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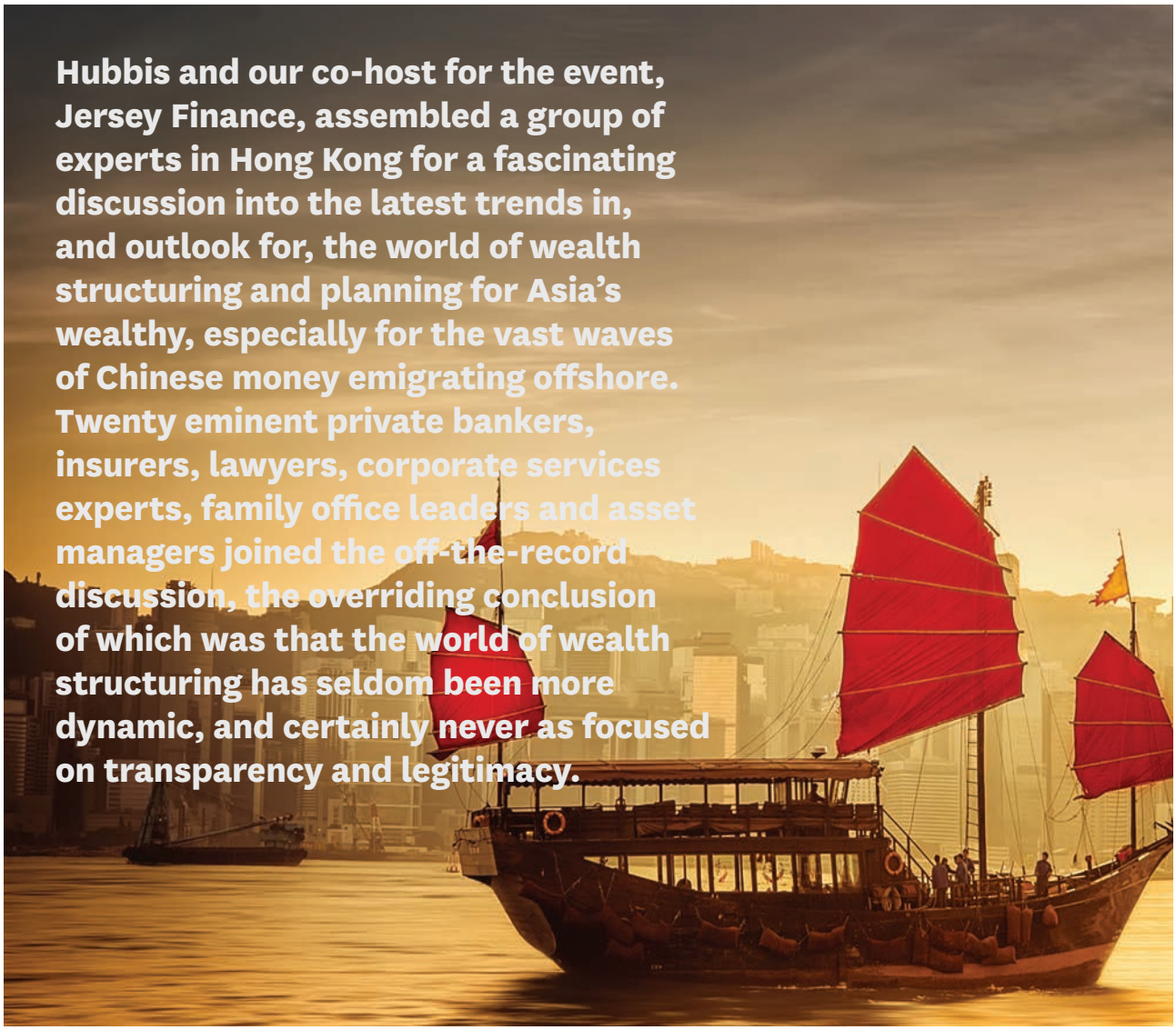
The Challenges to Structuring the Best Solutions for Asia's HNW Clients



Hubbis and our co-host for the event, Jersey Finance, assembled a group of experts in Hong Kong for a fascinating discussion into the latest trends in, and outlook for, the world of wealth structuring and planning for Asia's wealthy, especially for the vast waves of Chinese money emigrating offshore. Twenty eminent private bankers, insurers, lawyers, corporate services experts, family office leaders and asset managers joined the off-the-record discussion, the overriding conclusion of which was that the world of wealth structuring has seldom been more dynamic, and certainly never as focused on transparency and legitimacy.

The key takeaways

Gravitating towards legitimacy
For a portion of the abundant and rapidly expanding private wealth in China that Mainland investors are seeking to keep or to move offshore, there is increasing respect for legitimate structures.

Fewer safe avenues
The legitimate avenues for moving money offshore from China are relatively few and becoming fewer.

Offshore IPOs one route out
There is still a strong pipeline in Hong Kong for Chinese companies listing offshore.

Gateways under scrutiny
There is always an ongoing question of where people feel safe and secure with their assets when they move some of them offshore. Global geopolitical and political issues are especially important in times of instability and will, indeed should, significantly influence client decisions.

Diversification increasingly the norm
Hong Kong has historically been the platform from which Mainland China wealth expands in the region and globally. But irrespective of any recent troubles, Chinese clients have for some years been seeking greater diversity, with Singapore a strong draw for wealth clients, due to its regulatory environment and ease of residence for those bringing in substantial assets.

Good advice has no jurisdictional limits
Whatever the future for Hong Kong as a jurisdiction, there is no limit on the quality of advice that can be imparted from its shores, and Hong Kong remains an ideal hub for coordinating the relationship with the client and with the structures and trustees, wherever those may be.

Hong Kong an ideal conduit for insurance solutions
On the insurance front, a life insurance expert noted that Hong Kong's regulations are highly competitive and allow for a variety of insurance products to be offered at appealing value points, especially in the high net worth individual (HNWI) space.

Booking centre options welcome
Guests highlighted the appeals of several different booking centres being available to clients. Putting all the eggs in one basket is not the optimal approach.

Alternative residence appeals
Assets are one element of the decision on which country or offshore jurisdiction to select, but more and more Chinese HNWIs are also looking to move themselves and their families offshore, once they have created sufficient wealth at home.

No more park and hope
The old park assets in some type of offshore vehicle and hope that nobody opens the lid are over, as authorities the world over up their games. Clients are, therefore, much more careful about which offshore centres they use, and what structures they employ.

To seek and win next generation (nextgen) clients, recognising the differences

Every guest appeared to agree that their businesses must embrace the nextgen of clients. To do so, service and product providers should appreciate that these younger clients are well-educated, they want a considerable degree of control, and they are more inclined to seek specialist transactional advice for individual needs and situations, rather than simply sticking to one lawyer, trustee, or banker as their trusted adviser.

Build relationships from the ground up

The experts advised everyone in the wealth management sphere to help educate their clients and their families, and thereby to build relationships with the entire family, not just with the principals.

Opportunities open for advisers to add more value

The younger nextgens are more accepting than the founder generations of the need for distance from structures such as trusts. This opens the door wider to competent lawyers, bankers, and trustees to proactively add value to the second generation in terms of the commercial side. There is more opportunity to show off true competencies.

A broader mandate ahead for the wealth management community

Much private client advice for bankers and lawyers is migrating away from the usual trust creation, and corporate services work, towards other missions such as helping nextgen family members embark on their own ventures. With a broader acceptance of the value that such parties can offer clients, there are greater opportunities for more diversified work and avenues for fees.

Expertise is no longer a luxury, it is essential

The old days of the relationship adviser who can be a jack of all trades, but master of none are waning, and the advisory community must boost its expertise in a host of areas, so that they can properly orchestrate the firms and teams that will truly provide clients the best outcomes.

Families seek sustainability of assets and family relationships

Clients today want both a sustainable business/asset outlook and a sustainable family situation. Family governance is therefore a vital overlay to shield wealthy families from the types of internal dislocations that so many rich families have endured. Transparency, communication and the institutionalisation of family wealth are strongly advised.

Planning early for the future is the right approach

Pre-emptive actions are better than a cure when things go wrong, so the earlier families can address transition and family inheritance and other key matters, the better.

Whatever lies ahead, think ahead

The discussion turned to the potential of inheritance tax (IHT) coming to China, with a guest estimating that it will arrive within the next decade. But the key takeaway from the panel was not whether IHT will arrive but for clients to plan ahead as if it will come, or at least as if their structures will come under increasing scrutiny from a variety of quarters.

For international finance centres (IFCs), quality, integrity and reputation are all of paramount importance

Turning to the role of IFCs, an expert observed that regulations, practices and the improving efficiency of tax departments in many countries are resulting in a considerably more tax-compliant society in Asia. In this new era, clients have no option other than to seek out quality and integrity, so the professionalism and reputation of the IFCs to be used will continue to grow in importance.

"THERE CONTINUES TO BE A CONCERN ABOUT HOW CHINESE INVESTORS move onshore assets into the offshore realm, in a legal manner, but at least we see more respect for the legitimate structures, whereas frankly in the past they sought the cleverest schemes," began a lawyer, on opening the discussion. "Today, there is a realisation that 'dodgy' must be avoided."

Fewer safe avenues

He added that legitimate avenues for moving money offshore are relatively few and becoming fewer. "Outbound investments in an approved sector and avenue options have narrowed down and are few and far between in terms of our HNWI clients. There is still some possibility for buying life insurance policies, but of course, those are reportable, so it depends on the appetite of the client, whether they are willing to be reported for CRS purposes, having a big policy outside the country."

"There is always the question of where people feel safe and secure with their assets," came another voice. "And there are obviously ongoing issues across the globe and within Asia as to which jurisdictions people feel comfortable with. If trusts need to be moved from one centre to another, for whatever reasons, it is very tough indeed, but sometimes there are compelling reasons why people will want to do that."

Chinese clients seeking greater diversity

"For me," said an attendee, there are two types of clients, the first type are clients who already have money offshore, while the second is trying to get their money from onshore in China, out of China. Having a variety of booking centres in Asia and in Europe is important for the offshore assets, and we are also aiming to have a booking centre onshore in China, as whatever the scale of a client's wealth, a large portion is usually onshore there."

A banker also focused on personal mobility. "Assets are one element of the decision on jurisdictions, but we also have an increasing number of clients who themselves are looking to move home, obtaining second citizenships, looking for places in the world that are suitable for their family members, and so forth."

Referring back to alternatives for moving money offshore from China, he noted that there is still a strong pipeline in Hong Kong for

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Chinese companies listing offshore. "We actually have numerous conversations day in and day out about how they should be structuring their offshore assets before the IPO," he reported. "But actually, there is no clear answer on tax treatment - even if you transfer the assets into a trust, there is a question of whether or not this transaction will be taxable by China in the future. That is a question for our eminent lawyers and a source of significant fees."

No more park and hope

Another expert concurred that there is continuing strong interest from China in offshore asset structures. "This is no longer simply parking assets in BVIs," he said, "and then hoping on secrecy provisions to keep that information or data shielded. We see more and more clients from China migrating their structures well beyond the historical port of call, Hong Kong, and over to legal structures in Singapore, or Jersey or the Cayman Islands. From our perspective, we are happy to work in any of these jurisdictions for trusts, so it all comes down to where the client feels comfortable."

Nevertheless, the same expert also acknowledged that time and language issues must be addressed, and Hong Kong remains an ideal hub for coordinating the relationship with the client and with the structures and trustees. "Our general advice is that it is always a good time to move assets out of personal names and into a well-constructed trust or company structure."

Singapore's enhanced appeals

A lawyer noted that in recent years there has been a flow of Chinese business over to Singapore, where the government has been working hard to attract family offices and HNWI residents from all over the region and, indeed, globally. "And whatever the trend in that regard," he added, "the role of Hong Kong as a relationship and advisory hub continues to be robust, in fact, we have been expanding numbers here quite significantly in the past few years."

"Yes, the strength of Hong Kong has always been in its ability to deliver products and services that it knows how to deliver," came another voice, "and the relationship management piece is the element we now need to work harder to build up, certainly in parts of the corporate services industry."

Hong Kong – receptive to insurance

On the insurance front, a life insurance expert noted that Hong Kong's regulations allow for certain types of products, especially in the HNWI space, such as the whole of life product, or savings structures that offer better value for money than from other Asian markets.

"The capital and reserving requirements of Hong Kong versus Singapore, Bermuda or the Isle of Man are appealing," he explained. "If you want the jumbo whole of life or jumbo savings plans, you are definitely going to get a better product out of Hong Kong, while there are also certain other markets that offer clients better value for money for Universal Life or VUL. From the perspective of the insurance industry, we are still doing rather well from Hong Kong, but of course, we are also looking decades ahead, so competitive advantages in any market has to be weighed off against confidence and other key factors."

Seeking nextgen clients

The discussion moved on to the younger generations of wealth in the region and the challenges of engaging with them.

"The second-generation clients that I have met in Hong Kong definitely want some differentiation in terms of the family control of money, so by definition they will want a different banker, whether or not they are doing a great job or not. The older generations remain reluctant to relinquish control, while the younger generations are generally Western educated and hungry for their control, so we are seeing that struggle.

"Certainly, there is an evolution taking place," added a banker. "When you have your first generation it is just one person controlling everything, but the second generation gets married, and they have children,

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so by the third generation you are dealing with easily 30 people. I have a Southeast Asian client now spanning through to the fourth generation, and they have about 80 beneficiaries, all shareholders of the same company, imagine how they can make decisions. The banker's role becomes like a centre point, like an intermediary between the first generation and the second and the third generation."

Education and forethought essential

In which case, he says it all comes down to helping educate them. "Such clients tend to actually stick with the main bankers, but only if you can get into the family and educate them, early on," he observed. "Here, I mean to build relationships with the entire family, not just with the principals."

He added that, curiously enough, the Asian family he referred to cannot identify anyone within the second generation of roughly 25 members to run the businesses. "For all sorts of reasons," he explained, "such as lack of suitability, lack of interest, other priorities, or whatever, we are actually designing a plan to bring in outsiders to run the business and also to help nurture the youngest of the generations to later take control of the business operations."

Horses for courses

A lawyer remarked that their research had shown that the nextgens see themselves as being very much more transactional than relationship-driven, and this rings true in Europe as well as Asia. "They are for example much more minded to have a particular law firm for a particular issue, a particular bank for a particular product or particular trustee for a particular jurisdiction or structure," he explained. "It makes it harder for all of us in this industry, in this room, as it was easier previously to build a relationship with the key patriarch and become the trusted adviser and do everything for them, but that situation is changing. It is challenging."

An expert extrapolated that perhaps the challenge articulated within the legal world is possibly an opportunity for those in trustee services. "Whereas the first generation, particularly in this part of the world, might create a family trust for succession planning purposes, they actually want to cling on to control. When the second generation comes along, there is much more

potential for a competent trustee to proactively add value to the second generation in terms of the commercial side, helping the businesses grow. That helps overcome the major hurdles of the younger generations losing much of the wealth that had been created. So, we see it as an opportunity to show off our true competencies."

Expanding horizons

A lawyer who focuses on offshore structures in the Caribbean and the Channel Islands jurisdictions remarked that their private client advice is migrating away from the usual trust creation and corporate services work, towards other missions such as helping second-generation family members embark on their own ventures.

"We can then advise them on the selection of the appropriate offshore jurisdiction," she explained, "and we can advise them perhaps on Series A and B financing rounds, help them with life insurance policies and structures. Our role has changed, so we need to be able to coordinate different people within the firm to work on a variety of different areas, and to do so the person who is coordinating needs to have a very good idea of what is involved in each area, so it is a lot more demanding in terms of the diversity of the knowledge required."

Expertise to the forefront

The same lawyer added that another trend that links neatly to these changes is more sophisticated employee benefit schemes, which might or might not involve a trust but that usually have a form of an offshore element.

"For instance," she remarked, "this is often valuable in helping appeal to the types of talent out there to come into and stay in the company. In short, whether it is an individual or a corporate client, there are more and more areas and services we can advise on and offer."

Sustainability

Another perspective came from a banker who remarked that clients today want both a sustainable business and a sustainable family situation. "As trustees within a major bank, we bring in another piece of the puzzle, which is the family governance process, helping disparate families make decisions together in a collective way. It is important, for example, to make sure that the people who manage the business, whether professionals or family members, have the space, the autonomy to make the daily operating decisions, but when it comes to major decisions that may affect the beneficiaries' interests, that is where the family governance piece will come into play."

He added that as trustee, they aim to add value by organising regular family meetings so that beneficiaries can see when major decisions need to be made and then those can be made collectively as an informed decision. "What we are talking about essentially," he explained, "is a platform for transparency for information sharing, institutionalising a family to ensure that the stakeholders are aware and work together."

A family office head gave the guests some deep insights, noting that his Chinese father had come to Hong Kong at the age of 26 and started his own businesses and soon invested in central Hong Kong real estate in the early 1990s that cost a few millions dollars and that today are worth hundreds

of millions. "He sent me to the UK and Singapore for education, and today after a career in private banking and other areas our family office operation has become a multi-family office and we have somewhere in the region of 100 family clients."

"Curiously," he added, "many founders do not want to get involved in a trust situation, so it is easier for them from the emotional perspective to engage another external asset manager. But when the founders actually relinquish control or pass away, there could be problems between siblings and family members if the patriarch or founder has not structured things properly, and many do not do so."

Another expert agreed, noting that when there is inequality in a family in terms of effort, or merit, they often advise the patriarch or matriarch that it is unsustainable to simply adopt the protocol of fairness and equal distribution.

"If someone works more than the other family members, there will be conflict at some stage," he commented, "so we usually suggest that whoever does the real work in the family should have some perks, but not to the extent of excluding everyone else, because that can lead to more disputes as well. There could, for example, be different classes of shares, as I am working on right now with a large family from the Philippines. Financial rewards are similar, but control is more easily achieved, and decisions more easily made."

Show them the way

Another attendee concurred with this reasoning. "Pushing a lazy or entitled person into the family business is perhaps the most destructive thing you can possibly do to both them and the family business," he observed. "Pre-emptive actions are better than a cure when things go wrong, so the earlier families can address transition and family inheritance and other key matters, the better. We can show the founder generations a whole load of cases and scenarios where it has gone wrong and show them options for how to fix these matters in advance. Pre-emptive planning

is vital, but it is a difficult sell culturally for Asian families."

"There are certainly gaps between the generations," said another guest, "and as a generalisation the second generation usually are risk-takers, they spend a lot of time focusing on investments that perhaps their parents would not make. They tend to be more innovative, and there is often a conflict of interest."

Trust is hard to imagine

Another opinion was proffered that Chinese families in particular might set up a trust, but they do not truly trust anyone other than themselves. "It is therefore often very tough for third-party advisers to actually get closer to them. The concept of a trust is foreign to a lot of Chinese families."

The discussion turned to the potential of inheritance tax coming to China, with a guest estimating that it will arrive within the next decade. "Today," she said, "we are talking mostly of planning for inheritance tax, and many clients are also asking about

the EU Directive on Economic Substance, how they can get their structures to comply. As a result, we are seeing inquiries on insurance policies, jumbo life policies to plan for all this and, of course, for trust structures, fiduciary structures and so forth."

IFCs up their game

Turning to the role of IFCs, an expert observed that regulations, practices and the improving efficiency of tax departments in many countries is resulting in a considerably more tax compliant society in Asia.

"As a consequence," he commented, "there is demand for jurisdictions that can delivery propriety and, to be honest, centres such as Jersey are doing a good job, leading by example, and so too has Hong Kong done a great job of improving its own legal framework, so the TCSP (Trust and Company Service Providers) framework has helped us to get people to be more in line. Moreover, if you think of a typical Chinese family in Canada, now with CRS they are being forced to confirm tax residency in a certain country, and that forces more compliance."

He added that even in places such as the Philippines, the trend is towards compliance and transparency. "These types of places might be far behind the curve still," he said, "but we are seeing a directional trend. Accordingly, this move towards quality of structures and jurisdictions will continue and I myself think will be very beneficial to all of us. Why? Because we are all in the business of providing that quality service and the old days of just parking something in offshore company and hoping that nobody will find it are definitely over. One now must train and direct clients to do things properly. Actually, I think it is a very exciting time for all of us."

No place to hide...

"Yes," said a banker on closing the discussion, "we know transparency is required, so we plan with the idea in mind that the books are going to be open to scrutiny at some point. Banks are increasingly reluctant to go pure offshore, so we are seeing a trend towards onshore, or perhaps mid-shore jurisdictions, particularly taking into account practical considerations such as getting a bank account opened. It is not even easy to open an account for an onshore company anymore, other than perhaps in the US. The result is that apart from IFCs such as Jersey, Hong Kong, or Singapore, I think you will find places like US and UK coming back into relevance with lower corporate tax rates."

A new era of legality

The final word went to an attendee who commented that from what she had heard during the discussion with regard to transparency, Economic Substance and other facets she felt that the future was rosy for the quality end of the advisory market and for those jurisdictions with a well-regarded reputation. She also noted that the views on nextgen clients and their approach to lawyers, bankers, advisers and also IFCs augurs well for pragmatism in their selection of service and product providers in the future, again promising a new era of more professionalised decisions based both on relationships and genuine capability, as well as reputational excellence. ■