.

(c) Family alliance or affinity group

This is one of the most flexible and adaptable models. These are very fluid collaborations between and among a small number of families, often formed for a specific purpose. Examples include two families collectively purchasing aircraft that they operate jointly and utilise collectively. The same occurs with hiring special talent, such as investment or tax experts. Pooling buying power and spreading the carrying costs of required services without the onerous commingling of family financial and personal information, or the long-term commitment that a traditional multi-family office requires, can be an attractive solution for families.

(d) Virtual family office

Finally, it is important to remember that not all wealthy families have family offices. However, with or without a family office, each must tackle the same issues. Often a family will work with an array of advisers and specialists and technology, creating a virtual family office. If a family's situation is not overly complex and it has the time available to coordinate all the pieces, this can be a viable model.

3.2 Assessment of models: pros and cons

(a) All family offices in general

The pros of family offices are as follows:

- Holistic approach: The greatest benefit of a family office is the holistic and integrated management of all aspects of a family's wealth. Consideration can be made as to gaps and overlaps in all elements. The consequences of decisions and events can be assessed thoroughly. This is no small matter. Families rarely share all their facts with an independent adviser. In fact, it can take many years for anyone – inside or outside the family office – to become privy to and understand all the pieces of the vast empires that these families often control.
- Pooled buying power: Wal-Mart is not the only organisation that benefits from buying in bulk. A family can access more sophisticated investments, structures and professionals, at a better price, by pooling its money and negotiating discounts.
- One-stop solution source: The convenience, effectiveness and efficiency to the family of centralising all aspects of its wealth management are some of a family office's greatest strengths.

The cons are as follows:

- Expensive: Any manner of attending to personal affairs costs money and failure to address these needs can be catastrophic!
- Risk of structure becoming outdated: A family office can atrophy or become outdated. Like any organisation, a family office needs to be monitored and assessed against its objectives (its objectives may likewise need updating) and modified to ensure that it continues to meet them.
- Limited exposure to new and innovative ideas: Because of their clandestine nature, family offices can be isolated and insulated from new thinking, solutions and technologies. It is important to keep abreast of developments. This can often be achieved through participation in family office conferences, educational seminars and industry groups.

(b) Single family office – service, service, service!

Beyond the general benefits of a family office, single family offices have specific attributes that define their offering. The pros are as follows:

- Loyalty to family: The best way to ensure that a system is in place to serve the family, with no other priorities or distractions, is the single family office. The overarching ethos of a family office is the service of the family. Staff become quasi-family members and are often deeply entrenched and committed to its service. They also acquire intimate familiarity with the family, its secrets and idiosyncrasies.

- Privacy: By managing all family wealth matters within a small, highly confidential setting, privacy is best maintained. The risks associated with personal information being maintained in large companies are significantly reduced. In fact, often, only the family office knows all details of a transaction or plan. The various advisers may only know the details required to complete their tasks, being kept in the dark with regard to the integrated effect of what they are doing. The names of holding companies can cloak personal identities from prying eyes. Families are often the targets not only of ambitious advisers and salespeople, but also of kidnappers and extorters. Utilising a family office to diffuse this focus can be very effective.
- Prestige: Because of their cachet and cost, family offices are an exclusive status symbol. While this may motivate some, many families are not at all interested in the prestige factor, but see their family office as a vital tool. Indeed, these families are usually bigger and more sophisticated, and often the lowest profile and hardest to 'see'.
- Glue for family: One of the really special attributes of a single family office – and one that deserves an entire book in its own right – is the role that it can play in helping a family to organise itself as a legacy family. A legacy family is one that looks to the long-term flourishing of its members as the highest priority. Consider, for example, a family that has decided to sell its beloved family business, which has been the central focus of the family for generations. This is a pivotal event for the family and can be highly emotional. Why? First, the family business has been a point of pride and often a key reference of identity for the entire family. It defines the family in many respects, both among family members and within the community at large. Family businesses can also be notoriously illiquid. This means that the family is often tied economically to the business's performance and valuation. Family members may be unable to sell their interests, easily or at all. Working in the business is often a primary source of income for many family members. But these very challenges also serve to connect the family and hold it together. Once sold, a family is often left with a pile of very liquid, very fungible cash; cash that can be divided up and 'walked' away. The bonding effect of the family business is lost and a family, once tightly organised and unified around the business, may find its members quietly slipping away to 'do their own thing'.

  Well-prepared families will work to organise a family office in advance of (or in conjunction with) a major liquidity event. In so doing, they can create a new forum in which the family can come together to support each member towards personal flourishing. They will recognise that managing cash is a very different exercise from managing an

operating company; it requires different skills and disciplines. Members will need new expertise and tools to take the family forward. They will have new opportunities to participate in philanthropic and social causes; they will be able to dabble in hobbies, make exotic investments and focus on the learning and development of future generations. A family office can support all these needs and activities.

- Total service model: Single family offices are organised and staffed to provide exactly the services that the family needs. They are built to support the types of activities in which the family is engaged and provide the specialist resources needed in those pursuits. There is no profit motive in a true family office *per se*. They are cost centres. While managing the private family office always involves managing costs and justifying the services provided, they are built to serve, not to provide a return on capital.
- Flexibility: Because they are organised to service one family and the costs are borne by that family, single family offices can be exceptionally flexible. They can drop and add services as needed. They can expand and contract. For example, if the family purchases a vineyard, the family office will ensure that specialists are secured to support the business. These might include accounting specialists (in America, viticulture is highly regulated and has its own section in the US Tax Code, not to mention state tax rules applying to where wine is grown, bottled and sold), agricultural consultants, labour law specialists, marketing agencies and so on. If a wealth creator has children and wants to focus on their understanding of their role in the family and its wealth, a next-generation specialist will be brought in, and possibly philanthropy advisers. The point is simply that the sophisticated wealthy family can bring whatever resources it chooses into the office to support its mission.

The cons are as follows:

- 'Conflict-free' advice: A key differentiator between a single family office and a multi-family office or any other family service provider is that the staff serve only the family and are in a position to give truly conflict-free advice – with one important caveat. Even family office professionals may have conflicting motivations. The classic example often encountered is the family office executive seeking to justify his or her existence. Another is the executive who wants to exercise undue control of advisers and, rather than filtering and integrating information for the family, in fact skews the information that the family receives.
- Expensive: The biggest drawback of all this custom tailoring is the cost associated with it. Single family offices are incredibly expensive. Experience and various industry surveys generally peg the operating cost

at around 200 basis points for a family with assets of $200 million, or $4 million annually in operating costs. This includes the costs of premises and staff, IT and legal and accounting fees, but excludes investment fees. Costs vary widely and are often driven more by complexity than by asset size. But this cost level is a reasonable benchmark. (A multi-generational family with public and private operating companies in multiple countries and underlying real estate all held in trusts and holding companies will involve more expense than a single-generation, liquid, conservative investor operating in a single jurisdiction – no matter how many zeroes are involved in the second scenario.)

- Staff skill atrophy: Another drawback of the single family office can be the atrophy of skills of the team. The hiring of a specialist lawyer can serve as an example. A family may decide that it is spending a great deal of money on legal fees for a specialist in, say, real estate law; so it decides to recruit the lawyer, who has been working at a major firm. On the surface, this appears to make economic sense: the direct cost of employing the lawyer, even with benefits and a generous bonus, certainly looks to be less than the legal fees. But in reality, it is hard to value the exposure that lawyer has to two things while in the firm: extensive continuing education and experience garnered through exposure to many different clients, all with their own dynamics and issues. In practice, a lawyer might see multiple transactions in a month and learn of several new techniques being utilised to address the latest economic realities. In a family, a lawyer might see a few transactions a year. Offsetting this is the benefit of having this specialist 100% dedicated to the family and informed on its matters.
- Difficulty of attracting/retaining staff: This issue has eased over the years, as family offices have become better known and understood; but there is still an issue for prospective employees, who may fear being cloistered in a family office and out of the deal flow, learning and career progression they would enjoy in larger or more mainstream firms. Compensation can also be a challenge for top talent, especially in the investment or private equity space. There is an entire body of experts focused on building compensation models that will attract top talent without creating issues around equity ownership or profit participation, either of which might be impossible or unattractive for a family.
- Inability to fire clients/employees: It is simply one of the realities of a family office: clients cannot be exited. Family members are footing the bill and the office is there to serve them. But the flipside of this can often also be an issue for a family: it can likewise be very hard to exit staff. Whether due to downsizing, a need for different skills or performance issues, families are often hesitant to dismiss staff. These staffing

considerations can be addressed through good hiring and employment policies, and by managing staff with the same professionalism as larger or more mainstream firms.

- No mechanism to leave: Often family offices are organised without providing a mechanism to wind them up when they have served their purpose or when the family's needs change. Also, individual family members may want to exit their participation, but there is no clear path to do so. It is vital that the formation of a family office take this into consideration and create 'exits' for the family to withdraw or close the office.
- Burdensome to oversee: A family office must be managed, which is a time-consuming undertaking. The family must play a role in the oversight of staff and decision making. This can be a wonderful experience and a great living classroom for members who are interested; but if there are no family members with the necessary time for and interest in this role, it will lead to failure of the system. At such a point, a family may be better served to work with a multi-family office.

(b) Multi-family office – it's a business

The critical difference between a single family office and a multi-family office is that a multi-family office has a profit motive (or a material cost savings objective). It is a business. This is an essential difference compared to the single family office and this fundamental aspect of the multi-family office informs the following analysis.

The origins or 'DNA' of the multi-family office further influences how it operates. As noted previously, there have been a variety of entrants into the multi-family office market. One leading category of entrant is the financial services provider – banks, trust companies, investment managers and brokers. Often, the appeal for players in this business category is to broaden their offering to existing ultra-high-net-worth clients, attract new clients and retain clients that they might lose to competitors making the same move. It is a highly competitive landscape and it seems that nearly everyone in this category has made a foray into the multi-family office space. It is vital to understand the ownership and financial ties going back to the sponsoring entity. Is the family office just an asset-gathering and marketing segment cloaked as a family office? Another category of entrant into the multi-family office space is the professional – the lawyers, accountants or business managers broadening their offering to serve their clients. Both financial services firms and professionals benefit from the fact that they have been and continue to be profit-based operations. They often have corporate systems, products, infrastructure and cash flow to support the multi-family office through its start-up. But they face a real challenge in differentiating themselves and convincing families that their

services are better. Multi-family offices face a real struggle with pricing power. Experience shows that the hardest negotiations over fees are usually with billionaires. They drive a hard bargain!

One important type of multi-family office is the single family office that opens its doors to other families. These face unique challenges that are worth reviewing. It is easy to understand the intellectual (and financial) appeal of opening a single family office to other families. But cautious consideration is in order.

Making the transition from single to multi: The death of a patriarch or matriarch can trigger the move to a multi-family office by the next generation as it begins to take responsibility for, and start to understand, the family office. Nothing has changed in the services and capabilities provided, except that the parent is no longer paying for them. When faced with splitting the substantial costs of a family office among siblings, the next generation often considers the leap to a multi-family office.

Another factor that compels a family to evolve is an interest in leveraging a key strength of the family's business operating model. An example would be a family whose operating business involves the acquisition and development of oil and gas properties. Over the years, that family may have carved a real competitive edge in this space. This type of expertise can be a core competency for the family with a family office and an attraction to other families interested in co-investing with the family in that field.

And sometimes a family office looks in the mirror and realises that it is already a multi-family office; that as the family has grown, it is serving myriad family groups with widely differing members, needs and locations. So it seems natural to take the next step.

There are several key considerations in making this decision. First, the central focus shifts from a total service model to a profit-oriented model. Once the family opens up to others, there will be a focus on money – and savings. There are difficult questions to answer about how fees will be charged and to whom. How will costs will be tracked – both direct and indirect? Will staff now need to keep time sheets, like attorneys and accountants? Will all clients pay equally – both original family and new clients?

A second consideration is scale. The idea of opening up to more families is that with more families sharing the resources, the costs can be shared, thus reducing the individual share. Unfortunately, families are often very different; and each time a new family joins a family office, there is extraordinary effort and expense. This is not like building an assembly line for automobiles; every car coming through this factory is unique!

The existing staffing often is not right for the new model. A multi-family office must run efficiently, but time management is often a foreign concept in

a single family office, where doing 'whatever it takes to get the job done' is the clarion call. There are new roles and responsibilities to be filled. Sales people, new client service people and a layer of management are all needed. The office will need new people – or at least, more people.

The services, reports and capabilities being provided to a family may not translate well into a commercially viable business model. Suddenly, significant upgrades may be needed to the computer systems, consolidated reporting and accounting systems, investment styles and options. These too cost money.

A lot of new costs are associated with this transition. To remain competitive, the business (and yes, it is a business now) must generate enough revenue to cover costs and compensate new expensive employees, but also to reinvest in continuous upgrades of capabilities. This is a highly competitive business when it gets down to families paying for these services.

Finally, a family must come to terms with some of the losses: the loss of privacy, the loss of flexibility and the loss of cachet that come with this move. New rules will be implemented and the original family must adhere to them or risk triggering animosities with the new client families. Sharing resources often does not come naturally to the originating family members. So experience shows that while the transition can be made, it is not a simple process: it requires careful planning and management and a commitment to investment of capital.

Pros and cons: The pros of a multi-family office are as follows:

- Combined cost savings: Probably the biggest driver in the decision to open a single family office to other families is cost savings. Corollaries to that include the desire to expand the services offered while spreading the cost among more clients and the desire to pool more assets in order to increase buying power (again, saving costs). By sharing services and expensive resources across multiple clients, the rate can be lowered for each family. Experience, however, shows that the ability to achieve real scale in family offices can be elusive. Families want tailored solutions, and finding a group of families whose needs are sufficiently similar so that solutions can actually be shared across family groups can be very difficult.
- Added capabilities: A multi-family office can leverage its scale to add functionality and sophistication, both of which inure to the original and new family clients' benefit. Often, too, the move to the multi-family office platform raises the level of professionalism and discipline in the team.
- Quality of people: To some extent, the staffing issues that may be encountered in the single family office are alleviated in the multi-family office. These offices are often larger, have a higher profile in the industry and are often run with more mainstream professionalism, providing

greater clarity around career growth and compensation. Staff can more easily participate in ownership. Exposure to multiple clients can provide a broader experience.

The cons are as follows:

- Loss of privacy and cachet: A single family office cannot be rivalled when it comes to privacy, if only because fewer people can access the family's information. If privacy is a critical priority to a family, there is generally some compromise in a multi-family office, if simply from the number of people who have access to a family's information. While confidentiality has traditionally been an important hallmark of the family office, this is being eroded, even in the single family office. This can be attributed to various factors. Technology has expanded so rapidly that the entire financial world's data is electronic. Even if a family chooses not to leverage technology, its data is already out in what used to be referred to as the 'ether', but is now the Cloud. As governments – with the US government at the forefront – press for incremental disclosure and reporting, more and more information is in more and more hands. Painful as this is, families are simply getting accustomed to the fact that their information is less private than it used to be. (To be clear, this desire for privacy has absolutely no relationship to tax evasion, but rather to security and discretion.)
- Less flexibility: As cost management is a key driver and there is a profit motive, multi-family offices are less inclined to add new resources or services without assessing their potential to deliver to the bottom line. So, comparing the example of a single family office adding resources to support the acquisition of a winery, a multi-family office will not add these resources unless it can establish not only that they will be paid for by the client, but also that they will preferably have applicability to other clients (scalability) and the potential to be run profitably.
- Tension between legacy and new families: When transitioning from a single to a multi-family office, an interesting dynamic can arise between the original family members and new clients. Management is now focused on the bottom line and other clients, diluting the singular focus that the family enjoyed when the office was private. Suddenly, the office has imposed new rules. Conference rooms and offices must be reserved. Advisers cannot drop everything to take a call or handle an issue. Controls are in place requiring approvals and signatures. The original family has some adjusting to do to live with this new approach. Interestingly, the opposite can also be an issue. New families can feel that the original family is getting special treatment. Animosity over the original family participating in the profits can also arise.

- Sustainability: Many multi-family office groups have formed and disappeared over the last decade. It is a difficult business model to sustain over time. But families should be interested in the sustainability and longevity of the platform, because it is a difficult, time-consuming and expensive proposition to transition to yet another relationship. It has been interesting to observe the market. Some of these multi-family office platforms have been picked up by banks and brokerage firms, putting the family right back in the world it was likely trying to escape when it first looked into a family office approach. It is certainly worth asking what the multi-family office owners' end-game expectations are for the business.

4. Alternatives to traditional family office models

Technology has played a central role in the establishment of alternatives to the single and multi-family office models. Client investment, tax and accounting data can be warehoused electronically and accessed directly by the client – eliminating (at least in theory) some of the high cost for client service people. High-cost talent – such as lawyers, accountants and investment specialists – can be centralised, again to save costs. Communication technology such as video conferencing, intranets and data vaults provides tools for improving efficiencies in the family office.

This is the concept behind the segmentation model, where high-cost, high-IQ resources are centralised and the delivery model is local. A high-cachet local office with a capped number of family members being served can be linked, along with other such local offices, to a centralised office with the brain trust. This model is particularly useful for families with members in multiple locations, especially multiple countries. This allows the sharing of the expenses of these services, which are still delivered in the traditional small, private office environment.

Technology is also helping to streamline many of the functions of a family office. More and more functions are capable of being – and are being – outsourced. Increasingly powerful consolidated reporting capabilities can show in one report a family's assets and investments all over the world, in all currencies and asset classes. There are more data services for investment due diligence, and software solutions for philanthropy, socially responsible investing and even managing wine, fine art and automobile collections.

Another model that has emerged in the last decade is the cooperative or affiliate buying group. The idea here is that two or more families with similar needs for a specific service bond together and purchase it collectively. One of the overarching benefits of any family office, regardless of model, is the purchasing power of pooled assets. In the cooperative buying model, families join up for a very limited purpose to leverage that benefit, without folding their

personal lives together in a family office. Consider a few of the ideas that work here:

- purchasing insurance;
- purchasing an aircraft (eg, hiring the crew; housing the aircraft and crew members);
- pooled investments; and
- personnel, including lawyers, investment managers and even family office executives. (Two very important US families have just recently announced that they have hired a chief executive and a chief investment officer, both of whom will work collectively for the two families.)

Outsourcing is a great way to improve quality of services in a family office. More and more top-quality specialists exist in the market and one function outsourced most often by the largest family offices with significant liquid assets is that of the chief investment officer. Large families often struggle with finding and retaining great investment specialists. This is often the case when investing is not the family's core expertise, as is the case with a newly liquid family following the sale of the operating business. Compensation can be an insurmountable issue between a family and a great investment professional. Moving to an independent investment advisory firm can be an effective solution. This is particularly true in families with a fiduciary responsibility for overseeing their wealth, such as those overseeing portfolios for future and unborn beneficiaries.

The combination of outsourced solutions with some cooperative purchasing and affinity group information sharing, coordinated by a family member or a trusted family adviser – this is what is referred to as a 'virtual family office' and is probably the most flexible of the newly emerged family office models.

5. Conclusion

Family offices are not new, but they have evolved dramatically in the last several decades. Two forces that have worked to shape this evolution are the ever-increasing complexity of the issues that a family must manage and the attendant costs of managing them. Technology has played a vital role in addressing both. There is a potentially confusing array of family office models. Understanding each, along with its strengths and weaknesses, allows for a better assessment of how best to meet a family's needs.

And remember, a family office is another thing that needs to be managed. They are time consuming and expensive. But a family office – in one of these many forms – can be a very powerful tool in providing exceptional, holistic support to the family, which is one of the principal benefits of wealth.

About the authors

Feisal Alibhai
Founder and chief executive officer,
Qineticare
feisal.alibhai@qineticare.com

Feisal Alibhai is the founder and chief executive officer (CEO) of Qineticare, the world's first 'family health office', based in Hong Kong. He was born in the Democratic Republic of Congo, raised in Belgium, finished his schooling in Canada and graduated from the Wharton School. He worked in cross-border mergers and acquisitions in New York before moving to Hong Kong to become a serial entrepreneur, specialising in Eastern Europe and war-torn Africa. He epitomised life's definition of success until a life-changing event at the age of 35 caused him to change direction. He now serves families across the globe, helping to transform their lives.

Clare Archer
Partner, Penningtons Manches
clare.archer@penningtons.co.uk

Clare Archer qualified in 1994 and leads Penningtons Manches' 60-strong private client and tax team. Described as "technically superb", "wonderfully sensitive" and "terribly calm", she focuses on relationships with landed and business families, including some of the firm's longest-standing clients. She advises on generational planning and governance, often to avoid disputes. Recent work highlights include instigating complicated negotiations with Her Majesty's Revenue and Customs on the valuation of a substantial shareholding in a private family company and advising executors and trustees on a complex family dispute. She was consulting editor on the first edition of the *Family Offices: The STEP Handbook for Advisers*, is a member of the Association of Contentious Trust and Probate Specialists and speaks regularly on private client issues. She was named as one of the 50 most influential people in private client in 2018 and has been shortlisted for 'Woman of the Year' by CityWealth in 2019.

Grania Baird
Partner, Farrer & Co
grania.baird@farrer.co.uk

Grania Baird is sought after by clients across the banking and financial services sector, including private banks, wealth and asset managers, as well as other regulated businesses. Her client base extends to both established institutions and start-up Prudential Regulation Authority and Financial Conduct Authority regulated businesses, which value her ability to combine a high degree of technical knowledge and expertise with a commercial and practical approach.

With an impressive track record in the sector stretching over 20 years, Ms Baird has supported clients – in particular, private banking and wealth management firms – through dramatic changes in the regulatory landscape. She advises her clients on the impact of the full raft of emerging law and regulation.

Ms Baird advises clients on contractual and client-facing documentation for investment and banking products and services, as well as on general compliance and regulatory queries.

Melissa A Berman
President and CEO, Rockefeller Philanthropy Advisors
mberman@rockpa.org

Melissa A Berman is the founding president and CEO of Rockefeller Philanthropy Advisors, an innovative non-profit philanthropy service whose mission is to help donors create thoughtful, effective philanthropy throughout the world. She has led Rockefeller Philanthropy Advisors since its launch by the Rockefeller family in 2002, building it into one of the world's leading philanthropic advisory, grant-making, research and project management services. Rockefeller Philanthropy Advisors annually manages or facilitates over $250 million in giving to more than 25 countries.

Ms Berman is a frequent speaker and widely recognised expert in philanthropy. She is an adjunct professor at Columbia University's Business School and a director/trustee of Rockefeller Philanthropy Advisors, the Adrian Brinkerhoff Foundation and the Foundation Center. She serves on the Advisory Boards of the Marshall Center for Philanthropy and Social Entrepreneurship at the London School of Economics and the Tamer Center for Social Enterprise at Columbia University. She holds a BA from Harvard University and a PhD from Stanford University.

Andrea B Bolliger
Office counsel, Baker McKenzie Zurich
andrea.bolliger@bakermckenzie.com

Andrea B Bolliger is a member of Baker McKenzie's tax and global wealth management practice groups in Zurich, Switzerland. He has over 10 years' experience in all tax matters, both individual and corporate. His practice focuses in particular on advising private clients on complex national and international tax planning, including relocation, estate planning and all aspects of wealth management. Further, he has broad experience in national and international corporate tax matters, including restructurings, mergers and acquisitions, corporate finance, tax planning and structuring, as well as tax disputes.

Linda Bourn
Director, Family Enterprise Risk Practice, Crystal, Alliant Private Client
linda.bourn@alliant.com

Linda Bourn leads the family enterprise risk practice of Crystal, the private client group of Alliant.

With over 20 years of experience, she is an expert at advising family enterprise boards, directors, officers and trustees on enterprise risk management for their organisations, and guiding generational families on aligning risks with insurance strategy.

She specialises in working alongside high-wealth families and their advisers to help them evaluate family risk exposures using holistic assessment tools and to help them develop a customised strategies to manage risk.

She is a fellow of the Family Firm Institute (FFI), and serves on the Babson College Board of Overseers and as an Advisory Council Member to Babson's Institute for Family Entrepreneurship. She holds an MBA and BA, and the FFI Global Education Network Advanced Certificate in Family Business Advising.

Jan van Bueren
Global head family office advisory, FOSS Family Office Advisory – Union Bancaire Privée, UBP SA
bueren@family-office-advisory.com

Jan van Bueren is global head of family office advisory at Swiss private bank Union Bancaire Privée (UBP) and co-founder of UBP's award-winning family office advisory service – FOSS Family Office Advisory. He holds a master's in tax law from the University of Groningen, the Netherlands. Mr van Bueren assists families from all over the world with the establishment of their single family office or, alternatively, supports them with the selection of a multi-family office in Switzerland or abroad. He is a regular speaker at conferences on the topic of family offices, family business meetings and educational events dealing with the subject. He has also written numerous articles on setting up a single family office or how to select a multi-family office.

Mary Anne Bueschkens
Counsel, Miller Thomson LLP
mabueschkens@me.com

Mary Anne Bueschkens is a recognised global expert in advising on multi-jurisdictional legal, tax, commercial, risk and corporate governance issues for high-net-worth clients, their families, their business operations and charitable foundations. She has over 20 years of experience in collaborating and working with international advisers to create a vision and execution plan for private clients in their business expansion, divestiture, governance, succession planning and philanthropic giving.

Ms Bueschkens is vice president, Americas, of the International Academy of Trust and Estate Law, past national chair of STEP Canada, and on the board of governors of the Royal Ontario Museum. She also serves on the board of two global manufacturing companies, ACPS and ABC Group Inc.

Jing Cameron
Partner, Qineticare
jing.cameron@qineticare.com

Jing Cameron is a partner at Qineticare, the world's first family office for health and wellbeing and the originator of the 'family wellbeing trust'. In her prior career, she spent eight years with JPMorgan Private Bank, advising families across the Asia-Pacific region. A Joseph Wharton scholar, Ms Cameron graduated from the Huntsman Programme at the Wharton School of the University of Pennsylvania. Born and raised in Beijing, Ms Cameron spent her formative years in Singapore, Japan and the United States. She now lives in Hong Kong with her husband David and three children.

David Chee
Director, corporate and finance,
Drew & Napier LLC
david.chee@drewnapier.com

David Chee is a private client specialist. His principal areas of practice are trusts and estate planning. He has been in the industry since 2004, having also worked as a legal counsel in trust companies and a wealth planner in

private banks. His familiarity with international tax and trust structures, insurance solutions and asset management, and strong network with players within the wealth management industry, enable him to provide holistic advice to clients.

Mr Chee works with and advises clients on all aspects of their estate planning needs, ranging from drafting of wills to complex solutions such as setting up structures that address concerns including asset transfers from one generation to another; asset protection and preservation; tax efficiency; family governance; and philanthropy and incapacity.

Mr Chee also advises professional trustees on various matters related to trust business, including regulatory requirements, fiduciary risk and obligations, and administration of trusts and estates.

John Deverell
Founder and CEO, Deverell Associates
john@deverellassociates.com

John Deverell advises on risk, business continuity, effective leadership and governance. He writes plans, conducts workshops and gives talks. He has a Cambridge MPhil in international relations and a diploma in advanced negotiation and mediation skills. After 34 years in the British Army – including much work for the Foreign Office – he was headhunted into the commercial world 10 years ago. Since then, he has helped clients to reduce the likelihood and impact of risk. He has appeared frequently on national radio and television, advising on national strategy and security. A former manager at Control Risks has described his offering as "better than the market leader".

Keith Drewery
Director, Drewery Consulting
keith@dreweryconsulting.com

Keith Drewery has worked for over 30 years in providing advice to private clients and their families. Commencing his career in London, he emigrated to Sydney in 1994, working for KPMG as a tax adviser before joining Perpetual Limited working in national roles before becoming regional manager of its private client business.

In 2006, he opened the Sydney office of the Myer Family Office, at the time Australia's leading multi-family office, where he worked to develop the business in the Sydney marketplace. In 2012, he rejoined KPMG before commencing his own consultancy practice.

Latterly his work has concentrated on consulting to wealth owners, family offices and professional services firms with a focus on inter-generational wealth management services including succession and legacy development through philanthropy.

Mr Drewery lives in Sydney and is married with three daughters.

Mary Duke
Independent adviser to families
mkduke@thehighrd.com

Mary Duke is an internationally recognised adviser to families navigating the complexities of substantial wealth. She is known for her deep understanding of the impact of trusts on families, generational transition in family businesses and empowering rising generations. Her work is typically anchored in the facilitation of family meetings, mentoring and strategic planning.

With a background in private client law

and business consulting, she has led two private family offices. With training in family systems, mediation and managing conflict, she has an excellent track record helping families collaborate more effectively and leverage governance for joint decision-making.

Ori Ephraim
Founder and manager, O Ephraim Multi Family Office Services
oriephraim@gmail.com

Ori Ephraim founded O Ephraim Multi Family Office Services in 2002. Mr Ephraim provides independent and trusted chief financial officer services to ultra-high-net-worth individual clients and their companies, in order to preserve the family's assets and multi-generational vision. The firm's services include comprehensive investment advice in liquid and non-liquid investments, tax and accounting as well as acting as liaison between the auditors and lawyers of the clients. Mr Ephraim represents international investors in their investment activities in Israeli start-ups. Mr Ephraim serves, in addition, as a court expert in the field of valuations for companies and economic disputes between business and family members.

Mr Ephraim holds an MA in economic and business administration (*cum laude*) and a BA in economics and accounting (*cum laude*), both from the Hebrew University in Jerusalem. In addition, he holds a diploma in international trust management from STEP. Mr Ephraim is a licensed accountant in Israel and is a member of the Institute of Certified Public Accountants in Israel. He was an external lecturer on tax and accounting at the Hebrew University and at Bar Ilan University, and lectures widely in his areas of expertise.

Lyat Eyal
Partner, Aronson, Ronkin-Noor, Eyal Law Firm
lyat@are-legal.com

Lyat Eyal is admitted to practise in New York (1998) and Israel (2005). Ms Eyal manages the firm's private client practice, advising high-net-worth Israeli resident and non-resident individuals in connection with cross-border estate planning matters, private international laws with respect to estate planning, trusts and estate administration. Ms Eyal also provides pre-immigration planning advice to new immigrants as well as Israelis returning to reside in Israel relating to estate planning and trusts. Ms Eyal is a member of the New York State Bar Association Trusts and Estates Section and International Section, as well as a member of the Tax Specialist Group. Ms Eyal is also an academician of the International Academy of Estate and Trust Law and a fellow of the American College of Trust and Estate Counsel. She publishes in leading professional journals and lectures widely in her areas of expertise.

Joseph A Field
Senior counsel, Pillsbury Winthrop Shaw Pittman LLP
joseph.field@pillsburylaw.com

Joseph (Joe) Field is a senior counsel in the private client group at Pillsbury in New York. He holds degrees in politics from Princeton University and a JD from the Columbia University Law School. He has practised in Brussels, Paris, New York, London and Hong Kong.

Mr Field ran the Asia offices of Withers for a number of years and has had considerable experience in working with international family offices and families, particularly with respect to cross-border issues.

He lectures frequently and is the author of numerous articles and most recently collaborated with Milton Grundy and John Briggs on a book related to asset protection. Mr Field is a participant in a number of legal forums and participates in many STEP events. He is currently the chair of the STEP International Special Interest Group.

Aditya Gadge
Founder and CEO, Association of International Wealth Management of India (AIWMI)
aditya@aiwmindia.com

Aditya Gadge is the founder and CEO of the Association of International Wealth Management of India (AIWMI) – a global certification body for advanced financial education programmes. A recognised pioneer in the private wealth, alternative investments and family office education space, he provides strategic direction to AIWMI and leads the development of educational programmes for professionals and clients in the wealth management sector. He is also the founder and principal adviser of the Indian Association of Alternative Investment Funds and the founder of Priwexus – The Indian Private Wealth Network.

Mr Gadge has 16 years of experience in the financial services sector; holds a master's in human resources and a master's in economics; and is a certified financial planner. He regularly contributes to business, financial and education publications and is a member of the editorial board of the *International Family Offices Journal*. Mr Gadge has recently co-authored books on credit research and global family offices.

Rebecca Goldring
Associate, Penningtons Manches
rebecca.goldring@penningtons.co.uk

Rebecca Goldring qualified in 2012 and specialises in UK and international tax planning at Penningtons Manches. She has experience advising individuals, entrepreneurs, families, family offices and trust companies on cross-border estate planning issues, which frequently involves complex tax advice with an international element and liaising with advisers in different jurisdictions. Her work also extends to advice on complex probate matters. A student member of STEP, she writes articles for many prominent professional publications, provides comments for the media and has been quoted in articles written by *The Telegraph* and the BBC. Clients and peers praise Ms Goldring for being "excellent, so well organised", "extremely knowledgeable" and "a fantastic private client lawyer".

James Grubman
Owner, Family Wealth Consulting
jim@jamesgrubman.com

James Grubman is a consultant to multi-generational families and their advisers about the issues that arise around wealth. He helps families to establish healthy patterns of communication, governance, estate planning and parenting for succeeding generations. He is the author of the renowned book, *Strangers in Paradise: How Families Adapt to Wealth Across Generations*, and co-author (with Dr Dennis T Jaffe) of *Cross Cultures: How Global Families Navigate Change Across Generations*. Dr Grubman has been published and quoted extensively by *The Wall Street Journal*, *The New York Times*, CNBC and other media, including Malcolm Gladwell's 2013 book, *David and*

Goliath. Dr Grubman holds fellow status in the Family Firm Institute and the Purposeful Planning Institute, and is one of only a handful of psychologists in the 20,000-member STEP. His global consulting practice, Family Wealth Consulting, is based in Massachusetts, United States.

Thomas J Handler
Partner, Handler Thayer LLP
thandler@handlerthayer.com

Thomas Handler is an advanced planning attorney focused on taxation, estate planning and business planning for executives, celebrities, professional athletes, family offices and family businesses. He has extensive experience in the analysis, design and implementation of domestic and international business planning, estate planning, asset protection, family office compliance and advanced tax planning strategies.

He has authored numerous professional articles and lectured extensively both nationally and internationally at wealth industry, professional and family office educational conferences. Mr Handler is a recognised thought leader in the advanced planning and family office marketplaces who has been quoted regularly in publications and has appeared as an expert commentator on numerous radio and television programmes.

He has been named one of the top 100 lawyers in the United States, was awarded the 2017 Family Wealth Alliance Leadership Award for Lifetime Achievement and received the Brink Leadership Awards for Lifetime Service to the family office industry.

Barbara R Hauser
Independent family adviser
brhauser@gmail.com

Barbara Hauser combines extensive experience advising families, family businesses and family offices first as a private client lawyer and later with a focus on governance. Ms Hauser helps families to develop their unique governance process, which may include a family constitution, a family council and a holding company board. She is a sought-after speaker and prolific writer, and is often referred to as a true thought leader in the family office field.

Her books include *International Family Governance*, *International Estate Planning*, *Trusts in Prime Jurisdictions* (advisory editor, Globe Law and Business), *"Mommy, are we Rich?": Talking to Children about Family Money* (co-author) and *Saudi-Girl Barbara*.

Her articles include "The Family Office: Insights into Their Development in the US, A Proposed Prototype and Advice for Adaptation in Other Countries," "Family Office Trends: Lessons from Dubai?" and "The Family Office Landscape: Today's Trends & Five Predictions for the Family Office of Tomorrow". Ms Hauser is also the editor of Globe Law and Business's *International Family Offices Journal*.

Dennis T Jaffe
Adviser to families, Wise Counsel Research
djaffe@dennisjaffe.com

Dennis Jaffe advises families on family business, governance, wealth and philanthropy. He recently completed working papers "Governing the Family Enterprise: Evolution of Family Councils, Assemblies and Constitutions", "Releasing the Potential of the Rising Generation" and "Good Fortune: Building a Hundred Year Family Enterprise".

He is author (or co-author) of *Cross Cultures: How Global Families Negotiate Change Across Generations; Stewardship in your Family Enterprise: Developing Responsible Family Leadership Across Generations and Working With the Ones You Love*, as well as management books *Rekindling Commitment, Getting Your Organization to Change* and *Take this Work and Love It*. He has taught and consulted in Asia, Europe, the Middle East, and Latin America. The FFI recently awarded him the 2017 International Award for service and in 2005 he received the Beckhard Award for service to the field. He has a BA in philosophy, an MA in management and a PhD in sociology, all from Yale University, and is a professor emeritus at Saybrook University in San Francisco.

Emily Jamieson
Associate, Farrer & Co
emily.jamieson@farrer.co.uk

Emily Jamieson is an associate in the Farrer & Co corporate team.

Her expertise spans the life of a business, from company incorporation through investments and restructurings to company or business disposals. Her experience also includes advising clients on matters of corporate governance and English company law.

Clients enjoy working closely and building relationships with Ms Jamieson so that she understands their legal requirements and the issues concerning them. They value her advice both on landmark transactions and on day-to-day matters.

Marianne Kafena
Partner, Farrer & Co
marianne.kafena@farrer.co.uk

Marianne Kafena is a partner in the private client department. Her clients tend to be families with businesses and private wealth located in more than one country. Her work ranges from establishing and supporting the work of family offices to structuring international personal and business assets, taking account of cross-border tax and succession. One important aspect of her work is ensuring that those involved in implementing a family's plan maintain the enthusiasm and discipline required to see it through as practically and simply as possible.

Ms Kafena speaks Arabic and French and grew up in Jordan. The families she advises tend to have strong links in Europe and the Middle East and their concerns tend to centre on personal and business succession, in a context of conflicting legal systems and emotionally charged periods of transition.

Raimund Kamp
Partner, Guidato
raimund.kamp@guidato.nl

Raimund Kamp is the co-founder and partner of Guidato, a multi-family office in the Netherlands.

His special expertise relates to families which are in transition and the transfer of the wealth or family business to the upcoming generation.

Mr Kamp holds degrees in tax and notary law from the University of Amsterdam and has held tax adviser positions with Arthur Andersen in Amsterdam and London, EY and MeesPierson.

Together with his business partner Marijke Kuijpers, he carried out in-depth qualitative

research in the Netherlands among 18 wealthy heirs, focusing on their upbringing and preparation for their inheritance and their experiences with inherited wealth. The results have been published in *The Golden Rucksack – Handbook for Wealthy Families*.

He regularly speaks at international conferences and writes articles about family office topics, families and their business.

Alon Kaplan
Advocate and notary, Alon Kaplan, Advocate and Notary Firm
alon@alonkaplan-law.com

Alon Kaplan is a sole practitioner in the Alon Kaplan, Advocate and Notary Firm, practising in trusts, estates and succession planning, international charitable giving and counselling family offices.

He holds an MA from the Hebrew University in Jerusalem and a PhD from Zurich University.

Mr Kaplan is a member of the Israel, New York State and Frankfurt Bars and chairman of the Israel Bar Association's private international law committee. He is a member of STEP and president of STEP Israel. He is an academician at the International Academy of Estate and Trust Law and a fellow of the American College of Trust and Estate Counsel.

He is the general editor of *Trusts in Prime Jurisdictions* (4th edition, 2016, Globe Law and Business, 5th edition in process) and author of *Trust and Estate Practice in Israel* (2016 Juris publications). His book in Hebrew on *Trusts in Israel: Theory and Practice* was published in December 2017 by Halachot Publishing, Israel.

He regularly speaks at international conferences and writes articles about trusts, cross-border succession, family office topics, families and their business.

Marijke Kuijpers
Partner and co-founder, Guidato
marijke.kuijpers@guidato.nl

Marijke Kuijpers studied business administration at Nyenrode Business University and financial economics at the *Vrije Universiteit* in Amsterdam. She has more than 20 years' experience in banking, mainly in investment consultancy and relationship management for ultra-high-net-worth clients at MeesPierson Amsterdam.

Together with her business partner Raimund Kamp, she carried out in-depth qualitative research in the Netherlands among 18 wealthy heirs, focusing on their upbringing and preparation for their inheritance and their experiences with inherited wealth. The results were published in *The Golden Rucksack – Handbook for Wealthy Families*.

Ms Kuijpers is experienced in advising and assisting clients who acquire substantial capital unexpectedly. The multi-family office Guidato, which she co-founded in 2008, gives her ample room to work within her field of expertise. Another of her passions is teaching on finance and related topics.

Ian Macdonald
Head of private client, Wright, Johnston & Mackenzie LLP
IM@wjm.co.uk

Ian Macdonald is head of private client at Wright, Johnston & Mackenzie LLP, Solicitors in Glasgow. He is dual-qualified in Scottish and English law and is accredited by the Law Society of Scotland as a specialist in trusts law. Mr Macdonald advises high-net-worth individuals and families throughout the United Kingdom and abroad on tax and estate planning, wills, trusts and family governance.

He has been a member of STEP almost since it was founded in 1990 and currently represents Scotland on STEP's council. He was deputy chairman of the STEP Business Families Special Interest Group from its formation in 2007 until the end of 2017 and is also chair of STEP's Professional Development Committee and a member of the STEP Scotland Branch Committee.

Lucinda (Lucy) Main
Partner, Beard Winter LLP
lmain@beardwinter.com

Lucy Main is a partner at Beard Winter LLP, in Toronto, Canada. She advises Canadian and international clients on a wide range of estate and trust matters, including drafting estate planning documents, establishing private charitable foundations for individuals and families, helping with the administration of estates, assisting in the setting up and maintenance of trusts and providing support to litigators in contentious matters.

Her accomplishments in, and contributions to, these areas of law were recognised in 2016 when she was awarded the Hoffstein Book Prize by the Ontario Bar Association (OBA). She earned her trust and estate practitioner (TEP) designation from STEP in 2013.

She has been an executive member of the OBA's Tax Section and Trusts and Estates Section, a member of the Canadian Tax Foundation's organising committee for the annual Ontario conference for advisers to owner-manager businesses and the Canadian representative for the International Association of Young Lawyers.

Ian A Marsh
iam.good2talk@gmail.com

Ian Marsh is a renowned listener, speaker, author, coach, facilitator and mediator, who focuses on helping people talk about the things that matter most to them; the things they generally find it hardest to talk about.

A former lawyer, Mr Marsh has worked with enterprising families for more than 40 years and has seen at first hand the damage that intractable conflict can do to people and their relationships if it is left to its own devices.

His passion is helping people to overcome the perils, and to rediscover the power, of face-to-face conversation in a digital, and increasingly polarised, world. See www.good2talkonline.

Mark McMullen
Partner, BDO UK
Mark.McMullen@bdo.co.uk

Mark McMullen is a partner in the BDO private client services team, with over 30 years' experience.

Mr McMullen enjoys dealing with the complex challenges that face UK and international families and businesses. This includes advising private clients, their families and structures on their financial and tax affairs. His specialisms include UK direct taxes, UK property, non-UK domiciliaries and trusts.

Mr McMullen also acts for several family offices, working with them on strategic and practical tax and financial issues. He has good experience of planning and administering offshore trusts and sat on the board of an overseas trust company for several years. He is a member of STEP and sits on its City of London branch committee, having served on its UK technical committee for several years.

Thomas Ming
Senior family office adviser, FOSS Family Office Advisory – Union Bancaire Privée, UBP SA
ming@family-office-advisory.com

Thomas Ming is senior family office adviser at Swiss private bank Union Bancaire Privée (UBP) and co-founder of UBP's family office advisory service – FOSS Family Office Advisory, located in Zurich. He holds a master's degree in law from the University of Basel, Switzerland. Through FOSS, Mr Ming assists families with the establishment of a single-family office or, alternatively, supports them with the selection of a multi-family office. In addition to family offices, Mr Ming has, over the past years, focused on life insurance (eg, private placement life insurance and (jumbo) universal life insurance) as a compliant wealth-planning structure for wealthy families from around the globe.

Francis Moore
Director, Moore Family Office Limited
Francis.Moore@moorefamilyofficegroup.com

Francis Moore joined Moore Family Office Limited as a director in early 2019, after leaving his position as an associate director within the Moore Stephens private client services team.

Mr Moore specialises in tax planning and compliance issues associated with high-net-worth individuals, in particular those who are not domiciled in the UK. This includes advice on remittances to the United Kingdom, as well as offshore structure issues and residence and planning concerns for those coming to and leaving the United Kingdom.

Mr Moore comments: "My work is all about addressing issues that matter to clients. You get a sense that you can help people, which is rewarding. I also enjoy the individuality and diversity of the work."

He was named as one of the 'Top 35 Under 35' by ePrivateclient in 2018.

Asher Noor
Chief investment officer, AlTouq Group
asher@altouq.com

Asher Noor is the chief investment officer for AlTouq Group, a Saudi Arabian single family office. He previously worked for PricewaterhouseCoopers and Banque Saudi Fransi. His last position was chief financial officer for Morgan Stanley in Saudi Arabia.

His role includes managing the investment portfolio of the family office, which is allocated in the traditional and alternative asset classes globally. He also sits on the boards of several companies globally.

Mr Noor is a qualified trust and estate practitioner and a fellow chartered accountant. He was profiled as a top 30 global family office investor by Trusted Insight. He serves on the board, faculty and editorial committee of Family Firm Institute (FFI) in USA. He holds a double master's, including an MBA from EDHEC Business School, France and has also served on the university's global alumni board. Presently he is also serving a term on the editorial board of the *STEP Journal*, published out of the United Kingdom.

Charles Peacock
Client relationship director, Sandaire
charles.peacock@sandaire.com

Charles Peacock is a client relationship director of Sandaire, which acts as the family office for some 25 families, including the Scott Family, which founded the firm over 20 years ago. Each of these families has significant wealth,

which raises unique challenges and to which Sandaire brings its experience in investment management and good financial stewardship.

Mr Peacock is a graduate in law from Exeter University. He qualified as a chartered accountant with Price Waterhouse and worked for nine years in its corporate finance units in London and Frankfurt, advising on management buy-outs, company acquisitions and disposals and valuations. He then spent 12 years in international equity markets in a number of companies, including HSBC and ABN AMRO, before joining Sandaire in 2010. He is a member of the Chartered Institute for Securities and Investment, a trustee of a number of grant-making charitable trusts and a former trustee of Fairbridge, a national youth charity.

M J Rankin
Partner, The Rankin Group LLC
mj@trgsearch.com

M J Rankin has been an entrepreneur and well-known thought leader within the private wealth management industry since 1980. She is recognised as an expert in family office management and in the hiring of executive leaders for single and multi-family offices and privately held companies. She is the architect of The Rankin Group's customised consulting and search process, which focuses on clients' long-term human capital needs and integrates a comprehensive organisational development approach to the executive hiring process.

Recently, Ms Rankin has shifted the focus of her consulting away from the executive search side of the business to strategic HR management consulting for family offices and privately held enterprises. This reflects the growing need for more proactive thinking and planning on how these organisations can better meet the needs of their employees, and for employees to better meet the needs of these organisations.

Simon Rees
Director of family office services, Farrer & Co
simon.rees@farrer.co.uk

After more than 20 years advising on private client tax and trusts, Simon Rees left PricewaterhouseCoopers in 2005 to become head of tax at Ansbacher. He was one of the founding principals at New Quadrant Partners, looking after the firm's trust management services, before becoming head of UK fiduciary at Kleinwort Hambros.

He joined Farrer & Co in 2017, to focus on services for client families. The scope of that work is very broad, including trustee issues, simplification of structures, governance, compliance and administration. He often adopts an informed liaison or coordination role.

He takes a particular interest in investment manager performance (he was a member of the judging panel for the Private Asset Managers Awards 2011–2013).

Mr Rees especially enjoys working across family generations and looking at succession and family governance issues. He believes strongly in the benefits of working in a collegiate way with the family's other advisers.

Amelia Renkert-Thomas
Founder, Renkert Thomas Consulting LLC
amelia@renkertthomasconsulting.com

Amelia Renkert-Thomas is the founder of Renkert Thomas Consulting LLC and the author of *Engaged Ownership: A Guide for Owners of Family Businesses* (Wiley, 2015).

Renkert Thomas Consulting LLC works

with family businesses and family offices on issues related to strategy, ownership and governance. Ms Renkert-Thomas developed The Engagement Toolkit, a six-module educational system, to help family members and advisers alike learn the critical skills and processes needed to build engagement among family owners, board and management.

A tax, trusts and estates attorney by training, Ms Renkert-Thomas was a partner with international law firm Withers Bergman LLP before launching her consulting practice. Ms Renkert-Thomas ran her family's fifth-generation manufacturing business from 1991 to 2002.

Keith Robinson
Partner, Carey Olsen Bermuda Limited
keith.robinson@careyolsen.com

Keith Robinson is a partner in the trusts and private wealth and dispute resolution practices of Carey Olsen Bermuda Limited. He has over 20 years' experience in non-contentious and contentious trust and private wealth matters. He has particular expertise in high-value trust litigation and court-approved trust restructurings, often with a multi-jurisdictional element. He has represented family offices, trustees, beneficiaries, settlors and protectors in a range of cases before the Supreme Court of Bermuda, and has been involved in many major trust cases in Bermuda. He advises in respect of a wide range of non-contentious Bermuda trust matters and also acts as a protector. He has been recognised in *Legal Week's Private Client Global Elite* listings 2018 and as a leading individual for Offshore: Trusts in Bermuda in the *Chambers High Net Worth Guide 2019*.

Tobias F Rohner
Partner, Baker McKenzie Zurich
Tobias.Rohner@bakermckenzie.com

Tobias F Rohner, attorney at law and Swiss certified tax expert, is a partner at Baker McKenzie's Zurich office. Dr Rohner holds a PhD from the University of St Gallen. He has been practising for more than 15 years in the areas of national and international tax planning for corporations and high-net-worth individuals. He also has broad experience in value added tax matters. He is a lecturer in tax law at Zurich University and the Zurich University of Applied Sciences, a frequent speaker at national and international conferences and a member of the editorial board of the prestigious tax law journal *Zürcher Steuerpraxis*. He also regularly writes articles on taxation.

Kirby Rosplock
Founder and CEO, Tamarind Partners Inc
kirby@tamarindpartners.com

Kirby Rosplock is a highly regarded speaker, innovator and thought leader in the family office and business fields. She is founder of Tamarind Partners, Inc, a family office consulting firm, and author of *The Complete Family Office Handbook* and *The Complete Direct Investing Handbook*. She holds a PhD in organisational systems psychology from Saybrook University and an MBA from Marquette University, and she was director of research and development at GenSpring Family Offices. Dr Rosplock is dean of family offices at the Purposeful Planning Institute (PPI), a fellow and Global Education Network Faculty of the FFI, former editor of the *FFI Practitioner*, former board member of Family Enterprise USA, co-trustee of the Harbeck

Family Foundation and advisory board member of Hope Trust and Merton Venture Philanthropy. Dr Rosplock grew up in a multi-generational business-owning family. Her family roles include owner, entrepreneur, beneficiary, trustee, former board member and executive member of her family's foundation.

Nicola Saccardo
Partner, Maisto e Associati
n.saccardo@maisto.it

Nicola Saccardo graduated from the Bocconi University in Milan and holds an LLM in international taxation from the University of Leiden (Netherlands). He is admitted to the Italian Bar and the Italian Association of Chartered Accountants. He is a member of the International Academy of Estate and Trust Law, as well as its vice president and chair of its Tax Committee. He is a member of STEP and a member of the International Client Global Special Interest Group Steering Committee of STEP. He is ranked as a leading expert in several legal directories, including *Chambers High Net Worth, Legal Week Private Clients Global Elite* and *Citywealth Leaders* list.

He has authored many publications on Italian tax matters and is a frequent speaker at conferences. His areas of expertise include taxation of trusts, estates and high-net-worth individuals; international and EU tax law; and estate planning.

Alexander Scott
Chairman, Applerigg Limited
alexander.scott@applerigg.com

A fourth-generation family business owner, leader and strategist, Alex Scott is chairman of Applerigg, a private, family-owned business built on the foundations of a financial services group established by his great-grandfather in 1903.

Following his leadership of the sale of Provincial Insurance Group in 1994, Mr Scott founded the first of the Applerigg group portfolio companies – Sandaire, an international multi-family investment office – later joined by Yealand Administration, a funds administration company; Mount Kendal, a real estate investment advisory firm; and Horizons, a contemporary network and learning environment for the leaders of tomorrow. He is a non-executive director of his family's investment holding company, as well as of several private companies.

Mr Scott is a director of the Family Business Network International, co-founded and is a life president of the Institute for Family Business (UK) and has served as a director of the FFI.

Christian Stewart
Managing director, Family Legacy Asia (HK) Limited
cstewart@familylegacyasia.com

Christian Stewart is the managing director of Family Legacy Asia (HK) Limited, a process consulting firm based in Hong Kong. He is also an associate of the Boston-based think tank and consultancy Wise Counsel Research Associates. Mr Stewart assists families around Asia with family governance and succession.

Mr Stewart originally qualified and practised as a solicitor in South Australia from 1990 to 1994. He moved to Hong Kong in late 1994, joining PricewaterhouseCoopers, and was later promoted to be a partner in its tax practice and head of its trust and private client group. In July 2002 he joined JPMorgan Private Bank to head the bank's wealth advisory team for Asia, where he worked for six years. He

founded Family Legacy Asia in July 2008 to provide independent advice to Asian families on family and family business governance issues.

Andrea Tratnik
Associate lawyer, Beard Winter LLP
atratnik@beardwinter.com

Andrea Tratnik is an associate lawyer at Beard Winter LLP in Toronto. She holds a JD and has earned her TEP designation from STEP.

Ms Tratnik assists domestic and international clients with their estate and trust planning and administration needs. In her practice she routinely works with family offices and financial planners in implementing their wealth management plans for clients. She also advises privately held companies and their owners on a variety of corporate transactions and succession planning strategies.

Ms Tratnik has written several articles on taxation, trusts, and estates law for Canadian and global publications.

William S Wyman
CEO, Summitas LLC
bill@summitas.com

William (Bill) Wyman joined Summitas – the award-winning reference platform for communication privacy and data security in the family office and wealth advisory space – in 2010.

Summitas Platform delivers client selectable apps spanning document management and e-signature, collaboration, and advisory and family services within a private and secure client-branded portal. Summitas offers protection against increasingly sophisticated cyber threats, while transforming the client experience through improved communication, transparency and operational efficiency.

With over 35 years of experience working with single family offices, multi-family offices and registered investment advisers, he was previously a senior director with BNY Mellon Family Office and managing director with Rockefeller & Co. Earlier, he was managing director at Deutsche Bank and a vice president with JP Morgan, where he was stationed in Geneva, Switzerland.

Mr Wyman often speaks about software trends, technology risks and family office operations. He earned his BA from the University of Notre Dame and MBA, *summa cum laude*, from Fordham University.

Leslie Voth
President and CEO, Pitcairn
l.voth@pitcairn.com

Having led Pitcairn's transformation from an over 95-year-old single family office into a leading multi-family office, Leslie Voth has a unique perspective on managing the inevitable change that all families must navigate to achieve multi-generational success. She believes that prosperous families and winning family offices must focus on people as much as portfolios. It is this guiding principle, coupled with her immense industry experience, invaluable insights and fearless leadership skills, that has contributed to the long-term growth of the firm and its families.

Ms Voth has received multiple industry accolades over the years. In 2018, she was awarded "Multi-Family Office Executive" by Family Wealth Alliance. She also received the top honour of "Women in Wealth Management" by *Family Wealth Report* in 2014 and 2018 for her individual contributions to the wealth management industry. She was

named "Family Office Leader of the Year" by *Family Office Review* in 2015 for her dedication as a leader and for her contributions to the family office industry.

In addition, Ms Voth is a member of the Wigmore Association, a global collaboration of chief executive officers and chief investment officers from eight family offices across North America, Europe, Australia and South America.

The International Family Offices Journal

The International Family Offices Journal

Editor: Barbara R Hauser

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Editor: Barbara R Hauser;
Publication dates: Quarterly;
Hard copy ISSN: 2398 - 5402
Annual subscription price: £475/$685/€645;
Annual discounted price for STEP members: £332/$479/€451

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We'd very much like to hear from you with your thoughts and ideas for improving what we offer. Please do feel free to email me on sian@globelawandbusiness.com with your views.

Sian O'Neill
Managing director
Globe Law and Business

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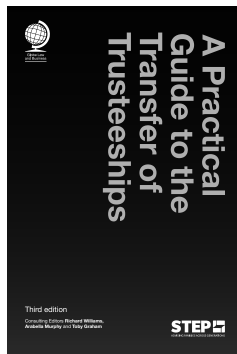
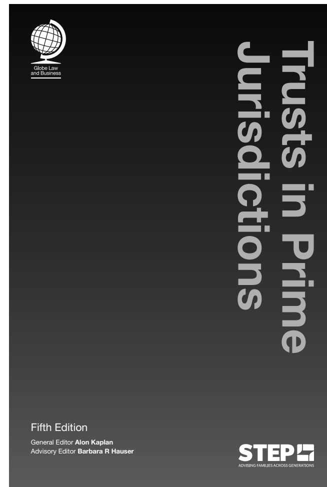
Review for first edition – The STEP Handbook will undoubtedly become required reading for advisors across the disciplines such as the trust and legal, accounting, HR and other professions who set out to deliver high standards of service for their family business clients.

Grant Gordon
Institute for Family Business





In my view, 'A Practical Guide to the Transfer of Trusteeships' is the most relevant and, therefore, important work in the whole area of trusts and trusteeships.

Edward Buckland
LGL Trustees, *Trusts & Trustees*

Review for previous edition – A treasure of information including updated legislations are at the reader's disposal, thus making this book a must-have and not just to be seen.

Dr Angelo Venardos TEP
Heritage Trust Group

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