BRIEFINGNOTE

STEPHENSON HARWOOD

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A wealth of advice

For those of you that know me well, know that I am forever an optimist. So in the current environment of global economic disruption and fear of the unknown, where we are surrounded by negativity on a daily basis, we have witnessed a positive impact of the pandemic; a positive and conscious acknowledgement of the fact that we need to protect our loved ones and preserve and manage our wealth better, to ensure continual growth, regardless of external factors which we simply cannot control!

Lockdown certainly hasn't meant shutdown. Conversely, it has meant an increase in activity and a heightened level of awareness of the importance of wealth management amongst clients and their professional advisers.

Expanding our global wealth management advisory footprint to Singapore

In a conscientious move to meet client needs and service our clients better, we too at Stephenson Harwood have been busy behind the scenes revisiting our client offering and gearing up to provide our clients with a truly unique global advisory team.

With the expansion of our private client team in Singapore we are now able to advise clients on a range of local wealth management issues covering most of the commonly used jurisdictions. We also provide advice on Singapore law trusts, as well as Singapore immigration, employment, family office and tax issues. For our trust and corporate service institutional clients we are also active in sales and acquisitions, and dealing with ensuing MAS regulatory issues. This is especially relevant for our Far Eastern and South West Asian client base, who often consider Singapore as an optimal destination for establishing global businesses and managing wealth.

The recent economic downturn and regional unrest has created a surge in businesses relocating to Singapore and establishing new regional trade hubs. The importance of segregating assets into personal and business structures at the outset, so as to ensure long term protection whilst limiting liability and ring fencing assets, is paramount and perhaps more important than ever before.

Please contact me for an introduction, or reach out directly to our team in Singapore (Elaine Beh and Yi Lee), for expert private wealth advice and assistance.

Regional regulatory update, investment incentives and relief packages

In the UAE alone we have seen a flurry of economic stimulus relief package announcements and a spotlight on the significance of compliance with Economic Substance Regulations (please see our note on UAE Economic Substance Regulations: what you should know) and upcoming economic substance notification requirements. Coupled with the new UBO Regulations in the DIFC, collectively such measures will continue to boost investor confidence in the UAE as a truly competitive, robust and compliant IFC.

Similarly, following an increase in VAT from 5% to 15%, Saudi Arabia swiftly issued a flurry of incentives such as extensions for payments of tax, excise duty, withholding tax, income tax, coupled with a tax and excise amnesty scheme. In addition, it will offer a SAR 3.7 billion stimulus package to support more than 500 small and medium-sized industrial companies hurt by the coronavirus pandemic. The neighbouring countries of Oman and Kuwait have also made changes to existing labour laws and policies.

Foundations gaining popularity

The UAE has three foundation regimes; ADGM, DIFC and RAK ICC.

Despite being introduced to the region only three years ago, foundations are clearly gaining tremendous popularity as clients and advisors begin to understand how they are well suited to accommodate and protect personal wealth, as well as operational businesses and real estate portfolios, located in the GCC.

As at 1 June 2020, ADGM had a total of 60 registered foundations, DIFC had 33 registered foundations and RAK ICC, (which only launched its offering at the end of 2019), had 14 registered foundations; when contrasted with figures from other traditional jurisdictions, this is nothing short of impressive!

The uptake in foundations is reflective of the versatility of the structure for wealth management purposes. UAE foundations are being used for a variety of reasons ranging from traditional succession planning, philanthropy, family governance, segregation of portfolios amongst larger families, to housing prominent art collections and promoting the arts in the region. There are some significant developments in the pipeline that will be shared shortly that will have an inevitably positive effect on the use of Foundations… watch this space!

Is a Will an effective tool for succession planning and wealth management?

I have lost count of how many times in the past quarter I have been asked this question in some shape or form, both by clients, as well as their financial advisers; the short answer is quite simply, No!

Whilst a Will may ensure a degree of certainty and control in the allocation and distribution of wealth and assets post death, it does not protect businesses or loved ones in the interim period, whist a grant of probate is being obtained. It also does not protect estates from claims by disgruntled family members or, allow for access to funds and assets until changes of ownership are formally completed, which can sometimes take months.

Moreover a Will is simply not an option for Muslim clients who are bound by the forced heirship principles of Sharia' law and have no freedom to distribute their wealth to family members and loved ones so as to protect those more vulnerable and needy, or even to reward those that may be more deserving than others. In the modern day family in the GCC region, I have seen a change in the traditional dynamic. Patriarchs want to exercise their freedom of choice and distribute wealth in ratios that reflect the contribution and needs of all family members and loved ones. Thankfully, there are a variety of options available to accommodate such wishes, thereby ensuring the proper management and preservation of wealth for future generations.

The DIFC Prescribed Company

The DIFC Prescribed Company ("**PC**") was introduced in October 2019 as a simpler, cost effective and less regulated corporate entity. PC's are commonly used in conjunction with the DIFC Holding Companies, as well as with the Foundation structure, to segregate asset classes and ownership.

PCs are regulated under the DIFC Prescribed Company Regulations, and according to these regulations, a PC may be established either for a "Qualifying Purpose" or by a "Qualifying Applicant" (as defined under the regulations). We understand that on 18 May 2020, the DIFC Authority Board of Directors approved the expansion of the Prescribed Company Regulations. The

DIFC has yet to publish the revised regulations and guidelines; however, the following is the anticipated list of what constitutes a Qualifying Purpose and a Qualifying Applicant (with the recent additions in bold):

Qualifying Applicant	Qualifying Purpose
Authorized Firm	Aviation Structure
Fund	Crowd Funding Structure
Family Office	Family Holding Structure
Fintech Entity	Structured Financing
Foundation	**DIFC Holding Structure**
Government Entity	
Holding Company	
Private Trust Company	
Proprietary Investment	
DIFC Qualifying Applicant	
Shareholder or UBO of DIFC Qualifying Applicant	
Affiliates of a DIFC Qualifying Applicant	
Family Owned Business with a Large UAE Presence	

The revised Prescribed Company Regulations will set forth the definitions of the additional Qualifying Purpose and each of the Qualifying Applicants.

Continuity of business and family governance

Existing corporate governance, business development strategies and historic business decisions have been stress tested to their limits recently. What has become evident is that the manner in which decisions are taken, must be able to withstand and survive the unknown and disruptive unforeseen events. Digitalisation, technology and innovation are the tools that all businesses need to survive. This applies not just to how decisions are taken in the board room, but also within the family.

The importance of robust, formal codes of family governance are not to be underestimated. Committing to adopt and enshrine a formal constitutionalised code of governance is not for the fainthearted, but at the same time, it need not be overly daunting or complicated. Engage with professional advisers to advise and guide you through the process and break down topics into manageable discussion points. Be consistent and persevere in achieving your long terms goals. Engage all family members at an early stage and remain engaged and invested. A well drafted family code of governance must continue to evolve in conjunction with the evolution and development of the family that it is designed to protect. Consistency is key to the successful outcome and the short term investment of time, clarity of thought and transparency of key objectives, will reap long term benefits for the family for years to come.

What next for India?

I have previously voiced my opinion in relation to the inevitable reintroduction of estate duty tax in India. I reiterate that opinion as the reintroduction of estate duty is simply not something that can or should be ignored.

It is truly heartbreaking to have seen the tragic effects of the obvious disparity between the privileged and the neglected, often forgotten, poorly paid migrant workers of India. The unequal distribution of wealth and lack of state relief and aid is shocking. It is highly likely that to restore some form of balance and harmony and provide state aid and relief, the introduction of estate duty tax or some form of wealth tax, will be brought into force sooner rather than later. More so than ever before, clients and their advisers must proactively revisit existing ownership structures and consider protective wealth preservation solutions and implement measures to protect and safeguard the rainy day money.

Get in touch

My team and I are on hand to advise and assist you always, especially in the current disruptive environment that we operate within. There is a great deal of uncertainty and many unknowns, but we are here to handhold you and help you weather the storm. By sharing knowledge and guiding you through difficult times, we hope to leave you with more time to take better care of and focus on yourselves, your clients and your loved ones.

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