

Structuring It Right - Asian Family Offices

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Asian family offices have increased significantly in number, and they come in a wide range of sizes and shapes. Some are fully-fledged operations existing in the form of independent entities with sophisticated structures, while some are “hidden” in the family business where senior staff members perform “family office” functions.

Whatever form the family office takes, the key is to structure it right to suit the particular needs of the ultra-high-net-worth family and meet the relevant regulatory requirements. Some Asian families want to pursue unique strategies to invest in private deals or alternative asset classes. Their family offices would act as manager or advisor to the family’s internal funds. The popular tools to organise the family’s investment platform include limited partnership, standalone corporate fund, segregated portfolio companies, and unit trusts usually created using offshore laws (mostly Cayman), and occasionally Singapore law.

Although Hong Kong and Singapore are the two prime locations for the Asian super wealthy to set up at least the principle family office, there are not yet explicit “family office” laws and regulations. Regulatory exemptions would be applicable only if the internal funds and the family offices are structured correctly.

A popular tool, which works well as part of a family office type structure, is the private trust company (PTC). A private trust company is essentially a company established to be trustee of a trust, or a group of family trusts, and they are usually created using offshore laws (such as those of Jersey, Guernsey, BVI or Cayman). The key attraction is that the settlor of the trust, and other family members can sit on the board, and where there is a family office this can provide professionals as directors too. Thus the family and individuals of their choice retain control in the structure.

As trustee of the trust the PTC will not only make decisions in respect of who should benefit from the trust and when, but also in investment of the trust fund. Where the trust fund consists of or includes a family company – as it so often does in Asia - A PTC structure provides a way for the company to be

held in a trust (with the succession benefits this entails) while the founder, or others of his choosing, retain the power to manage that company.

PTCs can work particularly well where there is a family office which provides PTC directors. Such individuals can combine understanding of the family needs with professional skills such as an understanding of trustee duties and compliance.

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