

Cross-Jurisdictional Wealth & Estate Structuring: Leading Lawyer Wei Kang on Delivering Advice and Solutions in Greater China

As the local, regional and global wealth management and regulatory landscapes constantly evolve, navigating the intricacies of wealth management, succession planning, and family governance presents a formidable challenge for HNW and UHNW families. Focusing on clients in the dynamic Greater China region, Wei Kang, a highly experienced private wealth partner at Stephenson Harwood's Hong Kong office, specialises in addressing these multifaceted challenges. With a practice that spans the breadth of family trust structures, tax advisory, and comprehensive succession planning across multiple jurisdictions, Wei offers an unparalleled depth of insight into the complex world of wealth management. Hubbis met with her recently to quiz her on key trends and developments amongst her clients. She offered some unique insights into the types of conversations she is having with her clients – discussions that span from the challenges of articulating and achieving wealth succession goals to the intricacies of family governance and the strategic use of jurisdictions for asset protection. She directs her holistic approach, rooted in a deep understanding of both onshore and offshore complexities, not only to align with the immediate objectives of her clients but also with their long-term aspirations and values.

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Could you share some of the topics of conversation you're having with clients currently, especially private clients in Greater China?

At present, the dialogues with clients, especially those from the HNW and ultra-HNW segments in Greater China, are centred around a couple of pivotal areas.

Firstly, we focus on the myriad challenges that these families are encountering. This spans a wide array of complexities but is particularly focused on the nuances of navigating wealth structures in the contemporary landscape, which includes economic, tax and geopolitical considerations.

Secondly, a significant portion of our discussions revolves around family governance, the first-time set-up of the family charter and family policies, the mechanisms through which wealth can be transferred effectively to subsequent generations.

These conversations often shed light on the unique circumstances and needs of each family, ensuring that the advice given is both practical and tailored to their specific personal and family situations and inclinations.

What sort of challenges are these families facing?

UHNW families in China are at a pivotal juncture where the importance of wealth succession planning has become unmistakably clear. However, despite this awareness, there is a notable gap in sophistication and understanding when articulating their needs and the necessary steps to achieve their wealth transfer objectives.

This gap is further widened by the traditional reliance on family offices or other intermediaries, who typically engage with advisors like us to seek specific services on behalf of these families. That results in two key challenges.

First, there's an inherent difficulty in identifying the true end goals of the families due to a lack of direct communication and the difficulty in obtaining an in-depth understanding of their wishes.

Second, the path to achieving these objectives is often not straightforward. Unlike requesting a tangible service, navigating the complexities of wealth succession requires a nuanced approach that can only be developed through thorough and considered discussions between the trusted advisors and the families (sometimes less so their representatives).

This process is inherently more time-consuming and requires a level of engagement that goes far beyond the conventional service request, making it a substantial challenge in practice.

Can you elaborate?

Yes, the real root of the problem lies in the way these families, or their representatives, conceptualise and

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approach wealth planning. Drawing parallels from their rich business experiences, they often come to us with specific requests for legal structures, like trusts, without articulating the underlying objectives they aim to achieve with these tools.

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Our advisory process is an exercise in probing and questioning to uncover the real objectives behind clients' requests. This not only requires a deep understanding of the intricacies of wealth structures and succession planning across different jurisdictions but also demands patience and the ability to guide the conversation towards uncovering the true goals of the family. This process is a departure from the conventional request-and-provide service model .

Could you offer some more colour on the initial stages of your discussions with clients?

The initial engagement with clients typically starts with a request for a fee quote to establish a specific trust or legal structure. It's not uncommon for these requests to be quite detailed, specifying the type of trust (e.g., Singapore trust, BVI trust) or other structures (e.g., Private Trust Company) they might be interested in setting up.

This approach mirrors the transactional nature of their business dealings, where objectives are clear-cut and the solutions straightforward. However, this is where the private client world diverges significantly. The essence of achieving a family's objectives lies not in the establishment of a specific legal entity or structure per se but in understanding the purpose behind wanting such a structure. Is it for asset protection, succession planning, tax optimisation, or a combination of these and other factors?

Therefore, the conversation needs to pivot from specific requests to a deeper exploration of the family's overall goals, concerns, and circumstances. This shift is crucial for advising effectively in the private client space, where the implications of decisions extend far beyond the immediate and touch upon aspects of confidentiality, legal jurisdiction, and long-term family dynamics. It's a process that demands a more sophisticated, nuanced, and time-intensive engagement from the outset.

Can these challenges or hurdles be avoided?

Navigating these challenges effectively requires a holistic approach from the outset. My advice to those in advisory roles is to be proactive and to delve deeper into the motivations and concerns driving the family's inquiries. This may involve asking pointed questions that go beyond the surface level of wanting to establish a particular structure.

Understanding the patriarch's vision, the family's long-term plans, and the nature of their assets

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becomes crucial. Initially, the relevance of such detailed questioning might not be apparent to the family offices or gatekeepers, who may perceive their mandate as being straightforward – setting up a trust or another legal structure. However, the reality is that the more we know about the family's circumstances, the better positioned we are to offer advice that is not only compliant and efficient but also aligned with their deeper objectives.

On the other hand, the UHNW families in Greater China are in my view better served to overcome these challenges if they could select family offices or representatives who are open minded and can appreciate the value of holistic global estate planning for their families. After all, a legal structure like a trust is just a tool for a purpose. The form and the price of a tool are secondary considerations while what really matters is finding the tool which can meet the long term objectives of the UHNW families.

With geopolitical tensions affecting Chinese clients' wealth and planning, what are your thoughts on jurisdiction preferences for asset and structure diversification?

The geopolitical landscape and its impact on wealth is a concern that cannot be ignored, particularly for clients with significant exposure to volatile regions or markets. Singapore continues to be a popular jurisdiction among Chinese clients. However, the sophistication and complexity of clients' assets and family circumstances are driving a trend towards diversification beyond traditional jurisdictions. In some cases, this includes considering the UAE, Switzerland or Liechtenstein as an alternative, reflecting a strategic move to mitigate risks associated with geopolitical uncertainties.

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Wei Kang, A Snapshot of an Expert in Wealth, Estate and Legacy Structuring

Wei Kang is a highly experienced Partner at law firm Stephenson Harwood's Hong Kong office, specialising in private wealth and global estate planning. With her comprehensive expertise, Wei has become a trusted advisor to high-net-worth families across multiple jurisdictions, offering tailored advice on a wide array of wealth management issues.

Her practice areas encompass complex family trusts and civil law foundations, tax advisory, family governance, pre-immigration planning (Canada), philanthropy, family office establishment, and corporate restructuring, alongside wills, estate, and family business succession planning.

Wei's ability to navigate both onshore and offshore complexities has made her an invaluable resource for clients seeking nuanced, practical solutions to the multi-faceted challenges of wealth planning. Her experience extends to advising trustees and institutions on operational and fiduciary aspects of asset protection structures. Wei's approach is holistic, ensuring that each client's wealth management strategy is fully aligned with their long-term goals and family values.

Before her tenure at Stephenson Harwood, Wei practised law in the Vancouver office of a leading Canadian national law firm and the Hong Kong office of several international law firms, working with seasoned international tax planners to develop and set up a variety of private wealth structures. Her qualifications span Hong Kong and British Columbia, Canada. Wei's unique background includes secondments to the legal departments of a global bank, enhancing her understanding of the wealth business and trust company operations.

Fluent in English and a native Mandarin speaker, Wei's communication skills have been a cornerstone of her practice, enabling her to effectively counsel a diverse client base. Her academic accolades include completing the In-Depth Tax Course of Chartered Professional Accountants of Canada, which complements her legal expertise with a deep understanding of complex tax matters. Wei Kang is a legal expert dedicated to crafting sophisticated, forward-thinking solutions for wealth, estate, and legacy structuring.



necessitates more intricate planning, the appeal of complex structures and asset diversification becomes pronounced. Conversely, at the lower end, the priority remains on jurisdictions that can be serviced without language barriers, pointing towards a delicate, thoughtful approach to selecting jurisdictions based on the specific needs and capabilities of each client. This trend underscores the importance of tailored advice that considers not just the financial but also the personal and cultural aspects of each family's situation.

How do you encourage them to become more aware of and articulate about what they want to achieve?

The awareness amongst clients regarding their true objectives varies significantly. While some high-net-worth families have a clear vision of their goals, many others are navigating a complex and often overwhelming landscape of options and considerations and are often struggling.

The seeming uniformity of the external world, with its shared news and events, does not translate into a uniform perception among families regarding safe jurisdictions or investment strategies. For instance, despite global uncertainties, some families maintain a strong preference for the US, seeing it as a safe haven for their assets. Others, mindful of geopolitical risks, opt for a diversified strategy that includes jurisdictions like Hong Kong, Singapore, and Switzerland, each offering different advantages and protections.

This diversity in perception and strategy highlights the critical role of advisors in guiding families through the maze of options, helping them understand the implications of their choices, and aligning their decisions with their overarching goals and values. The advisory process, therefore, is not just about providing options but about educating and empowering clients to make informed decisions that best serve their long-term interests.

How do, or perhaps how should, clients choose their advisors?

The selection of an advisor is a decision that hinges on a combination of factors, with trust being paramount. Clients should be seeking advisors who not only possess the technical expertise to navigate cross-jurisdictional issues but also the ability to understand and align with their personal and family goals.

The relationship between an advisor and their client is deeply personal, built on a foundation of trust and mutual understanding. Clients are looking for advisors who can provide comprehensive, holistic advice that takes into account the full spectrum of their needs and objectives. This includes not only the legal and financial aspects but also the personal, familial, and emotional dimensions of wealth management.

The ability of an advisor to communicate effectively, to empathise with the client's situation, and to provide tailored advice that resonates with their values and aspirations is crucial in trust building.

There is still considerable negativity around the future of Hong Kong as a global financial hub. What do you believe is Hong Kong's future role in wealth management and structuring?

Despite the challenges and the shifting perceptions of Hong Kong, its role in the wealth management and structuring landscape remains significant. One of the critical factors underpinning this relevance is the concept of substance in wealth structures. In a world where tax authorities are increasingly vigilant, having a substantive economic presence and activities associated with a trust or structure can be a powerful defence against scrutiny.

Hong Kong's unique position, especially for mainland Chinese clients who may find it challenging to establish substance in other jurisdictions like Singapore, ensures its continued importance.

The city's robust legal framework, extensive tax treaty network, and territorial tax system offer strategic advantages that can be leveraged effectively in wealth structuring. For families with deep ties to mainland China, the practicalities of establishing and maintaining substance make Hong Kong an attractive option.

This doesn't diminish the value of diversification - Hong Kong should be viewed as part of a broader strategy that may include other jurisdictions. The key is to

understand and utilise the strengths of each jurisdiction in alignment with the family's overall objectives and circumstances.

Governance is always a key topic these days, so could you comment on that?

Yes, an area that merits further discussion is the integration of family governance with wealth structuring. While the importance of documenting family values through mechanisms like family charters is increasingly recognised, the interaction between these governance structures and the legal mechanisms of wealth management is less frequently explored.

Effective family governance, when aligned with trust or trust like structures, can be a powerful solution for succession planning. This approach can ensure that the family values and family policies adopted in the family charters can influence the behaviours of family members for generations to come by enabling the family councils to play a key role in the decision-making of the wealth holding structures such as distributions of family wealth. On the other hand, the operation of the wealth holding structures are less likely to be threatened by family disputes following the passing of the patriarchs once the families adopt a governance mechanism which would allow them to speak with one voice even when the families expand into their third generation and beyond. ■

