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Looking to the Future - Estate & Succession Planning and Asia's Next Generations

As the founder generations of Asia's wealthy and uber-wealthy families and family dynasties increasingly seek guidance for wealth and estate transfer to the younger family generations, it is important for the banks and other advisory firms in Asia to understand how to deal with these clients. Some families bury their heads in the sand, ignoring the need for clearly defined decisions and roles, while others are keen to embrace the process and to put in place the right governance, structures, and direction for the next generations.

The patriarchs and matriarchs of Asia's wealthy and uber-wealthy families can be controlling, many of them preferring to make all decisions unilaterally. This can be difficult to handle, leading to the younger generations not feeling involved in the family businesses until they might suddenly be thrust into the limelight. But wealth management experts specialising in the field of estate planning and transitioning – a vital area with trillions of dollars of wealth are due to change hands in the coming few decades – must carefully navigate these waters in order to help the different generations. If the wealth management industry wants to best serve its clients, and also to retain the younger generations of wealthy for the future, they should help encourage families to embrace inclusiveness in their business and estate and succession planning for the future.

The next generations are usually highly educated, often in long-established Western institutions, which can lead to a better understanding of worldly matters, of wealth management issues, and often serves to boost their entrepreneurial hunger. As well as enhancing their focus on governance generally, sustainability in the family business and indeed in financial investments. The wealth industry in Asia needs to understand and address the key differences between the generations to develop value, trust and a pull-together attitude, and then tailor products and solutions to suit the different generations.

In the second of two virtual thought leadership discussions during July, Hubbis and our exclusive partner, Jersey Finance – the promoter of Jersey's international finance centre, invited a group of experts to debate these vital matters.

The Key Observations

Disputes happen...all too often

Act early and act emphatically, as disputes of all types can often occur within families, between spouses and partners, between siblings, between generations, and these are often highly charged situations.

Be inclusive

Structures created for Asian clients seeking estate and succession and business continuity planning tend not to include the younger generations often enough (collectively the 'NextGens' who might span from Millennials up to individuals in the 60s). Succession planning should not be about the founder generation retaining control, it should be about ensuring continuity of the family businesses and wealth into the future generations and helping them build the family dynasty while also pursuing their own objectives.

A social role to play

Wealthy Asian families are increasingly looking into their values and the purpose of their wealth and seeking to leave a legacy that benefits broader communities and society. This is partly driven by the more worldly outlooks of the better and usually Western-educated NextGens.

Older generations need to nurture but not spoil

The founder or older generations consider it important that their children are ambitious by making it clear that they are not going to be extraordinarily wealthy no matter what they do. They try to encourage and structure their affairs to help the younger generations, but not to spoil them.

Wealth transfer is not a one-size-fits-all business

Each family member has their own hopes and ambitions as well as their own skillset. Wealth managers must listen to their individual voices, as alienation breeds disconnection and the structure may become unstable. Moreover, wealth management firms are thereby enhancing the potential to retain and attract younger generations of clients.

Difficult choices to make

Clients, particularly in North Asia, are fickle and often overwhelmed when it comes to advice. Keeping advice simple and guiding them to make the best decisions is important, as is understanding that the younger generation can flinch at some of the more traditional ideas of wealth transfer, and therefore advisors should gently guide families towards greater inclusion, and towards the values of fairness and also gender equality.

Moving in the right direction

Asia is definitely advancing in terms of the overall approach to estate and succession planning, and the older generations are recognising they should structure to accommodate the differences as well as the similarities amongst the family generations.

Wealth management skillsets and services need to be sharpened

The institutionalisation and deeper professionalisation of Asian family wealthy, especially UHNW wealth, is taking place apace. The private banks and other advisory and asset management firms need to upgrade their services and skills to ensure these clients are properly served, and across the generations.

Building an ecosystem of expertise

Most of the leading and indeed more boutique private banks are becoming quite well versed in estate and succession planning but they must work to help build a composite team of legal, tax, accounting, trustee and other experts who can handle the often highly complex and increasingly trans-jurisdictional issues.

Less than 40% of Asia's NextGens want to take the family business reins

An expert pointed to his bank's research that shows how less than 40% of NextGens in Asia want to take control of their family businesses. But he highlighted how there is an increasing trend to allow the NextGens to use the family fund and resources to set up their own ventures under the family umbrella, and therefore stay within the broader family fold.

Governance is essential to bridge across all generations

The wealth management industry is increasingly focused on helping families tackle the issues of corporate and family governance, which helps them set standards and responsibilities, and also serves to help bridge the differences between the generations. Founders are advised to include the different generations early on in the family council or family assembly, and to listen to their insights and opinions.

Asia is more often mirroring trends in the West

An expert observed that there are today more similarities between wealthy families in Asia and wealthy families in Europe or the US, with more of a trend towards NextGens going their own way, more of a shift towards philanthropy and other issues surrounding sustainability and social and community responsibility.

Structures need to be reviewed and strengthened

Many of the structures in Asia for both holding and transferring businesses and assets are not fit-for-purpose and need to be urgently reviewed, updated, and upgraded.

Don't expect cheap solutions

To achieve all the key goals of estate planning and succession, with a view to inclusiveness across multiple generations, families need to realise they will need to pay real fees for real advice and solutions. Cheap solutions will likely result in poor outcomes.

Trust arrangements should not be devised as disguised control

Families need to appreciate that these days entering into a trust structure means genuinely distancing from control of the assets. Wealthy families in Asia struggle with this concept, but in the world of greater regulation and oversight, they must adapt to this new reality.

Cultural nuances must be understood

The wealth management community must realise that cultural practices in Asia mean that there is less of a tendency for the NextGens to challenge the older generations, or even to try to stimulate an open dialogue, whereas in Europe and the US it is much easier to address issues and sensitivities head on. Accordingly, good advisors will attempt to open the doors to such dialogue and communication, as this is vital to good outcomes.

Older generation needs to be more adaptable

A guest commented that to address the key issues across generations, the founder generation needs to let go of some of their entrenched values and viewpoints, to then also understand and listen to the next generations. If so, then they can create a more successful, constructive, and inclusive plan that takes into account different visions of the future.

Recognise that things change, constantly

Whenever families set up a plan and structures, it might be appropriate for that point in time for their lives as a family, but then the younger generations grow up, get married, go overseas, embark on new ventures, meaning their values and their personal experiences change. Families must therefore adapt their structures and solutions regularly.

Independence is extremely important, especially for the NextGens

The smart, well-educated next gens of Asia can very easily see through conflicts of interest emanating from bankers, advisors or service providers not offering advice that is truly in the interest of themselves or their families. The wealth management community should recognise this and work to eliminate as many such conflicts as possible.

Don't expect loyalty for the NextGens until it has been truly earned

Pursuing this line of discussion, the panel agreed that the NextGens will very often later choose their own relationships and advisors, not necessarily stick with those of the parents or grandparents. Accordingly, the banks and other advisory firms must reach out to the NextGens at the earliest possible time and build those relationships from the ground up.

Midshore and quality offshore jurisdictions stand to gain

The midshore jurisdictions such as Hong Kong and Singapore have a distinct advantage in estate and succession planning and will benefit from wealth transition as they increasingly become global and regional centres for family wealth. Similarly, the political and global regulatory climate means that structures and partnerships will increasingly shift to the top quality IFCs with the best reputations.

IFCs must be nimble and adaptable

The discussion closed with a comment on international financial centres, with a panellist commenting that IFCs must be ready for the transition of both wealth and control to the younger generations, and adapt their ranges of offerings and services as well as their approaches to cater to this rising swell of needs and expectations.

The Discussion

The discussion opened with a word of warning from a lawyer, who reported on the prevalence and problems of family disputes, including internal disputes, disputes between siblings, disputes between generations, and these are often highly charged situations.

Another expert agreed, noting that this sharpens the focus on succession planning and structures. "People who come to us wanting to initially protect their assets often then tend to throw in succession planning at the same time, but when you look at the structure that is actually put together, there is so often no element of involving the next generation. It is usually all about founders still retaining control. From that, we can see that there actually hasn't been any thought given into this succession planning element. However, people think that because they have a structure in place, therefore they have a succession plan, but that is not the case."

NextGens – side-line them out at your peril

She added that increasingly, she is seeing the NextGens questioning the structures, the planning, and sometimes litigating as well in respect of these structures because they have been side-lined from the succession planning aspect.

A different perspective was offered by a guest who reported that the pandemic had accelerated their clients' involvement in emergency funding and donations, and also focusing more on impact investing, governance in general, foundations and so forth.

Values as much as value

"Families are increasingly looking into their values and the purpose of the capital and looking at leaving a legacy," she observed. "That's something that is probably going to be relevant across the board in terms of their businesses, succession, family governance and also when we are doing trust structuring."

Another lawyer commented that he had been seeing more and more clients who are more inclined to give the majority of their wealth away to charities rather than pass it on to the NextGen, especially if those younger generations are not particularly interested in the business. They might of course make sure the children and NextGens are looked after in terms of their lifestyles, but they are telling them well in advance that the majority of the money is going to charity and therefore if they wish to be wealthy themselves they are going to have to work hard, do something for themselves, rather than just sitting and wait to inherit. We see that approach coming very much to the fore."

A balancing act

He added that this type of thinking is on the rise, as the founder or older generations aim to instil ambition into their children, so as to not wreck their children's lives by giving them no ambition whatsoever, by making it clear that they are not going to be extraordinarily wealthy no matter what they do. "I think a lot of people are trying to avoid that and at the same time fulfilling their own ambitions to do some good for the planet or whatever it is via a charitable cause," he added.

One expert reported very considerable advances in the past

20 or so years in how families are handling the whole issue of business and wealth transfer. He noted that very often there were no wills, no structures, and what might have been in place was poorly conceived or badly drafted.

Moving in the right directions

"We have definitely shifted in the right direction in terms of there being more awareness of the issues that can arise, but yes, the challenges still exist in terms of whether or not the NextGens have the ability, the ambition to continue the legacy, and on that matter, it is difficult to generalise. In Hong Kong, we can all point to very good examples of families who somehow have got it right, not just over the second, but even over the third and fourth generation. Equally, I am sure we all have clients who are struggling with all this, who might want to take the normal route of the son taking over, but he might not be capable for whatever reason, or willing."

With all these challenges, he noted that so many professional advisors and nowadays increasingly, the banks are all very focused on the family office sector. The institutionalisation and deeper professionalisation of family wealthy, especially UHNW wealth, is taking place.

The expertise ecosystem

The panel discussed how different skill sets need to be brought to bear for these families, and that sometimes the private banks will have some of the core skills embedded in their family advisory or services operations. But there are clear limits to what the banks can do, with the need for tax, for example, to be addressed only by licensed professionals and lawyers.

"Succession planning, the big picture, yes, the private banks are becoming quite well versed in the issues and can handle those quite well," he observed, "But when it comes to tax, or compliance, or other key issues, those must be handled by different professionals, so you need a composite team as opposed to relying on just one individual, and the second and NextGens in general understand this increasingly well."

Cultural & generational nuances

An expert commented that there is still a huge degree of deference paid in families in the region to the founder or older generations. He commented that there is a strong ethnic control by people of Chinese descent, through Hong Kong and across SE Asia, disproportionate to the wider population, and that the older way of doing things still prevails. He did however imagine that as the NextGens take control, things will likely change markedly.

A guest highlighted his research which indicated that less than 40% of the next generation actually want to succeed the family business, but that there is an increasing trend to allow the NextGens to use the family fund and resources to set up their own ventures under the family umbrella. "That really encourages them to come back and support the family business itself and they can then develop the legacy businesses and the now ventures," he commented.

Being inclusive

He added that there is value in governance, a family council,

family assembly, proper planning for families of a certain size, and that everyone, from the major private banks to other advisors, are all becoming more astute in their advice and also in pointing these clients to greater education on all these matters, in order to engender better and more robust solutions.

Another expert observed that there are today more similarities between wealthy families in Asia and wealthy families in Europe or the US, whereas people very often try to focus more on the differences. He observed that trends towards NextGens going their own way, towards philanthropy and other initiatives are all evolving in Asia, just like they did earlier in Europe and the US.

Adapting to the global model

"I see a lot of similarities in terms of trends, especially in the UHNW arena," he said, "more so than differences, although I am newer to this market than some here." He added that another take on all this is to prepare the family for business succession to third parties, should the family sell when a founder patriarch or matriarch passes away. Preparing the business properly to ensure a smooth transition and to look after loyal employees and senior executives that helped build up the business is another vital area to consider.

Another expert agreed, noting that there are many steps that can be taken, including splitting voting and non-voting shares in advance, creating a committee of trusted business and family advisors that might later hold the voting shares where the family sells the non-voting stock to a charitable trust, preparing a fighting fund in advance to ward off hostile takeovers in public companies if key people pass away - all these elements can be added into the mix.

"Very often, the organisation of it all in reality is for the trust and the parties to be organised effectively for the founders to keep control, not involve the younger generations; we do see a lot of that still these days. Often, they do not bring in any children to show that the structure even exists, let alone how to run it moving forward. We come across a lot of clients now that have trodden this path already, but who are now trying to maybe refine it."

All in the garden might not be rosy

A trust firm expert commented that too many of the plans in place are poorly conceived and badly executed when one scratches below the surface. "Very often, the organisation of it all in reality is for the trust and the parties to be organised effectively for the founders to keep control, not involve the younger generations; we do see a lot of that still these days," he said. "Often, they do not bring in any children to show that the structure even exists, let alone how to run it moving forward. We come across a lot of clients now that have trodden this path already, but who are now trying to maybe refine it."

He added that family businesses also need to be aware that it is inadvisable to force the NextGens to address such major issues at the last minute. "The first generations need to understand the weight of that responsibility and try to involve the children, the younger generations, in at a much earlier stage. We see more families starting to understand that, and certainly the younger generations do. Having said all that, it is better than five or 10 years ago."

Pay up to play properly

He added that to address all these matters properly is expensive, but a drop in the ocean often compared to the wealth under discussion for any particular family. "There are so many issues to be addressed in all this," he said, "from tax to cross-border issues, and a host of matters, and the families therefore need a range of experts to pull this all together, it cannot be done through one trusted advisor. They need a greater breadth and depth of expertise."

A lawyer commented that too many trust structures he has reviewed out of Hong Kong and in the region are not fit for purpose, either poorly designed or out of date in relation to new global and local regulations, including, for example, estate duty, which in Hong Kong existed, was furloughed, but that could return at any time.

"For families in the Far East generally," he remarked, "they have fewer tax issues because there is largely no estate duty in the region and the tax regimes are more

benign, and there is often a lot more they can perhaps get away with in terms of how much control a settlor or his later families are given over a trust structure."

Robust solutions required

Nevertheless, he explained that he too often sees trusts which are not trusts, that are really nominee-ships and that are really not fit for purpose. "They will never be able to withstand an attack if asset protection was a goal because it could be relatively easy for somebody attacking them to show that this is not a trust, that they have too much control, and therefore the asset should be treated as belonging to the settlor or some of his family," he explained.

He added that his firm does not want to take on trusteeships where they are not really proper trustees. "We fundamentally don't like that," he said, "but in reality, I suppose they can work insofar as they provide mechanisms to pass the assets on and administer them, even if they lack the basic facilities of a normal trust which would be entirely necessary if you want to convince a tax department that what you have done is proper planning."

Being realistic

He said that in Asia, in reality, there is more latitude. "To some extent the clients are pretty happy with those situations, because they don't like the inconvenience of involving the trustees, or having any interference in running their businesses or their affairs," he noted. "And honestly, to a certain extent it may work, but for a greater purpose these do not really pass muster. We are looking at older trust structures which have been around for many years; that is a recurring theme, many of them are really not fit for purpose in my view."

Returning to the concept of succession planning, another panel member commented that there are always different paths to achieve that. The planning needs to focus on all aspects, including the businesses, the family wealth, and all the different elements that go into the mix.

A guest added that complexities are often arising when another family suddenly appears, as it transpires the patriarch had a mistress and sometimes a family with that person, unbeknown to the 'legal' family.

Opening up

"The challenge of obtaining the best advice and bringing in the top experts in the different fields," he said, "is that the individuals, the families, need to open up their private matters to outsiders often and that isn't easy for many families both here and other parts of the world. A trusted advisor in the centre can help facilitate these matters and build trust between generations and between families and outside experts. It is not easy to do but certainly, I have seen it used to good effect to help a family through the planning phases of what they will do with the wealth, recognising that perhaps the second generation isn't capable or doesn't want to manage the family business and then, for example, bring other advisors in to help on the business side, or on the many other aspects."

In short, he cautioned that just relying on legal, accounting, and tax professionals without an overall plan, a vision, and a building of communication and trust is not a recipe for success.

Critical operations

Another guest likened the process to going in for a major operation, which requires the infrastructures,

the machinery, the surgeons, the other medical consultants such as anaesthetists, nurses of different levels, and so forth. "Sometimes advisors try to do it all by themselves," he observed, "they want to give the family advice, they want to manage the money and often it is better to have more of a team approach, which again in the competitive industry that we are all in, people are not often willing to readily go out and bring in a few other professionals to help a family even though it is quite apparent that they need such support."

relationships, on businesses, and this is seriously the first time that they have to unlearn what they have learnt before and this is not easy," she remarked. "And only by doing this, they would become open enough for the second generation or for anyone else including the advisors to actually go into their internal states and explore with them what is possible and realistic. This is something that I have been focusing on in the last two to three years from an emotional aspect, from the mental aspect and even from a spiritual aspect."

"When you get down to explaining what all this actually involves, and that a proper trust structure passes control to a trustee, they often look completely bewildered as to why anybody in their sane mind would do that, would hand over the control of their assets to comparative strangers. That is so often where it collapses, although it often seems like a jolly fine idea to them before they appreciate the true realities."

A guest reiterated that the cultural issues in Asia mean that there is less of a tendency for the NextGens to challenge the older generations, or even to try to stimulate an open dialogue, whereas in Europe and the US it is much easier to address issues and sensitivities head on.

Another expert agreed, noting that communication is vital and that often in her dealings with the families it is the first time they are having such conversations and therefore the first time that they are learning how to 'unlearn' control.

Evolving theories of control

"They have been controlling during their entire lives on wealth, on

Another guest agreed, adding that so much of the challenge is not about the technical advice, but around the psychology and people's values. "When people talk about how to make a succession plan successful, a lot of people say the older generation has to let go, but it is not actually letting go of control necessarily, it is actually letting go of some of their entrenched values and viewpoints, to then also understand and listen to the next generations. If so, then you can create a more successful and constructive plan.

Bring on the NextGens

The same guest mined down further into this seam of thinking, adding that it is also about

purpose in life, and adapting to different visions of the future, more inclusive of other generations and needs and expectations. A fellow panellist agreed, adding that each person needs to see themselves as part of a lifecycle and that the older generations do not always see that clearly.

"Whenever they set up a plan and structures, it might be appropriate for that point in time for their lives as a family, but then the younger generations grow up, get married, go overseas, embark on new ventures, meaning their values and their personal experiences change. So, plans in place some years ago must be adapted, and people must be adaptable."

A lawyer concurred, noting that he sees a lot of this manifested in older structures that today are completely not fit for purpose. "So many times, when I ask them why they organised things as they did in the past, these clients shrug their shoulders as they admit that they really have no idea why they did it, what the rationale was, what the purpose was, so it was all a false start."

Structures – not just a fashion accessory

Another guest admitted that planning and structures had often been adopted as they seemed fashionable, like a new designer handbag, a new must-have accessory for the life of luxury. "When you get down to explaining what all this actually involves," she said, "and that a proper trust structure passes control to a trustee, they often look completely bewildered as to why anybody in their sane mind would do that, would hand over the control of their assets to comparative

strangers. That is so often where it collapses, although it often seems like a jolly fine idea to them before they appreciate the true realities."

Another lawyer added that there are many issues to address from early on, especially with global families who have members dotted all over the globe. All the issues around tax planning and immigration, residence, domicile, and so forth need to be thrown into the pot to end up with the dish at the end.

A lawyer observed that working with the private banks is increasingly necessary as they are focusing more efforts on estate and succession planning. "They can be a very useful conduit and if you can work with the private banks, they can often refer very good clients to you."

Plenty of opportunity ahead

However, he conceded that the big banks have the major resources and are also very good at marketing, and can make the additional basis points of managing the assets, while at the same time acting as trustees. "We are however working from a different cost base and the fact is it is not just a level playing field, but we just have to live with that," he concluded.

Another guest agreed, adding that the banks can get the compensation for being that trusted advisor, but truly putting the client's interest to the forefront every time is often secondary to the commissions that are often paid on complex structured products in terms of the investment side of the equation.

NextGens do not suffer fools gladly

"It is a dilemma for those of us who are involved more on the advisory side as opposed to the asset management side," he observed, "but I guess it has been that way for some considerable time, so probably won't change very soon. It will really only be when families begin to better understand those conflicts of interest that exist, but when the money gets passed on to the next generations, perhaps then more people will begin to understand the whole issue around these conflicts of interest."

Pursuing this line of discussion, the panel agreed that the NextGens will very often later choose their own relationships and advisors, not necessarily stick with those of their parents or grandparents.

"If we all want to retain that business and that relationship," he said, "we have to bring in younger people who are more appealing to and more in tune with that next generation, because older advisors are not at the right age to connect to them."

Reaching out to the NextGens

Another expert agreed, noting that the private banks realise this and are fighting back, working hard to appeal to the NextGens with specific events, reach-out and so forth.

Migration to quality

"The midshore jurisdictions such as Hong Kong and Singapore have had a distinct marketing advantage in this phase," he observed. "The political climate of late has meant that other reputable IFCs, for example Jersey have been benefitting as they are stable and reputable trust jurisdictions with long history and currently offer suitable alternatives to Hong Kong and Singapore."

The discussion closed with a comment on IFCs, with a panellist commenting that IFCs must be ready for the transition of both wealth and control to the younger generations, and adapt their ranges of offerings and services as well as their approaches to cater to this rising swell of needs and expectations.

Future-proofing the model

"To be a jurisdiction for the future," Jersey Finance's An Kelles observed, "IFCs must remain entirely relevant and to do so, they need to reach out to the future generations of Asia, to understand them, to adapt, and to make sure those younger wealthy clients understand what a top quality IFC offers and what it represents. But the first step on this journey is to truly understand the issues involved in this transition, to try to better understand these clients and then to be flexible, nimble and stay entirely relevant to them." ■