

Just a matter of trust

Family offices trying to solve their clients' complex succession planning issues are increasingly facing a conundrum, says Tan Woon Hum of Shook Lin & Bok LLP: hire external advisers or rely on talent from within?

The complicated business of succession planning is fraught with twists and turns that lead to pitfalls for the unwary or ill-advised.

Perhaps, also, there is discord within the family over exactly how to map out the future – both for the current and future generations.

How to minimise these risks is a question that patriarchs, matriarchs and senior family members across Asia – as well as their advisers – are asking. Yet the answer is never an easy one.

“It is not one-size-fits-all and there is no formula, because this depends solely on the situation of the client,” says Tan Woon Hum, a partner with Singapore law firm Shook Lin & Bok LLP.

“It also depends on whether the patriarch has brought us in [to advise] or if it is the second generation that is asking for advice.”

GETTING ON THE SAME PAGE

Tan's reputation is as an experienced professional who specialises and advises such clients on investment funds, REITs and trusts.

He heads a team of specialist lawyers in his firm's trust, asset and wealth management practice, plus he co-heads the corporate real estate team.

Fundamentally, he believes any family must be in accord with the advice given.

“Normally, the patriarch or the matriarch would want something that's sustainable over generations,” he explains.

“In the grand scheme of things, their ideas and their ideologies, and what they want to tell the children and grandchildren, can all be detailed in what we call the code of conduct or the family charter, and they can even put it into the will or trust. The issue is not to change the grandmaster plan.”



TAN WOON HUM
Shook Lin & Bok LLP

At the same time, families need to be aware that the specifics may also have to change. This might be subject, for example, to the discretion of the pa-

triarch or matriarch, or perhaps a board of governors or board of trustees that the family constitutes for any major changes.

“That review and tweaking is essential because the world changes quite rapidly every three to five years, especially today when there is a lot of disruption,” adds Tan.

WHO TO TURN TO?

Tan has his own views on how succession planning should provide comfort for everyone involved.

the family members, or, where they have identified very good external professionals, to bring them in,” says Tan.

As a result, the children and grandchildren may or may not be involved in the family enterprise, but they must be in control.

“They must take certain positions in the board and then the capable, willing and able descendants can fill top management positions, otherwise they should hire from outside.” Hopefully, Tan says that this allows the succession of the

in external professionals to take control of their affairs.

If other family members oppose this decision, an unsavoury situation could result.

“We have seen many different cases and there are various permutations on how this can be eventuated,” says Tan.

“There are the ‘die-hards’ who refuse to admit external parties, maintaining that the controlling shares, the board and the top senior positions must always be held by family members.”

Yet this may not be the best strategy, he adds, because the business is unlikely to be getting the best person for the job.

“The [families] who are bit more pragmatic, and liberal, will say ‘I will give the position to my son or daughter if he or she is willing and able,’” says Tan.

“Normally, the patriarch or the matriarch would want something that’s sustainable over generations.”

“To me, succession planning, or wealth transition, means allowing the family to stay predominantly together and being able to enjoy the wealth that has been accumulated, the legacy that has been created,” he explains.

This often entails an important number of aspects. For example, he says, if the patriarch or matriarch has already built up an enterprise or conglomerate, hopefully the control and the economic value will be sustainable through succession planning.

“This involves both corporate succession planning, which may involve senior management positions being filled by

family enterprise, and the continuance of the economic value created to remain in ‘safe hands’.

If run properly, he believes that the economic value will be sustained, or even grow.

“That will continue to allow a strategy of asset protection to preserve and protect the capital of the family,” he says, “and grow it not just to beat inflation, but to realise a good return for the family.”

However, it is not always plain sailing, especially if friction gets created when some family members decide to bring

He has seen situations where some in the next generation are qualified and able, but not willing.

They want to pursue their own profession, for instance, and want to pursue their own interests.

“This then becomes a problem as there is no inherent or natural authority,” says Tan. “That’s where I think advisers, especially independent advisers, will need to help the family understand what is in the best interests of the business and the family, because we are trying to make it sustainable and protect the family and let them take a long-term view to enjoy the wealth that has been created. That is paramount.” ■