

The International Family Offices Journal

Editor: Nicola Saccardo

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Welcome to the 36th issue of The International Family Offices Journal

Nicola Saccardo

It is always a busy time for families and the family offices that serve them as we head towards the summer months and this year is no different. Family offices, like markets more widely, are dealing with continued global uncertainty and change. In this issue, we bring you updates and observations from a wide range of expertise that can help family offices prosper in this changing world.

This starts with Omid Aschari and Saba Carmel Meidany, who draw on their different but complementary expertise to discuss sustainable real estate development and how engagement with the next generation on this can have a meaningful impact on those involved and the world they live in.

This issue puts a spotlight on four, varied, jurisdictions. The complexities of the US tax and immigration regimes can include many traps for the unwary, both for those leaving the United States and those relocating there. Melvin A Warshaw and David Lesperance outline the key considerations for family offices to keep in mind when family members decide to enter or leave the United States. In this issue we also have a detailed review of Malta as a jurisdiction in which to base family offices. Malta has long been of interest to people looking for immigration routes to Europe, with much success. Conrad Cassar Torregiani and Elena Grima Tortell provide an in-depth review of Malta as a jurisdiction for family offices including a discussion about private trust companies and investment vehicles offered in that jurisdiction.

The Middle East continues to be a dynamic and growing market. Basma Alzamil focuses on recent changes in Saudi Arabia and how women do and may continue to contribute to its thriving economy. The pace of change has been significant in recent years and Saudi Arabia provides an increasingly exciting opportunity for family investment. Dubai is also becoming an increasingly sophisticated and attractive destination for family offices and the families they serve. Craig Ritchie examines the advantages offered by Dubai.

Success can have many meanings, from personal to business, social and environmental. This concept is the focus of Raymund Kamp's article "The price of success". He outlines why it is important to put success, and what it means in different contexts and to different people, into perspective, especially when considering raising the next generation. The Enneagram personality assessment is the focus of the work by Kenden Alford, Emily Bouchard and Christian Stewart. They provide a comprehensive

introduction to the assessment and demonstrate its value in the family office space using case studies.

How to manage family liquidity events is the focus of the insight from Andrew D Pitcairn, drawn from his own experience with his family's business and intergenerational wealth. Andrew compares a major liquidity event to marriage: thought and communication in advance results in a smoother path ahead! A relevant read for those with a liquidity event on the horizon in the short, medium or longer term.

Articles in this journal often focus on family governance and succession as integral to the success of any family office and its principles. Britta Pfister considers this, drawing on her experience advising international families and their family offices. She highlights the need to make governance central to operations as well as concrete both in language and implementation. The need for clear and concrete documentation and planning is also covered by Ahmed Abdel Hakam in his article "The importance of investment treaty coverage for family offices". In this, he explores the importance of legal protection via investment treaties which provides safeguards for foreign investors seeking to mitigate risk. His article explores what investment treaties are and how they can offer help to family offices.

Perhaps governance and succession planning of this kind would be helpful for those suffering from the generational divides and associated challenges outlined in Dominik v Eynern's article about challenging communication in multigenerational families, which he explores via the concept of 'belief bubbles'. Dialogue and understanding are also key to allowing professionals to provide exceptional service to clients and to enable connection on a deeper level reports Dr Paul Hokemeyer in his article drawing on his expertise as a marriage and family therapist.

India Wooldridge provides insight from her experience as a consumer intelligence expert to consider why brand is important to family offices. She observes that there is a need for alignment between private values and public behaviour and outlines how this might be achieved through a family office brand.

The concept of 'location, location, location' in real estate is turned on its head by Russell Galbut in his exploration of floating residences offered by his company Crescent Seas.

Lastly, we include the usual highlights from the recent STEP News Digest.

Walking the talk – family governance frameworks and succession structures in action

Britta Pfister

A staggering US\$83 trillion will change hands, via intra-generational and inter-generational transfer and inheritance, on a global basis over the next 20 to 25 years.¹ Succession issues abound and the interest in family governance and the creation of governance systems to address related concerns, in particular where family-owned businesses are concerned, is gaining in importance and urgency, with many families and their advisers actively engaging in this work. It is therefore surprising that, when one looks at matters five or 10 years after completion of the planning process and the creation of a governance framework, the system in question is quite often not actually working. In some cases, an untimely or unexpected generational transfer or other unforeseen external factors may have thrown matters off track. In other cases, the effort appears to have just petered out over time, or, surprisingly frequently, the implementation hasn't happened at all. Regardless of the reasons, what the family initially had originally set out to achieve was defeated and their ideas and goals were not reflected in their family business governance or their inheritance structures.

Governance work seems to therefore have a risk of remaining without 'teeth', ineffective and not serving its purpose. Even though every family setting out on a governance journey will want to create a system that's tangible and actionable and in effect turned into a living reality rather than gathering dust in a drawer, there are a lot of cases where this goal is not (fully) achieved. Given the significant effort and cost involved in the planning process, this is frustrating.

It is often said that, in family governance work, the

journey is the destination and the process of deriving the constitution is the key element, not the document as such; and this is valid and true. In order to create a governance system that will become a reality, however, the focus needs to equally be on creating clear, transparent and actionable rights and obligations under the chosen framework, followed by thorough, detailed and complete implementation.²

Based on having worked with families on the creation of governance systems and, more and more frequently, sadly, on assessing and amending existing frameworks, the following gives an overview on what to focus on, at the time of creation, as well as during the implementation and ongoing maintenance phases, to achieve more satisfactory outcomes. This article uses the format of a family constitution as an example as it is the most encompassing and complete family governance framework.³ Its content may, however, be equally used for other formats.

Creating concrete and actionable frameworks

Coming up with a governance framework from a green field is a tall order and no mean feat. In the context of family, business, governance and succession, a myriad of paradoxes and apparent oxymorons reign supreme: business and personal, family and non-family, wealth and relationships, public and private, local and global, the spoken and the unspoken, and finally, the head and the heart, hopes and fears of the family, as well as those of individual family members. Family governance work deserving of its name addresses all these areas, some explicitly and some implicitly, in both substance and form as necessary and appropriate.

Having looked at many existing family constitutions over the years, there is often a strong, at times exclusive, focus on abstract, less tangible topics such as purpose, values, mission and vision. While they are a crucial element and a core focus during the creation process to express a family's 'DNA',⁴ these principles become empty and meaningless if they are not distilled into (expected) behaviours of and concrete procedures for family members.

The fact that this happens is understandable: opening up within the family, a deep exchange on purpose, values, mission and vision, is a wonderful,

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liberating and uplifting experience. And having set it all out in writing may leave families with a collective 'high', a warm and deeply connected feeling, paired with the illusion that the work is complete. Effectively, this is the good news, this may have been the most difficult part, so the bulk, 95 or 98% of what the family wanted to achieve will have been done at that stage. But it is the remaining 5 or 2%, that will decide whether all the great effort flows into a lasting, satisfying and rewarding governance system. The following looks at this in more detail, focusing on the planning process in the first place and the implementation and maintenance stages thereafter.

Structure and key areas of content – the trees for the wood

For starters, it is helpful to set out the general 'WHY' of a family constitution in an introduction, so that it can serve as an entry point and reliable reference on how the family thinks and operates, what keeps it strong and together and how this plays out in the governance of both family affairs and family business and investments matters. Written with a young or incoming family member in mind, an additional lens here is the hope that the document serve as a point of orientation for a next generation or additional family member, or a spouse or a civil partner of a family member, in view of finding a fulfilling role within the family, its investment and business interests and its governance. In addition to creating clarity on the document's purpose, the implicit message that 'You are welcome to this family' will generally also have a significant positive psychological impact on incoming family members. Last but not least, it will serve as an *aide-mémoire* and remind future family members of the original thinking behind the governance system once the current generation has passed away. The key first section following the introduction and a section on terms of reference and definitions will be the core piece insofar as 'understanding the family' is concerned. This part will contain insights into the family's philosophy and purpose, as well as its core values, vision and mission, in view of family matters, the family business(es) and other assets and investments.⁵

To ensure that this first section becomes a living reality, however, it needs to be followed by a second part with detailed rules and regulations as to how the

family functions together in view of jointly running areas covered within the scope of the family constitution. In a nutshell, this is about who makes the key decisions and how these decisions are made. This second part will deal with the key governing bodies or committees, the individual names, composition, scope and activities of which, as well as the number of bodies and committees, will vary greatly depending on each family's preferences and the nature of their assets. The familiar trichotomy of family council, owners' council and the family assembly is used in the following.

The family council will be the highest decision-making forum of the family insofar as the family's affairs and their joint individual well-being are concerned. For example, the family council may be involved with the areas of education (including private schooling, college and university education etc), home purchases, individual business ventures of family members, healthcare and medical insurance, nuptial agreements, etc. Where there is an ownership structure involving foundations or trusts and in the interest of creating the desired living reality, it is crucial that the family council be also tasked with entering into and maintaining an active dialogue with the trustees, foundation board and protectors. It will provide guidance and background information in view of family members in their capacity as beneficiaries of that foundation or trust and, based on the trustees' input (as well as regular documentation and accounts), be able to assess how the succession structure is faring and thus assist with its smooth running.

The owners' council is the highest decision-making forum overseeing the family's material interests, both the family's business(es) as well as other assets and investments. Where the business(es) are owned by foundations or trusts and holding structures, the owners' council's core responsibility is to ensure that the family speaks and communicates with one voice in view of its ownership and its role as shareholder of the family business(es). The key areas here encompass, for example, matters requiring shareholder consent, dividend policy and shareholder exit and the respective liaison with the trustees, the foundation board and protectors. The owners' council will provide guidance and background information in general and ensure that the family's voice is reflected in these core

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decisions, in particular where the change of trustees, protectors and foundation board members is concerned.

Finally, the family assembly will be the largest forum under the family constitution. While family members will need to fulfil certain criteria to qualify and be elected to the former two governing bodies, all family members who are of age should be welcome to the family assembly.⁶

This second part will also detail under which conditions individual family members may be nominated to join the governing bodies and committees established under the constitution. In the spirit of being prepared for life's eventualities, it is important that various scenarios and 'what ifs' over time will be covered in this section, to ensure the continuity of the governing bodies and thus the family's governance system.⁷ It will also set out how members of the governing bodies interact with each other, how they operate and, most importantly, how they make decisions with the objective of speaking with one voice as a family.

Depending on the family's circumstances, other areas, for example family employment, remuneration, communication, media (privacy and confidentiality) policy may be included or subsequently added. Where there is an existing or envisaged family office, setting out general parameters on its 'WHY', 'WHAT' and 'HOW' is also a good idea.^{8,9}

Examples of key areas of understanding

Turning to content-related matters, two examples relating to topics under the family constitution are set out in the following. They should illustrate that, if and when families are sensitised to the intricate complexities of governance planning and ready and willing to put in the work and level of depth to cover them with clarity in content and language, the outcome will indeed be tangible and actionable.

Who is family?

One of the key questions is who is included in the definition of family and family members. Given the changing nature of (and increasing number of) situations involving second and third families, this topic is not only highly relevant but may also be very

sensitive. Finding alignment on the role and rights of all children, including illegitimate and adopted children, is crucial to pre-empting confusion and conflict at a later stage.¹⁰

Another area for deep reflection generally is whether or not, and to what extent, spouses and (civil) partners are included. While there is no right or wrong answer, it is important to note that spouses and partners can have an important cohesive role as parents and grandparents of future family members. Inviting them and bringing them into some of the family-related (not necessarily business-related) areas, for example as members of the family assembly, and having them participate in some activities under the constitution, may well mean achieving buy-in to who the family are and what they stand for. This can help foster unity, harmony and enhanced communication and is particularly true when the family is in their third and fourth generation and increasingly rely on a governance system that works based on procedure rather than individual leaders and personalities.

The 'I' and the 'We'

We live in a time and culture that generally emphasises individual freedom over collective interests. Self-actualisation is a core area many of us work on in the hope of achieving our individual independence and freedom. So how does one reconcile this interest and need of individual family members with the need to align interests for the sake of a family and the family business flourishing in the long term? For starters, this topic needs to feature early and prominently on any agenda where family business governance planning is concerned. It warrants an open, honest and truly genuine discussion and dialogue (between the family members concerned) on whether the two may be aligned.¹¹ If there is consensus on the strategic angle, a willingness to align in general and the family moves ahead, there will likely still be elements and outcomes of the stance taken that will collide with an individual family member's personal and professional choices, for example the need to maintain privacy and confidentiality about family (business) affairs, the requirement to enter into nuptial agreements, etc. It is important that this fact be made explicit, for example

in the introduction or above-mentioned first part on the family's purpose and values, so that current and future family members are in a position to knowingly

subscribe to both the chosen concept and its ensuing consequences.

Dr iur Britta Pfister has over 25 years' experience in providing significant value-add to international families and their family offices. Before founding Britta Pfister Advisory in 2024, Britta was managing director of Rothschild Trust and Wealth Planning Asia and senior strategist at Anthos Family Office. Britta is an expert on family governance and family office development at Ispahani Advisory Ltd, a Distinguished Fellow of INSEAD, a partner at Scott Capital Partners as well as a frequent lecturer at international conferences and author of various published articles.

- 1 UBS Global Wealth Report, 2024, p28 ff.
- 2 In terms of stakeholders and participants during both the design and implementation phase, involving the rising next generation will be important to achieve early buy-in and willingness to make matters work once they take centre-stage.
- 3 For reference, the key elements of a family constitution include: (1) introduction and definitions; (2) values, vision and mission; (3) governance structure, including governing bodies, their roles and responsibilities; (4) succession topics regarding the assets (family business and other wealth); (5) distributions/system of benefits; (6) education of family members; (7) philanthropy; (8) communication, confidentiality, rights to information; (9) conflict resolution and procedure; (10) amendment procedures; and (11) signatures and acknowledgement.
- 4 For a powerful and inspiring example of how families can determine and develop their purpose, values, mission and vision by using the Theory of Change, a structured way to address programme planning and evaluation that teases out underlying assumptions, causal connections and anticipated outcomes, helping to guide and design a roadmap to change, see Philip Marcovici, *The Transformative Power of Family Wealth: Helping Families and their Communities Capture its Regenerative Potential* (Wiley, 2025), p2ff.
- 5 Philanthropic interests may be covered as well, but are left out here in the interest of conciseness.
- 6 See below regarding the definition of family members.
- 7 Where the starting point is the founder, first generation owner of a business, emphasis will need to be put on the way this person's initial role and powers gradually evolve into being discharged in the respective committee, involving veto powers and the role of a strong chairman, as necessary.
- 8 See below for further detail.
- 9 Beyond the scope of this article is the question whether a 'branch' (with the children of the founder each becoming the initial member of a branch, ie a group of family members, descendants of the respective child, through the generations) or 'per capita' (focused on individual family members) approach (or a blend of the two) is chosen.
- 10 The definition and inclusion under the generally non-binding family constitution may be significantly different from any legal entitlement by an adopted or illegitimate child under the laws of the relevant jurisdictions concerned.
- 11 Families want to be particularly careful not to create a 'fake we', by bringing out what the family has achieved and where they want to go in order to assess if individual family members can see themselves in and subscribing to this vision and mission in the long term. For further detailed thoughts on the topic see Philip Marcovici, *The Transformative Power of Family Wealth: Helping Families and their Communities Capture its Regenerative Potential* (Wiley, 2025), p26 ff.
- 12 Nicolas Jacob, "How can Family Offices facilitate a Family Governance exercise?", *IFC Review*, 2021.
- 13 Brad Pitt, Canal +, 26 December 2023, www.youtube.com/shorts/8WPY3r94uPc.

This extract from the article 'Walking the talk – family governance frameworks and succession structures in action', by Britta Pfister, is taken from the 36th issue of *The International Family Offices Journal*, published by Globe Law and Business.

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