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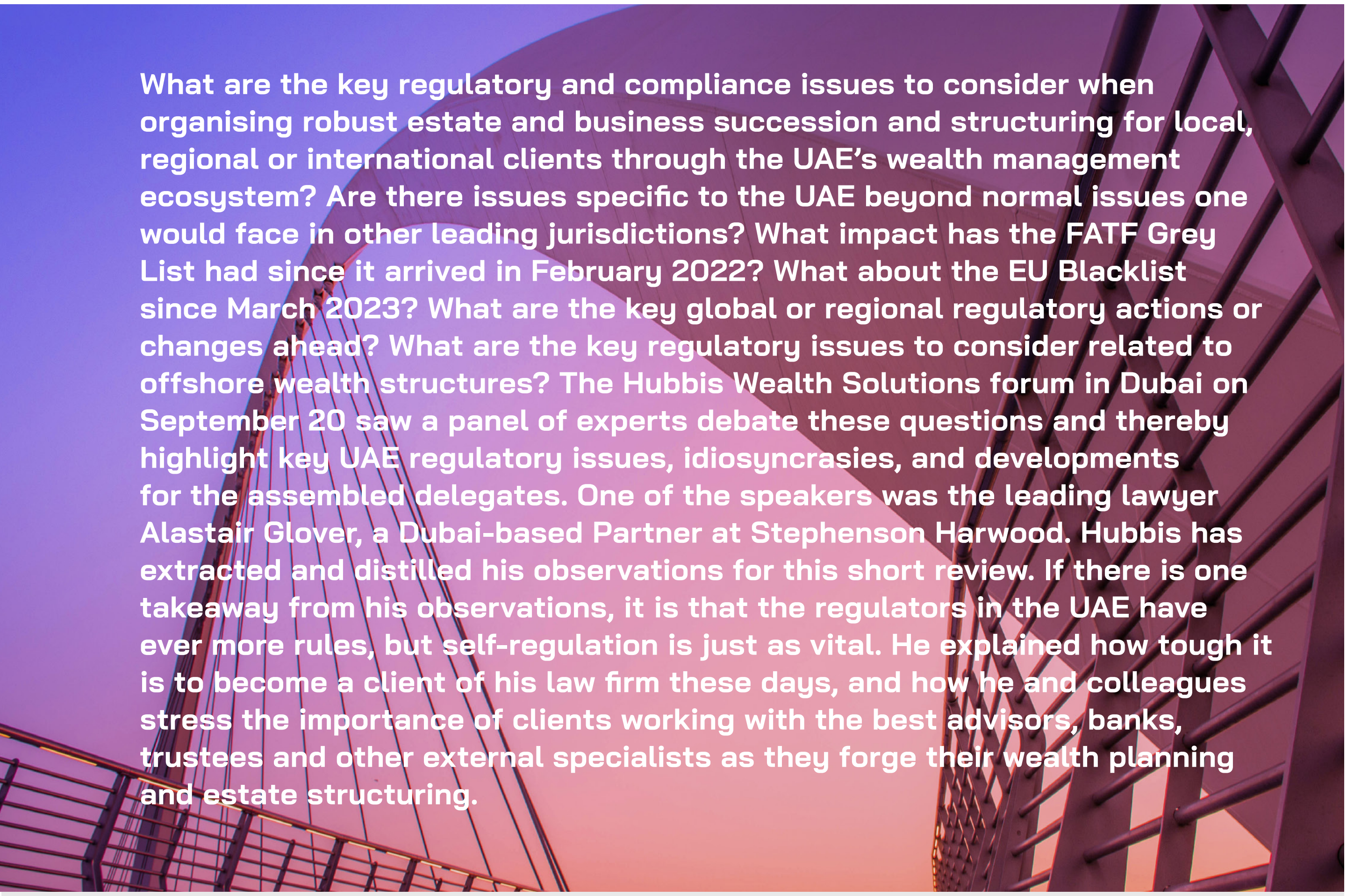
Dubai-based International Lawyer Alastair Glover on the Value of Transparency for Wealthy Private Clients



What are the key regulatory and compliance issues to consider when organising robust estate and business succession and structuring for local, regional or international clients through the UAE's wealth management ecosystem? Are there issues specific to the UAE beyond normal issues one would face in other leading jurisdictions? What impact has the FATF Grey List had since it arrived in February 2022? What about the EU Blacklist since March 2023? What are the key global or regional regulatory actions or changes ahead? What are the key regulatory issues to consider related to offshore wealth structures? The Hubbis Wealth Solutions forum in Dubai on September 20 saw a panel of experts debate these questions and thereby highlight key UAE regulatory issues, idiosyncrasies, and developments for the assembled delegates. One of the speakers was the leading lawyer Alastair Glover, a Dubai-based Partner at Stephenson Harwood. Hubbis has extracted and distilled his observations for this short review. If there is one takeaway from his observations, it is that the regulators in the UAE have ever more rules, but self-regulation is just as vital. He explained how tough it is to become a client of his law firm these days, and how he and colleagues stress the importance of clients working with the best advisors, banks, trustees and other external specialists as they forge their wealth planning and estate structuring.

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ALASTAIR GLOVER
Stephenson Harwood

Ever more regulation

A panel member opened proceedings by observing that since 2008 there has been a global thrust to transparency, with a host of rules and numerous acronyms arriving, including FATCA, FATF, CRS, AEOI, BEPS, and others designed, for example, to uncover beneficial ownership, with private and public registers of holders multiplying across the world.

For the UAE, the onset of the pandemic and then the Ukraine conflict has resulted in a massive influx of wealthy international people and families, including many Russians. In a nutshell, this has caused the world's media and multi-lateral bodies to focus on the UAE, seemingly a welcoming recipient of these individuals, and has resulted in the blacklisting of the UAE by the European Union, coming on top of the grey listing of the UAE by the FATF, or the Financial Action Task Force.

The UAE is tightening up

Alastair opened his commentary by remarking that the UAE appears to recognise these issues and has been working to demonstrate that they are on top of the perceived issues within the jurisdiction.

"I am a lawyer in the Dubai International Financial Centre, and I can state that it is very well regulated in terms of KYC, AML, and follows best international practices. And at the DIFC, we have seen more investigations, as well as fines, all of which show intent in these areas."

Progress, but more can be done

But he did say that the net needs to widen and penetrate the older, more traditional type cash-based and commodity-related areas of activity, such as money exchanges, which are more difficult to monitor or regulate. "We are also seeing more investigations and fines issued in those areas, and we expect more to come. The UAE does evidently want to align itself more with the leading global jurisdictions and wants to be seen as a positive force on the world stage."

He pointed to Dubai's hosting of COP 28 later this year, which will place more of the world's gaze on the UAE and help focus additional effort on improving practices in the region and the overall reputation.

All eyes on compliance

Another expert pointed to a tighter environment around the relatively new foundations, around fiduciary services, and highlighted more fines being delivered around transgressions of rules within the corporate services world in the region. He explained this extends also into the free zones, noting that these are not sham investigations, but genuine action followed by real fines.

The same guest also noted that the black and grey listings have actually served to focus the private sector and authorities on regulatory shortcomings and accelerate the progress that needs to take place. "The UAE has gone from being on the naughty list to working harder to get off those lists, and that actually deters some of the more dubious people and companies from coming here, which is encouraging."

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Self-regulation is also vital

Another guest said that self-regulation amongst the private sector participants in the rapidly growing wealth and advisory ecosystem is vital and improving markedly, although there are plenty of inconsistent practices and practitioners still active in the market. "And the regulators need to improve their sophistication in understanding market activity and the types of structures, so they can better monitor and regulate," he explained.

That led Alaistair to comment that it is important to take a risk-based approach to the many regulations and the authorities in the market, both in the UAE and overseas where their clients might have businesses, assets, homes or family members.

He agreed that an issue to overcome for them as a law firm dealing with immense detail around technicalities and structures, often across multiple jurisdictions, was in the level of expertise (or lack of) at some of the regulators and authorities.

Seeing the long-term vision

That led him to remark that self-regulation by reputable specialists in the advisory and services industries was indeed especially vital, even if somewhat frustrating at times. He cited his own firm's 'business acceptance team', which he said was somewhat of a misnomer, as it is today very difficult for potential clients to be accepted by them as bona fide. He said that is, correctly, their very rigorous approach, but also wondered if other firms apply the same types of tough standards.

Alastair then shifted his focus to the more positive aspects of advising their clients and working with other specialists in the market, such as fiduciary firms offering trustee or business services.

Analysing situations, addressing real needs

He said that the first step with clients was to identify what needs and what assets they have and where those are, the jurisdictions they currently or could use, and the structures they have or could create.

He explained that as client needs become more diverse, more global and more complex, as a law firm coordinating with other experts, they increasingly work with independent trustees, as they tend to have a wider spectrum of assets they can manage than perhaps the more conservative, bank-linked trust firms.

Pay up for quality, it represents value

"One of the advantages of a more boutique approach is the ability to actually try and properly understand things," he explained. "Yes, it might cost more money for the clients, but actually, the trustees and other parties will conduct a more thorough risk assessment, they will try to understand what is going on at different levels and they will often insist on involvement at appropriate levels in order to discharge their duties."

He said this might be seen by some clients as a barrier to setting up their structures, but in the bigger picture, it is sensible. "Many of these families have a pretty high profile, a visible reputation to protect," he explained. "We therefore consider part of our job is to advise them of the value of a more rigorous approach from the banks, trustees and other parties who they will work with."

Think about the future

He concluded that the benefit of reputation management should not be underestimated. "In today's world, the more transparent you are the better it is in the longer term, so choosing the right service providers who adopt the best standards is a wise approach." ■