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Peter Triggs: Reflections on Changes in the Wealth Management Industry

Peter Triggs has been working in different parts of the Wealth Management Industry -Tax, Trusts, Private Banking, and Insurance - for nearly 40 years, in the UK, Europe, Middle East and, for many years, in Asia. Hubbis asked his views on what the major changes in the industry have been and what may lie ahead.

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"We have not come through a major transformation of the wealth management industry, we are right in the middle of it."

Peter, you have been around for, shall we say, a long time, and seen the wealth management industry in several geographies. How have things changed, and are there more significant changes in store?

Well, one could write a book on what has changed in the industry over the last 40 years (try to imagine no mobile phones or internet, just for a start) but I don't plan to.

What I do think is instructive, however, is to take you back about 15 years, because around that time we started to see some very significant changes which are still evolving today, and which have, and are going to have, a huge impact.

I strongly believe that we have not come through a major transformation of the wealth management industry; we are right in the middle of it.

Ok, so we go back to around 2006?

Yes, around there, and I would like to break this down to distinct areas and look at what has happened to Privacy, Tax, Law, and Technology.

Let's start with Privacy. Up until 2006, the asset holding structure of choice in many parts of the world was a BVI company with bearer shares. When I first came to Asia in 1991, it was not unusual to find the Asian Taipans with great corporate structures all coming under a bearer share BVI holding company. The succession plan was often to tell the intended heir where the shares were. These companies were not bad things in themselves, but the cloak of privacy they provided was hugely exploited by bad people – drug barons, dictators stealing funds from their own countries, tax evaders and others.

Ever since 9/11 , 2001, there has been huge pressure led by the West on trying to keep terrorist and other criminal activity out of the offshore world. The US and the UK, together with the Financial Action Task Force (which had been formed in 1989 to combat money laundering and tax evasion) took the lead on this, and the UK applied pressure to its overseas dependent territories such as the British Virgin Islands, to do away with bearer shares and ensure all shareholders are registered. The BVI enacted legislation to this effect in 2006 and allowed people until 2010 to phase out the bearer shares. Bearer shares have now been eliminated in most reputable jurisdictions. (You can still find 'mobile' bearer shares in the Marshall Islands and Panama, and 'immobile' bearer shares which need to be registered with a custodian and the beneficial owner disclosed, are still offered by a number of jurisdictions). Countries have also been encouraged to open up registers of shareholders available to the public (the UK, Denmark and Ecuador are taking the lead) or at least to institutions with a genuine need to know. This is one of the areas still evolving. Registers of trusts are under discussion and coming into place in countries like the UK.

Of course, a major change in the area of privacy was the end of Bank Secrecy. In 2006, Swiss Bank secrecy was still in place with criminal penalties for those who breached it.

Bankers who revealed to the US tax authorities the extent of tax evasion by US clients in Swiss banks were rewarded by the US authorities, but charged with serious offences in Switzerland. Finally, the public mood and political pressures became so great that the sacrosanct banking secrecy finally gave in to the need to clean up the offshore world. When Swiss Bank secrecy finally ended with the first exchange of information on 5 October 2018, huge deposits left the Swiss banks. The US had introduced FATCA in 2010 and the OECD announced in 2014 that automatic exchange of information (AEOI) between signatory countries would be brought in. This was the single most significant change we have seen in the offshore world.

Although first met by denial, and then the search for loopholes, this finally gave way to acceptance, and the realisation that serious wealth planning was now needed. Right now, many countries (110, as at Dec 2020) have implemented the common reporting standard (CRS), and others are signing up. In Asia, Thailand is implementing CRS for first exchange in 2023, and Taiwan (not a party to the original multilateral agreement) is starting to sign bi-lateral treaties. The Philippines and Vietnam have not yet announced when they will join. The other major countries in Asia are already exchanging information. It is fast becoming a 'transparent' world.

Although preventing tax evasion can be regarded as a 'good thing' there have been some unintended consequences of CRS. For example, in some countries where kidnapping is a major problem, a leak of information from someone in a tax office to a gang member can put a whole family in danger.

What have you seen on the Tax front?

Over the last 15 years we have seen tax changes in every country.

In a few cases these changes were relaxations:

- Hong Kong abolished Estate Duty in 2006. Singapore did so in 2008.
- The Philippines used to apply a worldwide tax on its citizens (like the US) but recently dropped that in favour of applying worldwide tax to its residents, like most countries.
- In most cases, however, the tax changes have been increases.

We have seen more countries introducing controlled foreign company ('CFC') laws, so that you could no longer shelter income under an offshore company and achieve tax deferral if you did not receive a dividend. Indonesia revised its CFC rules in 2015, and Taiwan has new CFC rules in place with an implementation date still to be announced. (expected to be 2022)

These CFC rules are game-changers for those who live in countries that apply worldwide tax to residents. In Asia, the main ones would be Indonesia, Philippines, Taiwan and China.

(China, strictly, applies worldwide income tax to those domiciled in China, and citizens working temporarily overseas are just now starting to be assessed to tax in China on their overseas earnings)

Thailand introduced Inheritance tax in 2016. Although no tax was actually collected in the first full

year of implementation, that is expected to change when CRS reporting begins in 2023.

In 2018 there were rumours that Estate Tax may be brought back in Malaysia (it had been removed in 1991) though this was denied by the government. Questions were also raised recently in the Singapore parliament as to whether a Wealth Tax should be brought in.

No action on this for now, but the winds of change are building.

One of the most shocking changes recently was the UK in 2017 ruling that offshore companies and trusts would no longer be effective in sheltering clients from UK Inheritance tax on residential properties. Given that Asian clients have been the biggest buyers of buy-to-let properties in London over the last 15 years, and they were all advised to use offshore companies for this purpose, there is now a lot of new advice needed.

We also now have the Base Erosion Profit Shifting ('BEPS') rules introduced in 2013 that prevent corporates from utilising shell companies, with no substance, simply to make use of tax treaty exemptions. It was estimated that about USD240 billion of tax revenue was being lost every year from tax avoidance by multinational companies.

BEPS also helps to put an end to widespread 're-invoicing' activities where trading profits were artificially shifted to tax haven countries.

In 2009 we also started to see countries introducing General Anti Avoidance Rules. ('GAAR')

In the old days Tax 'Evasion' was bad, and a criminal offence in many countries, and Tax 'Avoidance' was legal and good planning. This has changed. People no longer accept that major corporations and the rich and powerful can avoid tax by engaging armies of accountants and lawyers to exploit loopholes. The principle behind GAAR is that if you have constructed a structure or process for which the only motivation is tax avoidance then it will be ignored. The main countries with GAAR today are the UK, France, Germany, Holland, Belgium, China, Singapore, Canada, Italy, South Africa, Kenya, Australia and India.

What has really happened in the tax world with the introduction of the CRS is a major power-shift. At a time when Covid-19 has left many countries with huge and growing debts, the tax authorities now have complete financial information about all their residents. Information is power. More tax changes are undoubtedly on their way.

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What do you mean when you refer to 'Law'?

For the most part, the legal changes that have been happening are largely to do with the tax changes mentioned above. But in the EU we have seen the introduction of MIFID 1 and MIFID 11 which have overhauled the wealth management and investment industry and harmonised reporting, research and other investment requirements across the EU. In the UK we had the retail distribution review which began in 2006 and

became effective in 2013. One major consequence of this was the removal of commissions from the sale of financial products. Clients now have to pay advisory fees rather than commission on products. The qualification and technical standards of financial advisors were also hugely increased, prompting a number of senior advisors to retire.

But one new legal issue arises now, due to the exchange of information. We are going to see more instances of conflicts of law.

Let me take as an example, an Indonesian with a trust and underlying company in Singapore holding their Singapore investment account.

In the past, one might focus just on Singapore:

- Will the trust 'work' for distributing assets to the next generation? (Yes)
- Will the Singapore trust withstand a claim from an Indonesian beneficiary that the forced heirship or Sharia provisions of the local laws have not been followed? (Yes)
- Will the structure shelter the Indonesian resident settlor from Indonesian income tax. (Not legally, but in practice?)

Now, under CRS, the trust is reported back to the Indonesian tax authorities. Indonesia is a Civil Law country that does not recognise trusts, and it treats them as transparent. When they look through the trust they usually find a BVI company which they determine to be a Controlled Foreign Company. Hence the Indonesian resident then becomes taxed on all the offshore income.

So, in this new transparent world, where clients often touch several jurisdictions through family members, their investments, or their businesses, they may be dealing with Common Law, Civil Law and Sharia Law jurisdictions, and many possible conflicts of law are now made more apparent to all concerned.

It is not so easy now to compartmentalise the issues.

The use of Private Placement Life Insurance contracts as asset holding structures is now particularly interesting, as insurance is recognised and legislated everywhere, and legitimate tax benefits can be found in areas where offshore companies and trusts don't work, but that is a subject for another day.

And Technology?

Well, it is hard to overestimate the changes brought to the industry by technology. Clients who used to come to their bankers for information are now overwhelmed by too much information from every side. Clients who used to come to their bankers for trade execution are either being persuaded by their banks to trade themselves online, or figuring out for themselves that it is cheaper to do so.

Clients still come to their bankers for advice, but starting in some cases to wonder if the advice is truly independent. Unlike the UK where, as mentioned, clients pay an advisory fee and then are not charged commissions, in Asia it is the other way around.

Asian clients who happily pay for advice from their doctors, tax advisors and lawyers don't want to pay for financial advice. As the

banks and regulators don't seem ready to encourage a change, we still live in a world of commissions being charged on investment and insurance products, and questions will always remain about whether 'best advice' is really being given.

The next technology coming in the advice space relates to Artificial Intelligence and the Robo-Advisors.

When these improve, the private bankers' role may need to be re-thought.

Most of the technology changes have been good, but improvements in technology have also given us hacking and cyber-crime.

One thing we can be grateful for, however, is the ability technology gives us to work from home in a secure way during the pandemic.

So what changes do you think we can anticipate going forward?

I think few people foresaw the changes of the last 15 years and it is really impossible to predict the next 15, but here are some things to watch out for:

Privacy

I believe we will see further erosion of privacy, including growing use of public registers of ownership of assets. I would expect the CRS mandatory Disclosure Rules which we see in Europe which penalise advisors who advise clients how to avoid CRS reporting, and which has retrospective effect, to come to Asia and other parts of the world.

Taxes and Laws

I expect tax increases and new taxes to come in most countries. Especially Estate tax. About 40 countries today have territorial taxation. Will some of those countries be tempted to change to worldwide taxation of residents? Remember that new taxes can be implemented easily, as the tax authorities already have the information they need. Will clients be taken by surprise by tax changes or should they start planning now?

Technology

The pace of change here will be the greatest. Quantum computing will change the world. It will help our industry, particularly with unbreakable encryption and security. We also have increasing use of Block-chain technology and crypto-currencies to look forward to. Big improvements in Artificial Intelligence are likely to change the Advisory space. Technology already exists to help with the complexities of CRS reporting, and translating and recalculating investment portfolio income and gains into the requirements for tax reporting in different countries. I would expect to see these coming more into use.

And where does all this leave Private Bankers?

The big challenge for Private Bankers, in my view, is staying relevant.

Much of what bankers used to do years ago is not needed now. Much of what they do now, won't be needed in the time frame we are looking at. Staying relevant requires expertise and current knowledge. The qualifications to be a financial advisor in the UK are much harder to achieve than those in Asia. Asian Bankers who wish to have a job in years to come will need to engage in serious continuing professional development. They need to be able to engage in more holistic conversations with their clients. For this, they will need to acquire more wealth planning knowledge (for example at the Wealth Management Institute courses) about some of the legal and tax issues clients face.

They don't need to be experts in everything, but they should know enough to spot problems and ask the questions that clients haven't thought about. They need to become 'trusted advisors'. The wealth management world is more complicated now, but it is more interesting.

(It also goes without saying that they should look at all the good material and webinars provided by Hubbis!) ■