

Preserving Intergenerational Wealth: Leading Appleby Lawyer on Smart & Effective Planning Solutions

Richard Grasby, Partner, Private Client & Trusts, at law firm Appleby is an expert on estate & succession planning. Based in Hong Kong for a leading offshore law firm, Richard has a great perspective on global trends in wealth structuring and their relevance to Asian markets. He sat as one of the expert panellists at the first Hubbis Digital Dialogue event of 2024, which focused the minds of delegates on the why, when and how of robust estate planning and structuring for HNW and UHNW clients and their families. Hubbis has carved out and distilled some of the key observations Richard provided from what was a lively and informative discussion.



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RICHARD GRASBY
Appleby

Richard first responded

to a fellow panellist's comments on the expansion of FATF to look with more scrutiny at trusts, which could potentially lead to trust registers that could then become accessible through 'legitimate interest' information requests, Richard agreed that this was a potential 'monster' in the making, as there are literally millions of trusts established in major jurisdictions. He cautioned that as trusts generally hold shares in companies as well as other assets, there are numerous implications around beneficial ownership, and privacy.

He explained that while there is today less inevitability around public registers for beneficial ownership than perhaps even a year ago, the compliance requirements have not diminished.

Are you actually in control?

"We seem to be somewhat at a crossroads," he commented. "Historically, trusts have been used to bypass ownership issues and avoid probate, but actually, in some areas carried on as before, from the purposes of control. And now with more scrutiny coming through, then there are questions as to what the trust has actually achieved."

As a result, he said that are seeing more interest in professional protectors, more actual third-party investment mandates, rather than what he termed 'DIY' investment mandates, meaning that the approach or attitude of 'well, I'm going to carry on as before, it is my structure, my money' has to change.

Challenges to the status quo

"It is a somewhat refreshing change in some respects to actually have trustees being trustees as opposed to just being effectively glorified nominees," he commented. "We are seeing this shift. We are seeing

challenges from the divorce courts, from creditors, pushing back against what essentially are illusory trusts. The result is that clients are increasingly saying they do not want all those powers and control, and that means that probably there might be fewer trusts, and the costs may go up, but also it means that some of the structures become more substantial."

In a global world...

Richard later turned his attention to the challenges around multiple jurisdictions, noting that there are many families in Hong Kong, for example, with properties in London, Hong Kong, perhaps Australia and with children and grandchildren dotted around the globe.

"Today, while there is no IHT in Hong Kong, their affairs are far from straightforward. For example, they will likely face inheritance tax issues in the UK if they have London properties. This all means that their situations need to be looked at in detail and also in both a holistic and timely manner."

Grey areas

Richard explained that it becomes more complex in countries such as India or China, similarly with no IHT, but with clear rules on how much money can be sent offshore,

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meaning that ‘clever’ or ‘grey area’ schemes to move money offshore could come back to bite later on, if the necessary procedures were not originally in place. He explained that this means rising pushback on how people have got their money out of countries such as China or India.

360 degree advice

“There is a sort of joining of the dots taking place,” he commented. “With different structures for different purposes, there are multi-jurisdictional issues both from an asset perspective and from a personal perspective. What works in one jurisdiction won’t work in all of them. You may be looking at insurance solutions, you may be looking at civil law solutions, you may be looking at trusts. That, in turn, means different advisors, multiple KYC, and so forth. Advisors must also be careful as they clearly cannot be experts in all areas. In short, there is no longer a one-stop shop to solve all these potential issues. You really need to have teams of experts and with global coverage.”

Trusts or foundations?

Richard also commented on a question from the audience on the relevance and applicability of trusts compared with foundations. He explained that the offshore wealth structuring industry tends to promote trusts in common law markets, but in civil law jurisdictions, a foundation would be welcomed far more easily than a trust, and clients often prefer foundations as they do not need to then trouble themselves with handing control of their assets to trustees, at least nominally.

He also added that traditionally, the common law jurisdictions do not really know what to make

A CLOSER LOOK AT RICHARD GRASBY

Richard Grasby holds a partnership position at Appleby’s Hong Kong office, overseeing the Private Client, Trusts and Family Office practice.

He provides guidance to trustees, high net worth individuals, private trust companies, and family offices on creating, reorganising, and managing trusts like BVI VISTA, Cayman STAR and Employee Benefit Trusts. His expertise extends to estate management, succession planning, family governance, and advising on corporate structures for asset holding and succession objectives. With a solid background in regulatory law, Richard assists with matters of AML, AEOL, economic substance sanctions, licensing, and risk management for trust companies, alongside advising on collective investment funds, notably unit trusts and private label funds.

Richard, with over 20 years of post-qualification experience predominantly in offshore firms, has liaised with leading trust companies, financial institutions, and affluent individuals globally. He has practised in various regions including Jersey, London, the Cayman Islands, and Hong Kong since 2009. Richard is a registered solicitor in England and Wales, and the British Virgin Islands, a Registered Foreign Lawyer in Hong Kong, and has been an Attorney in the Cayman Islands.

He was acknowledged in the 2023 edition of the Private Client Global Elite Directory and the Who’s Who Legal Thought Leaders: Private Client 2023 report.

As an active STEP member, Richard has served on the local executive committee since 2012, formerly as chair, and is part of global steering committee for the Cross Border Estates Special Interest Group, and a member of the Academic Community and Governance Committee. He is also affiliated with the Family Firm Institute, the International Bar Association, and the Investment Migration Council.

Richard is a distinguished Academician of the International Academy of Estate and Trust Law, notably the sole offshore practitioner from the APAC region to hold such a title. He is also certified as an Anti-Money Laundering Specialist. His educational qualifications include a Postgraduate Diploma in Legal Practice acquired from the College of Law, York in 1997, an LL.B. (Hons) in Law and French from the University of Bristol in 1995, and a diploma from the Université de Poitiers obtained in 1994.

of foundations, particularly for tax. "For example," he said, "when I worked in the UK, it was always difficult to advise a client with a foundation on key issues around tax, whereas in civil law jurisdictions in Europe, it was far easier to obtain clarity."

Don't make false claims

Richard's final words came later on when the conversation shifted to implications for compliance and regulation around investment

migration, cautioning that some people had been poorly advised, or perhaps naïve in declaring their jurisdiction for tax purposes as a country in which they might have the right to residence, rather than actually being resident there. He said, for example, that there are thousands of Hong Kong ID card holders who aren't actually resident in Hong Kong, meaning that they cannot actually claim to be resident there for tax and planning purposes.

He added that this might be one reason that there is a thrust for investment immigration agencies to be more regulated, for example by coming under FATF scrutiny. He noted that this could actually be a positive, as it will help further professionalise the investment migration industry, sorting the professionals from the also-rans, some of which are clearly cutting corners in terms of the information they provide to their clients. ■

