



OPINION

SAFEGUARDING WEALTH AND LEGACY – GOVERNANCE, RISK AND PROTECTION STRATEGIES FOR UAE FAMILY OFFICES

*"A failure to plan is
a plan to fail."*

- Benjamin Franklin

In the context of UAE family offices, this adage rings particularly true. When contemplating the security risks tied to family offices, family businesses, and ultra-high net worth individuals (UHNWIs), data leakage typically emerges as a primary concern. Nevertheless, the breadth of risks stretches well beyond this issue. Notorious cases like the Panama Papers and Cyprus Confidential have not only exposed the vulnerability of personal and financial data but also emphasized the importance of personal security measures. These episodes demonstrate the **extensive range of financial, operational, legal, reputational, and personal threats faced by those served by family offices**. In light of these risks, proactive planning and robust security measures become imperative to safeguard against potential breaches and protect the integrity of assets.

UHNWIs and family offices possess unique and demanding requirements for asset and privacy protection. **Maintaining high operational standards while facilitating smooth transactions necessitates robust structures and governance frameworks and agile risk management strategies**. These are crucial for protecting the assets, privacy, and personal safety. As the spectrum of potential risks continues to broaden, family offices must maintain a proactive stance in managing both internal challenges and external threats worldwide. By adhering to Franklin's wisdom, they can ensure resilience in the face of evolving risks and secure wealth for future generations.

IDENTIFYING AND ASSESSING RISK



A HOLISTIC APPROACH

Identifying and assessing risks requires a multidimensional perspective where family wellbeing (health, safety, wellness, mindset, and personal growth), wealth and business preservation and growth are paramount. **Family offices must adopt a holistic approach to risk that scrutinizes every facet of their operations, structure and governance.** Once risks are pinpointed, implementing suitable measures and tools can limit risk exposure, enabling the family to prosper unhindered by avoidable obstacles.

STRUCTURAL AND GOVERNANCE RISKS

A family office or business without a robust ownership structure is vulnerable and susceptible to third party creditor attacks, forced heirship, inter-family disputes and probate. **A strong ownership framework serves as the bedrock upon which an effective governance system can be constructed.** The Abu Dhabi Global Market (ADGM) and Dubai International Financial Centre (DIFC) are premier common law financial centres in the UAE which have developed sophisticated wealth structuring tools to support families at all stages of maturity to construct proportionate and appropriate legacy, ownership and operational structures. Tools such as **foundations, restricted scope companies and trusts are available to create robust umbrella holding structures under which personal and business assets can be placed and managed by a single family office.** Awareness and adoption of these tools is the first step to mitigating structural risks and lays the foundation for the implementation of a governance framework which achieves a functional separation between family, business and ownership to minimize conflicts and ensure greater business agility.

"The UAE have proactively developed world class wealth structuring tools to support families at all stages of growth to implement suitable structures."

UAE SHARIAH HEIRSHIP AND PROBATE RISKS

In the UAE, Shariah forced heirship laws pose challenges for Muslim families wishing to manage their estates according to personal wishes, while non-Muslims face protracted probate procedures and temporary asset freezes. To mitigate these risks, families should minimize direct asset holdings and create a foundation in the ADGM, DIFC, or Ras al Khaimah International Corporate Centre. Foundations, as independent legal entities, separate assets from personal wealth and provide robust solutions for both Muslims and non-Muslims, ensuring business continuity and smooth intergenerational planning. They can be structured to comply with Shariah principles, and assets can be transferred during the founder's lifetime, enhancing protection and management according to personal wishes.

Establishing a foundation is the most effective approach to holding and organizing UAE assets, allowing families to opt in or out of Shariah heirship rules, ensuring wealth distribution according to their wishes while maintaining privacy and control. Foundations are validated by UAE Islamic scholars and the Awqaf authority, confirming their compatibility with Shariah. Recent precedents show that lifetime asset transfers to foundations, with the founder and their children as beneficiaries, align with Islamic principles.

MANAGING LEGAL AND COMPLIANCE RISKS

Compliance is crucial not only to maintain legal standards but also to mitigate the risks of substantial penalties and reputational damage that can result from non-compliance. Family offices must be well-informed about the legal requirements in each jurisdiction where they operate or hold assets, including tax laws, privacy regulations, and anti-money laundering directives. Failure to adhere to these regulations can result in severe personal liabilities for the beneficiaries, who may be held accountable for oversight failures. Therefore, a proactive approach that includes regular compliance audits and engagement with experts knowledgeable about jurisdictionally specific obligations is vital to provide ongoing compliance management and support, ensuring all regulatory obligations are met.

In addition to regulatory compliance, family offices must deploy robust asset protection strategies to safeguard the wealth they manage from external threats like lawsuits and

“...family offices must deploy robust asset protection strategies to safeguard their wealth.”

creditors. Legal structures such as trusts, foundations, and holding companies can offer significant protection for assets, insulating them from common legal challenges and financial claims. All these tools and more are available in the premier financial centres of the ADGM and the DIFC. **Selecting and implementing appropriate tools from the rich menu available in the UAE is essential not only for managing and distributing family wealth according to the founders' wishes but also for minimizing tax liabilities and enhancing privacy.** Strategic planning with the aid of experienced wealth structuring advisors is crucial to effectively adopting these protections. This ensures the adaptability of the family office structure to the evolving legal landscape, securing the long-term safety and continuity of the family's legacy.

CYBERSECURITY RISKS

While family offices are increasingly leveraging technology for operational efficiencies, it can make them a lucrative target for cybercriminals. Cybersecurity measures have become indispensable for safeguarding sensitive information and assets.

Fostering a culture of cyber health within a family and family office is paramount. This involves educating members about common threats and best practices but also instilling a sense of collective responsibility in safeguarding sensitive information.

While the DIFC and ADGM have enacted robust data protection laws and regulations, comparable to or exceeding the GDPR, **safeguarding personal data remains a critical concern for UAE family offices.** Acknowledging the significance of privacy to families, the ADGM offers some relief from public disclosure of personal information through the offering of tools like foundations and restricted scope companies. Similarly, the DIFC has introduced an opt-in private register under the DIFC Family Arrangements Regulations, providing families with the opportunity to keep certain details of officers and interest holders in a family office or business out of the public domain. These initiatives, alongside measures such as the digital vault service “tejour” launched by the DIFC Courts, underscore the **UAE's commitment and forward-thinking approach to supporting families in protecting personal information.** They signal to families that their personal security and operational risks are understood and respected within the UAE.

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MANAGING RISK



COMPONENTS OF A RISK MANAGEMENT FRAMEWORK

Family offices benefit from proactively guarding against risks through thorough holistic and overlapping risk assessments aimed at identifying potential vulnerabilities and assessing the likelihood and impact of various risks. Based on a strategic family office gap analysis which identifies key areas of risk relevant to individual families, they can develop robust risk management strategies aligned with the family's objectives, risk appetite, and regulatory requirements.

THE VALUE OF A CHIEF SECURITY OFFICER

A Chief Security Officer (CSO) serves as a guardian of the family's reputation, and well-being, navigating the complex landscape of risks with vigilance, strategic foresight, and

unwavering commitment to security excellence. By proactively addressing threats and vulnerabilities, the CSO empowers the family office to thrive in an ever-evolving environment while upholding the highest standards of security and integrity.

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The CSO or the family office risk team is responsible for establishing access controls, surveillance systems, cybersecurity measures, background checks, identifying travel risk and emergency response plans to mitigate security threats among many other things. Furthermore, they integrate risk management into the fabric of the family office, making it ingrained in every department and individual's mindset.

REGULAR MONITORING AND REVIEW

Family offices must embrace a culture of continuous improvement, regularly monitoring and reviewing their risk management strategies to adapt to new challenges and changing circumstances. In the dynamic landscape of risk management, complacency is the enemy.

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This entails staying abreast of emerging risks and technological advancements that could impact the family office's operations.

LEVERAGING TECHNOLOGY

Leveraging technology in the management of family offices is essential for reducing personal, financial, and operational risks through digital transformation. By integrating advanced technological solutions, family offices can enhance governance and risk management, streamline operations, and bolster security measures.

CRISIS MANAGEMENT AND CONTINGENCY PLANNING

Robust crisis management plans go beyond basic reaction; they embody a proactive approach that anticipates potential crises, assesses risks, and devises strategic responses. It's about having a playbook ready for when the unexpected strikes, enabling swift and decisive action to mitigate damages and protect the interests of stakeholders.

KEY TAKEAWAYS



In today's complex, ever-changing global landscape, family offices in the UAE and globally must implement robust risk management strategies to mitigate structural, operational, financial, privacy, and personal security risks.

It is critical to establish a solid structure to build a comprehensive governance framework, utilize advanced cybersecurity measures, and engage in strategic financial planning to protect assets and ensure business continuity. Additionally, maintaining personal security and data privacy is paramount in guarding against potential threats.

UAE family offices should continually evaluate and adapt their risk management practices, engaging with experts across various fields to stay ahead of emerging threats and evolving legal and financial norms.



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We have extensive experience advising on a broad range of wealth structuring and legacy planning issues. We particularly assist in establishing and servicing Family- and Group- Holdings, Single- and Multi- Family offices, Foundations and other asset consolidation/protection and intergenerational wealth management structures.

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