Trust Expert Sharon Yam Opined on Sustaining Successful Family Enterprises for the Future Generations

Sharon Yam is the Regional Head for APAC and leads the Private Client and Corporate Services businesses at corporate administration and trust and fiduciary services provider Ocorian. She gave an insightful presentation to delegates at the Hubbis HNW Insurance Solutions Forum in Singapore on September 6. She highlighted some of the key challenges and considerations for wealthy families seeking to transition their businesses to the next or future generations. She explained that families must first identify who from within the family has the intent and/or capability to take the reins of power effectively in the future. They must manage the communication and 'softer' elements within the family to ensure a smooth business asserts and control transition later. They must then work out how to manage the business succession planning and structuring legally and technically, as well as comply with prevailing regulations, often across borders. Throughout the process, it is vital that, they demonstrate sensitivity and empathy to ensure the family units stick together and that everyone who needs to be comes on board and stays for the journey. If these issues and goals are all navigated successfully, the family businesses, family assets and family m cohesion all stand a much better chance of success and harmony for many decades to come.

GET IN TOUCH

View this Presentation On Demand

View Sharon Yam's LinkedIn Profile

Find out more about Ocorian

[View the photos from this event]

SHARON YAM
Ocorian

Ocorian is a provider of corporate administration and trust and fiduciary services for companies, institutions, individuals and funds. Sharon leads the Private Client and Corporate services businesses for Ocorian in Asia. She has more than 20 years of experience in the provision of financial, regulatory, corporate and fiduciary services while working in financial institutions, family offices and business outsourcing companies globally.

Apart from working many years with private and corporate clients, she is experienced in establishing and managing family offices, which includes sitting on the boards of family offices. Sharon's expertise is in successfully turning around business operations whilst upholding the highest levels of corporate governance. She is a qualified accountant and was formerly in senior roles with Citigroup, BNP Paribas, TMF Group and private family offices.

"A key problem private clients and families face is in successfully and efficiently transitioning their businesses to the next generations, partly because those younger generations might not be interested or are not prepared, or they might want to take the reins but do not have the requisite skills," she told guests.

She observed that family businesses are fraught with complexities and sensitivities, especially when not everyone is working together and when some of the family members involved are either not performing well or are disinterested, but realistically cannot be moved on to other pastures.

"There are often a lot of emotions involved, and that can be difficult to handle," she said. "My grandfather warned me about this years ago, explaining that family businesses are double-edged swords. This is the same story I often hear from many of the first-generation business owners. Over the years, I have assembled what is like a checklist of issues to think about and address."

Pointing to an excellent and easy-to-digest slide show, Sharon highlighted some key areas to focus on. These were under four headings – succession planning, communication, governance and managing growth. Her conclusion was that families need a comprehensive Family Constitution for guidance, they need astute and committed leadership to enforce the constitution, and they should strive to ensure the family constitution is truly embedded as part of the value system and culture.

> « *"Sometimes, you need to have the tough conversation. If you do not, then things will likely become increasingly difficult, leading to conflict and the breakdown of any sensible communication."* »

Succession Planning

Sharon explained that succession planning is a significant challenge for family businesses, especially when multiple family members are involved. It involves identifying and nurturing potential successors from within the family fold. It means creating a clear roadmap for the leadership transition, and business transfer, and then ensuring that the business has the resources it needs to continue to thrive. "You need to focus on all these areas early on, not later on," Sharon added. "There are lawyers, trustees, advisors and others to help, but the strategy needs to come first from the families, and they need to be proactive and forward-looking from early on."

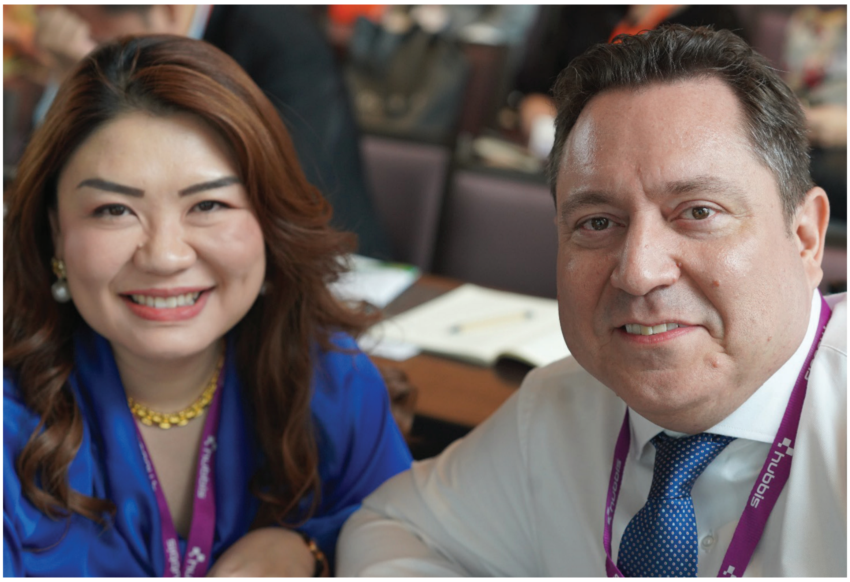
Open lines of communication

Communication is key to any business and is perhaps even more critical in a family business. Poor communication results in poor performance, misunderstandings and family conflicts, and those all affect business sustainability. Families should strive towards regular open communication to foster a greater sense of collaboration and cooperation. It is always better to over-communicate than leave people feeling there is little or insufficient openness and transparency.

"Sometimes, you need to have the tough conversations and not let situations worsen, for example, if family members in the business are not performing well, or perhaps expense claims are increasing unreasonably," Sharon advised. "If you do not, then things will likely become increasingly difficult, leading to conflict and the breakdown of any sensible communication. A family office I know has even hired a communications specialist to help improve in these areas, for example by managing the social connectivity amongst their family members," she said. "In some larger families, that is what is happening these days."

The need for robust governance

Balancing family dynamics and business priorities is always very challenging. You need to prepare and agree to a totally comprehensive and thoughtful family constitution which will govern how the family business



and family wealth should be managed. But things always change; family situations are in constant flux (marriages, divorces, births, deaths and so forth) so Sharon advised regular reviews to update the family constitution and also to reflect the evolution of the family business.

"A comprehensive family constitution for guidance is a necessity," Sharon emphasised. "It serves as a family charter that outlines the purpose and the values of the family business, helps with decision-making, helps with the ownership structure and therefore with succession planning as well. It offers a road map for situations, and if you have a good family constitution written up, really it is half the battle won, with the rest of the battle to then make sure everyone buys into it and sticks with it."

You must manage growth

There are numerous challenges in managing financing, capital investments, and other resources necessary to scale up and compete in any marketplace. This requires strategic planning and financial stability, and careful financial management to invest in new growth opportunities.

Sharon then pointed to the differences between an unstructured succession and a much more structured succession. An unstructured succession might be done via the transfer of shares directly to future generations, whether through a lifetime gift or perhaps through an estate inheritance or more unusually through a rights issue.

Structured or unstructured succession?

The structured succession could involve the required wealth management structures, with the business effectively transferred to a wealth management structure, such as a trust or foundation, which acts as custodian for future generations' participation in and reward from the business.

"The structured succession planning is easier to devise and execute," Sharon reported. "It is easier to create, operate and administer because the family will be operating through a dedicated wealth management structure. There are instances where the unstructured succession is prevalent, for example in countries that do not recognise trusts, or foundations, and where you then have to rely on contract law, company law, inheritance and succession rules to support the family business succession plan."

Four key structures

But she said that for structured planning, there are four key structures that they commonly see, and that she illustrated with reference to slides 6 and 7. The simplest of these involved a private trust company (PTC) that acts as the trustee to administer one trust established for the family members and that owns 100% of the family business shares.

In situations where, for example, the families are more complex and spread out, there could be a multi-fund structure, whereby the trust has several sub-funds that themselves own 100% of the business. "For example, one sub-fund might represent family members who are single, another might represent those with children, another could represent the old or infirm who need special medical help," she explained. "Some clients of ours want a sub-fund for education, another sub-fund for medical reasons, and another sub-fund for philanthropy."

Sharon also pointed to the more complex multi-trust structure, which is generally for families with beneficiaries located in different countries, and who do not need to be operating within the same trust structure. Finally, the fourth structure might be the hybrid multi-trust solution, which Sharon said she sees more often nowadays where there are different factions within the family, and they want the assets to be held in different ways.

And don't forget the key AML issues

Sharon closed her talk by pointing to crucial AML considerations in a family office, PTC or trust structure. "The MAS is very focused on the due diligence for complex structures, including ongoing due diligence, taking a risk-based approach, transaction monitoring, and training," she said. "Too often we are too engrossed in our jobs to understand what is going on outside. Like most trust companies, we have to define and adopt a very robust risk-based approach to AML and counter-financing of terrorism, or CFT." ■

Find out more about the Hubbis HNW Insuance Forum - Singapore 2023

Be sure to CLICK HERE to view the content produced from this forum. CLICK HERE to view the photos, or HERE to view the testimonials we received from this event.

Interested in being part of the discussion? Be sure to save the date of our Hubbis HNW Insurance Summit – Singapore 2024, which is taking place on Wednesday 4th September, 2024.

Register for the forum by CLICKING HERE.

Want to find out more about how you can take part? Get in touch at events@hubbis.com.