

# Asia's HNWIs

## Coping with Wealth Management in a Newly Transparent World

*There is no doubt that the regulatory net is closing in on high-net-worth individuals (HNWIs) and their families across the globe. Former questionable practices of the wealth management community and their clients will no longer be tolerated. A panel of experts at the Hubbis Asian Wealth Solutions event provided their insights into how advisers and their HNWI clients must adopt strategies to prioritise compliance and transparency.*

*These were the topics discussed:*

- *How do you get tax planning right in a newly compliant and ever more regulated world? Do clients know how to comply with the law, or are many still burying their head in the sand?*
- *What are the dangers of inaccurate data reporting and how to achieve more accurate reporting? How to avoid duplicate reporting?*
- *What will be the role of the US in the newly transparent finance world?*
- *The EU has now adopted CRS Mandatory Disclosures Rules (MDRs) How will this affect professional wealth management advice and residence planning?*
- *Are the existing offshore 'structures' in place for clients still appropriate? What are the structures in favour now?*
- *Should clients put their money in the most reputable jurisdiction, so that it appears they are transparent?*
- *The value of carefully elucidated, regularly updated succession plans and Wills.*
- *High-quality effective advice from a holistic perspective is possible, but HNWI clients must be prepared to disclose. But at the same time the advisers have a huge onus of responsibility to report what they might know are discrepancies.*

### PANEL SPEAKERS

- John Shoemaker, Registered Foreign Lawyer, Butler Snow
- Marcus Hinkley, Head of Private Client Services - Asia, Hawksford
- Malcolm K-L Lim, Director, Sovereign Straits Trust
- Zac Lucas, Founder, Head of Legal, Centenal
- Mark Smallwood, Wealth Structuring and Client Advisor, HP Wealth Management



## EXECUTIVE SUMMARY

### **The regulatory net is tight and tightening**

The regulatory net is closing in on high-net-worth individuals (HNWIs) and their families across the globe. Former questionable practices of the wealth management community and their clients will no longer be tolerated. Clients and their advisers must adopt strategies to prioritise compliance and transparency.

### **CRS and associated mandatory disclosure another game changer**

The European Union's Common Reporting Standard (CRS) Mandatory Disclosure Rules (MDRs) came into effect from June this year. Anyone responsible for designing or marketing avoidance arrangements will have 180 days to disclose all avoidance arrangements they have promoted with their clients from June 2018 onwards, with obvious ramifications for the wealth advisory industry, which is even more accountable than ever before.

### **Structures must be updated and upgraded**

Many, perhaps most, of the offshore asset-holding structures created in the past were created in a very different global regulatory and oversight environment and must be urgently reviewed and remediated. The application of new CFC [controlled foreign corporation] rules in China as of January 2019, for example, will affect thousands, possibly tens of thousands with simple offshore structures generally in their own name.

### **Succession structures must be amended regularly.**

Will and other legacy/succession documentation are essential, must be professionally drafted and updated regularly.

### **Holistic advice required, but a new conundrum emerges**

There is an issue that HNWI families need to address. In order to obtain valuable, accurate advice, they need to offer their advisers a full perspective on their affairs. However, they must also be aware that in the newly transparent world, advisers are obliged to report any information to authorities if they consider disclosure is not taking place, or corrupt practices are taking place. This is rather a conundrum.

### **Family offices a growing solution in Asia**

If a single- or multi-family office is established, as is the ongoing trend in Asia, that family office will have a broader perspective on the wealth, and therefore potential structures. Asian families have historically been averse to providing full information to anyone private bank, so the role of EAMs in Asia is rising.

### **Domicile can change, history is indelible**

Clients and families can change domicile if they are prepared to take a long-term view and adapt. However, the history of their past actions, especially non-disclosure in any jurisdiction, is indelible and therefore needs redressing.

**T**HE DISCUSSION BEGAN WITH A GUEST briefly highlighting the effect that the European Union’s Common Reporting Standard (CRS) Mandatory Disclosure Rules (MDRs) will have upon the future of professional wealth management advice in Asia since they became active in June this year. The legislation will mean that promoters - those who are responsible for designing or marketing avoidance arrangements - will have 180 days to disclose all avoidance arrangements they have promoted with their clients from June 2018 onwards.

“It means that if advisers promote or suggest any cross-border arrangement that could lead to tax avoidance, even if it is not implemented, there must be a disclosure,” the guest explained. “Intermediaries have 30 days to inform the authorities about the arrangement, and the information will be shared internationally between reportable jurisdictions. The ramifications are significant.”

**Structures need review and remediation**

Another panellist took up the theme, noting that structures created in the past were created in a very different global regulatory and oversight environment and that many clients do not understand the implications of the new rules and compliance requirements.

“There is an urgent need for families to review what they have in place,” he cautioned. “Once they understand the options for remedial action there is a tremendous opportunity in the legal, fiduciary and wealth planning community. There are, for example, literally tens of thousands of mainland Chinese clients with offshore structures such as BVI vehicles in their personal name, with them acting as directors, so the government, armed with CFC [controlled foreign corporation] rules and CRS can easily find out. The new rules come into effect in January 2019, they must act fast before the inevitable legal and tax changes arrive.”

There was a broad consensus that clients have little or no clue of the implications or their courses of action. “Life has evolved from simplicity to immense difficulty,” said one guest, “Tax of 5% or 10% has become the new zero tax, that is the reality.”



MARCUS HINKLEY  
Hawksford



MALCOLM K-L LIM  
Sovereign Straits Trust



MARK SMALLWOOD  
HP Wealth Management

### Clandestine practices no longer sustainable

A fellow panellist agreed, adding that hiding assets can no longer be tolerated, and wealth advisers can no longer be involved in that type of activity. “We are representatives of the state in so many ways, if we see things we know are wrong we are obliged to report that due to the arrival of CRS mandatory disclosure. The clients need to understand that if we know certain things, we have obligations to disclose, so it is often the case that we do not want to know.”

An expert highlighted the administration of structures. “When these structures are established, the administration discussion is essential and there will be plenty of very detailed information required from the clients. It is not just question of appointing someone that you feel comfortable with but appointing someone that can actually pass CRS, because the rules are strict, and transparency is essential.”

A panel member added that succession structures are essential and that all such documents must be kept up to date and should be professionally drafted. “One must make sure to include all assets as well,” he advised. “For example, a trust often does not hold the family home or other property or the family’s operational businesses, so we need to capture the entire estate through the documentation.”



JOHN SHOEMAKER  
Butler Snow

#### DO THE FAMILIES YOU DEAL WITH HAVE A COORDINATED AND STRUCTURED PLAN IN PLACE?

Yes



No



Source: Asian Wealth Solutions Forum 2018 - Singapore

**Will Asian clients value expertise more highly?**

One attendee highlighted the enhanced value that wealth management firms can offer in the new world of compliance and transparency. Expertise will be more highly valued in a world of tax optimisation, rather than a world where zero tax is achievable. “We also need to ensure that we are carefully structured to avoid inadvertent disclosure of information, perhaps reported twice unnecessarily for example. That adds cost and time and complexity. My view is that everything is converging around simplicity going forward to minimise tax rather than avoid it and to give value for money to the families that are paying for our services.”

A guest advised that HNWI clients and families seek an adviser who can give more holistic, overall advice, even if the tax affairs of the family must be dealt with on a per country basis. “The difficulty is because a lot of families are very sensitive about what they actually disclose to their bankers and advisers and to the next generation,” he remarked. “For example, in a discretionary trust where you can actually change the beneficiaries at any time, but if already disclosed to those beneficiaries and then changed, the relationship will be badly affected.”

**Your own family quarterback**

“I completely concur that clients today desperately need the equivalent of a quarterback,” commented another expert, “by



ZAC LUCAS  
Centenal

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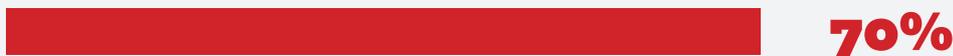
which I mean a fully trusted adviser who can help coordinate the fragmentation of a family’s estate and affairs. That opens the door for an independent type approach as so often clients do

**DO CLIENTS UNDERSTAND WHAT THEY NEED TO DO TODAY IN REGARDS TO TAX REPORTING?**

Yes



No



Source: Asian Wealth Solutions Forum 2018 - Singapore



not trust their private banks to give them proper advice, they see them more as product and ideas pushers. Lawyers can perform this role, as can a single- or multi-family office environment, essentially EAMs, which we are seeing much more of in Asia.”

A guest turned to the US jurisdiction and remarked that just because it is not in the CRS net HNWI clients should not imagine that the US is a place where they can hide their assets. “Clients should clean up their positions as early as possible, for example, the 2% levy on assets declared back to Indonesia is well worth it for transparency.”

### Where are you (really) from?

Domicile is an important factor as well, noted another expert. “People now own assets in various

jurisdictions, but without realising that in each jurisdiction there may be tax implications. Many do not realise the impact of domicile on your tax position and that your domicile can actually change. There are many factors that people have to consider.”

The final word went to a wealth manager who reminded the audience that their clients cannot turn black into white. “If people living in a certain country have not reported certain assets and income, no structuring in the world can resolve that. You can change things via new residency, but that, of course, is a long-term commitment on the part of the family. I can advise clients holistically, but they must trust me with their information. Only if we know the reality can we genuinely help them. Families in this region are realising that they have to find an adviser to achieve a top-down view. Personally, I do not like to waste my time with people who are not prepared to disclose.” ■

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### SHOULD CLIENTS SIMPLIFY THEIR STRUCTURES?

Yes



No



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Source: Asian Wealth Solutions Forum 2018 - Singapore