

A Roadmap for Generational Wealth in Asia

Family Constitutions: Early lessons learnt

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White Paper

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Foreword

Asian family businesses contribute significantly to economic activity and social development, perhaps more than in any other region in the world. The Credit Suisse Research Institute found that almost 1,280 listed companies above US\$500 million in market capitalisation in Asia (excluding Japan and Australia) to be family influenced. In addition to this, the proportion of family businesses is even higher in unlisted or privately held companies. Many of these family businesses will see generational transition of ownership and leadership in the next decade or so.

Credit Suisse is privileged to have served many of the world's business families since 1856. We recognise that generational wealth is a holistic combination of financial wealth, assets and the family business. To help families and their businesses prepare for this generational transition, Credit Suisse has collaborated with Campden Wealth Research to present the series "A Roadmap for Generational Wealth in Asia".

The Roadmap series comprises a number of papers that focus on various aspects of generational wealth transfer and provides a framework for families to consider how to manage such transitions. The paper also aims to provide the reader with a form of peer learning through insights into what other business families are doing and thinking about.

The first paper in the Roadmap series dealt with the various dimensions of reputation of a family business. The second paper examined how the next generation better prepare to assume responsibility for the family's holistic wealth. The third paper focused on how families deal with various aspects of generational philanthropy and some of the practical challenges therein.

This fourth paper of the Roadmap series dives further into the concept of family governance and constitution through a series of case studies or family interviews. The qualitative nature of research reveals candid insights and private reflections of their family governance journey. Some families may find the structured approach in planning for their generational transition critical while others prefer a more fluid approach with a fundamental focus on upbringing and values. With each family unique in their idiosyncrasies, each will need to find their own path that presents the best chance of smooth transition. We hope the considerations shared in this paper will provide alternative perspectives and handles for your own family's planning.



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Executive summary

Ultra-high net worth (UHNW) families around the world are at different stages when it comes to the take-up of family governance. The stage at which families based in Asia-Pacific find themselves can best be described as 'early testing'. Some families are starting to formalise the relationship they have with their operating businesses and wealth, while many more look on with interest, aware that they too will need to act soon.

This research by Campden Wealth and Credit Suisse looks at the select families that are taking action, and more specifically those that are embracing Family Constitutions as a means to address governance. A Family Constitution is a written document which sets out principles and structures to guide future decision-making by the family, particularly as it relates to the family business and assets. In this report, we examine the progress of these governance pioneers in Asia-Pacific, and find out what is working and not working to extract lessons for those who will soon be following in their footsteps.

This topic area is a highly appropriate one for the fourth instalment of the roadmap for intergenerational wealth series. Family Constitutions can be a complete solution to the challenge of family governance, and an important means of achieving alignment and harmony between current and future generations. And, as examples in this report show, the next generation are proving to be champions for the development of Family Constitutions in the region.

The insights for the research come from qualitative interviews with members of UHNW families and their advisors conducted during the first half of 2016. These individuals generously shared many personal stories of families throughout the region, and made this revealing and timely report possible.

The report is structured around the following four sections:

Buy-in and Progress with Family Constitutions

Relatively few UHNW families in Asia-Pacific have adopted Family Constitutions. A key factor influencing the take-up by families is the age of family-owned businesses and the number of generations involved. Other barriers to the adoption of constitutions include patriarchal control, a lack of knowledge about family governance, and language gaps between generations.

Usage of constitutions is, however, expected to accelerate going forward in the region, with the growing wealth levels and the resulting number and diversity of assets and complexity within families. Another increasingly powerful motivator for Family Constitutions is the threat of litigation and publicity from family disagreements.

Process and Nature of Family Constitutions

Families in Asia-Pacific have followed different paths to developing their Family Constitution. Many have recognised the importance of wider family consultation in developing constitutions, although some elders have simply imposed their own views. Some families have tried to fast-track the development process by referencing or copying Family Constitutions of other families. This research finds that advisors have been heavily used by families to help draft Family Constitutions, and their experience and independence have been appreciated. Family Constitutions in Asia-Pacific are very much focussed on the family's relationship with the business, although the specifics of what is covered differ considerably – very few stretch to the management of wealth.

Family Constitution Implementation and Future Challenges

The research finds that families that have reached the implementation stage are experiencing positive outcomes provided the development processes were sound and consultative. There are concerns for the longevity of patriarch-dictated Family Constitutions given the lack of consultation and buy-in from subsequent generations. Looking forward, constitutions may need to reconsider their stance on women to treat them more equitably within families and businesses, and possibly even in-laws.

Conclusions

One of the suggestions for families is that they start the development of their Family Constitution by explaining the nature and benefits of constitutions to wider family members, and be as inclusive and consultative in the process as possible. Advisors should think holistically about the best interests of the whole family, and help the next generation to communicate more successfully with the older generation.

Section 1

Buy-in and Progress with Family Constitutions

- * Relatively few UHNW families in Asia-Pacific have adopted Family Constitutions due to the newness of family businesses and wealth.
 - * Other barriers to the adoption of constitutions include patriarchal control, a lack of knowledge about family governance and language gaps between generations.
 - * Usage of constitutions is expected to accelerate going forward in Asia-Pacific due to increasing wealth and familial complexity, pressure from the next generation and the threat of litigation.
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Early stages of adopting Family Constitutions

As a rule-with-many-exceptions, UHNW families in Asia-Pacific are at fairly early stages of adopting Family Constitutions in order to better formalise their family governance. The key factor influencing the specific take-up by families is the age of family-owned businesses and number of generations involved. In the likes of Australia, New Zealand, Indonesia and India where family businesses have created and dispersed significant wealth across several generations, Family Constitutions are more common than in less economically developed countries. In the prolific but still relatively young centre for new wealth, China, Family Constitutions have as yet generated little traction.

As one family member interviewed for the study noted: “In terms of formalising constitutions for the family office, it sounds great. Maybe it has been done in bigger family offices, or single family offices that have a big thriving business to handle. But for myself and a lot of others that aren’t so big, or aren’t consolidating businesses together, we are still very far off formalising.”

Sceptics and barriers to progress remain

Beyond the relative infancy of family businesses and wealth, our interviews with families and family advisors identified a number of barriers to the uptake of Family Constitutions. Chief amongst them was the power that patriarchs and matriarchs wield within Asia-Pacific families. This certainly reflects the importance of Confucian principles in the region and is particularly evident among founders of the family business. Some patriarchs or matriarchs are not prepared to share decision-making while they are still alive or discuss what happens when they die.

“Given that the patriarch or the matriarch is still around, most of the family firms would say there is really no need for us to formally professionalise the family”

– said one family advisor

The extent of patriarchal control is central to the development of Family Constitutions. In many cases it determines whether a Family Constitution gets developed and what the constitution really looks like – whether it is solely an expression of the patriarch’s wishes or wider family consensus.

Of course, attitudes of elders vary, and some are proving to be very consultative and inclusive in their approach. There are even those who actively avoid Family Constitutions because they do not wish to meddle or control future generations. The case study within this section profiles one such elder, who proposes an alternative approach for achieving wealth preservation in subsequent generations.

There are also some important knowledge gaps around Family Constitutions. In many cases there isn’t a fundamental understanding of family governance and how it differs from business governance.

“I think many families mistake the idea of the governing body in the business as a good enough substitute for the family constitution...”

– advisor

Language is another challenge for larger, multi-generational families. One family member noted that some of his wider family only understood a Chinese dialect, and didn’t understand English at all. This posed a challenge both for communication between family members and for advisors, most of whom could not understand the dialect. This point resonated with others, with one advisor noting that some words proved tricky to translate, such as the word ‘constitution’ which had too strong a legal intent in Mandarin.

Progress will accelerate thanks to some powerful catalysts

There was clear agreement among family and family advisors that the use of Family Constitutions in Asia-Pacific was likely to accelerate going forward. This is backed-up by a study conducted among members of business families in Asia-Pacific in 2014/2015 which found that some 71% of individuals agreed that there should be a decision-making body comprising representatives of the various branches of the family to decide family matters including the selection of family representatives in leading the business (SMU, Deloitte). The growing wealth levels and the resulting number and diversity of assets is certainly an important catalyst. This complexity in assets is also being mirrored by complexity within families, as they become multi-generational. Formalisation and governance is an inevitable response to this complexity, and it can often be prompted by the next generation.

“Children come back (from abroad) with newfangled ideas, and sometimes the family embraces them, and this will facilitate the development of the Family Constitution”
– advisor

The success or otherwise of these next generation children is one of the common themes of this report, and is played out in a number of the case studies.

In some instances, Family Constitutions can also be initiated by far-sighted patriarchs and matriarchs. One advisor noted that one patriarch he had dealt with had had to deal with conflict in his sibling group, and just didn't want any kind of conflict among his children, especially since his oldest daughter was just about to get married. This was the stimulus for him to start the process of developing a Family Constitution.

Another increasingly powerful motivator for Family Constitutions is the threat of litigation and publicity from family disagreements. This point was picked up both by families and advisors as increasingly significant for the development of Family Constitutions. One lawyer specialising in families noted, “There has been some major litigation in both Hong Kong and Singapore where the failure to come up with some sort of Family Constitution or plan has not only created embarrassment and difficulties, but much of the family wealth was exposed to public scrutiny in the courts, and that's a very bad thing.”

One Indian family member also picked up on this point: “There have been regular incidents in India of family conflict leading to wealth getting eroded and actually the entire family getting eroded.” He noted that this had been one of the key factors which had prompted them to develop a Family Constitution a few years ago.

Underpinning the vast majority of the activity around Family Constitutions is the commitment that families have to their family businesses and a desire to better regulate the relationship that the family has with it. This was a strong and consistent finding from the research. One advisor noted that “The intention and the conviction about wanting to be a long term, sustainable family firm has to be there in the first place (to justify the development of a Family Constitution.” And this is certainly the case among many families in Asia-Pacific.

Case study

Other roads to wealth preservation

This first section has detailed some of the reasons why families choose to develop Family Constitutions, such as a desire for harmony and wealth preservation. But constitutions are not the only means of achieving these goals over the long-term. We spoke to the principal of a multi-generation UHNW family who dismisses Family Constitutions and pursues another path, based on family values.

Background to family and wealth

“We have had the right outcome and the wrong outcome from two sides (of the family) for wealth preservation. Neither side did anything formally. But one side did things terribly in terms of (preserving) value. My father's side of the family was more financially disciplined. My father was insistent that we learnt the value of money, and he banged on about it like it was going out of style and eventually beat this into my brother and myself.”

Secret to wealth preservation

“The single most important part of wealth preservation is not to live large, like a rockstar. What is also important is traditional concepts like integrity and honesty. These concepts mean a lot more to me the older I get. I realise why my father banged on about them. It is a function of age and the passage of time that these things hit you. As I recognise the importance of these values in my life now, I bang on about them to my sons, and hopefully they will seep in over time.”

Learning values from previous generations

“When we were kids we had way too much money, but my father was insistent with us that he didn't want us to spend this money. ‘I will give you more than I think you need and more than you could possibly use, but I want to see your bank account statements at the end of each month,’ he said. So we did, and we developed a saving mentality. That helped a lot. The second thing he said was: ‘I am going to give you the best education I can give you, but the moment you leave university, you are on your own, cut off without a penny and you will have to earn your keep until I die. So good luck to you.’ He was true to his word, I didn't have a bean. I have been rich and I have been poor, and I can tell you that rich is better. When you have been poor, you know you don't want to go back there.”

Role of Family Constitutions

“We don't do anything faddish. I am constantly listening to advisors talk to me about the Family Constitution or other things that they can charge us for. I don't have a lot of truck with that. We have a family trust and we take the governance of the trust and the wealth very seriously indeed. And that solves the risks of wealth dissipation. We don't have family councils or common behaviours. Those sorts of things are opportunities for family members to appear to have a role, rather than have real decision-making responsibilities.”

Influencing the next generations

“Trying to think of generations beyond your children is an exercise in personal vanity. It is obnoxious for people to think about how they can determine how their grandchildren are treated by their parents. It is not up to me to govern the financial affairs of my son's children”.

On the experience of other families

“I don't think there is a prescriptive approach to getting this stuff right. There is a friend of mine who has been infinitely more successful than me. I have heard her talk about the family council this, and the family that... and I think she is putting her faith in these things in a way that I think is risky and ill-founded. I think she will by and large succeed in what she is doing in terms of passage of assets down to children, because she is a very strict, rigid person, incredibly wealthy but they live a fairly frugal existence. It will be those values that succeed rather than things related to family governance.”

Section 2

Process and Nature of Family Constitutions

- * Many have recognised the importance of wider family consultation in developing constitutions, although some elders have simply imposed their own views.
 - * Some families have tried to fast-track the development process by referencing or copying Family Constitutions of other families.
 - * Advisors have been heavily used by families to help draft Family Constitutions and been appreciated.
 - * Family Constitutions in Asia-Pacific are very much focussed on the family's relationship with the business, and few stretch to the management of wealth.
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Patriarchal involvement can be heavy-handed

Families in Asia-Pacific have followed different paths to developing their Family Constitution. The patriarch or matriarch has been central in defining what specific process is followed, and given the power that they still wield, there are certainly cases of very limited family consultation taking place and elders' views simply being imposed. One advisor spoke of a family where the Family Constitution read like the (biblical) commandments: "You will do this and nobody is going to do that."

Other elders have been much more inclusive, and some of the interviewees shared experiences of progressive involvement from patriarchs and matriarchs. One family member, whose story is told in the case study accompanying this section, relayed how his father and mother had played the role of facilitators in the process rather than decision-makers. In so doing, they had helped steer around the many emotional issues that can derail the constitution development process.

There is certainly an important role for one or more senior family members to ensure that the process keeps on track and that people participate.

"I used to keep forcing people to come to meetings we used to have. I wanted the document to be done quickly and I used my elder brother authority and kept bulldozing everybody to come and attend the presentations"

– family member

There has been a temptation to fast-track the development process

A number of advisors spoke of requests by families to fast-track the development process by referencing or copying Family Constitutions from other families. This seemed to be more common in families with dominant patriarchs who were not intending to consult widely, and more focused on the outputs rather than the value of the process itself. One advisor recalls being asked by a family for a Family Constitution draft: "I said: 'no I won't do it, I'll come and talk to you, but I won't send you a draft Family Constitution, because you'll take the draft family constitution, and simply re-write it and there won't be any agreement'."

Another advisor also voiced similar sentiments: "I often see families where they've borrowed such-and-such family's constitution and copy it over and make it their own. And actually it defeats the purpose of getting the family to work through some of these issues."

Language and education have complicated development

A couple of interviewees spoke of the challenges of involving family branches because of differences in their mother-tongues and education. This complicates the process of initial agreement to proceed and the drafting process itself. One family member said: "Among the third generation we have different education backgrounds and different language capabilities. So in a way it becomes a challenge about how to communicate, and how to align the things that we want to have."

A number of individuals stressed the importance of building up a common understanding of the merits and nature of the Family Constitution process from the start. One family member explained that the first few family meetings in their Family Constitution development process were mainly focussed on training. "We didn't magically jump into the Family Constitution. The first few family meetings were more training, in terms of making people understand why we were doing this... how it would help the extended family. That was the building ground with respect to the entire constitution."

Many have recognised the importance of consultation

Among the families that were interviewed, there was commonly some degree of consultation with the wider family as part of the drafting process. Several interviewees spoke of lengthy, structured consultation processes involving various forums. One family member described his experience: "All of us who were of age went through the process, I mean we were consulted on each item... Sometimes we could decide together in one room. There were times when it was more difficult so we had to break it up between the younger generation and the older generation. There were times when we had to break it up between one family branch and another. It depended on the actual topic that was being discussed."

Advisors have been extensively utilised in the development process

The research finds that advisors have been heavily used by families to help draft Family Constitutions. Families clearly recognise the value of their experience and independence and their involvement has been widely appreciated. These individuals have been intimately involved in structuring the process, facilitating discussions and providing best practice. In some cases, multiple advisors were used according to their specialism: law, psychology and investment management.

Family Constitutions are typically focussed on the family business

Family Constitutions that have been created so far in Asia-Pacific are very much focussed on the family's relationship with the business. The interviews do, however, reveal a fascinating and often evolving patchwork of areas relevant to the family business that are covered. Most commonly, Family Constitutions will detail how income will be distributed to family members, and quite frequently aspects of families' involvement with the business: necessary qualifications, representation on boards and remuneration.

One family member described how the development of their Family Constitution was an iterative process, which initially dealt with succession of leadership within the family business, but grew to encompass other things such as family employment and conflicts of interest. Another described how their Family Constitution covered succession, qualifications needed by family for employment and salaries for family members, but had yet to resolve the question of retirement age for family members in the business. "It's a bit sensitive to some family members who are involved. They are asking: 'Why should I have a retirement age if the first and second generation didn't have a retirement age?' Our family constitution is always ongoing. It's a never-ending chapter."

An advisor who worked with an Asia-Pacific family to develop their constitution noted that "they wanted very standard policies about how people prepare for and qualify for their roles in the company, how the family makes decisions together, and what kinds of things families need to make decisions, about how ownership would be represented and how the proceeds of the company would be shared."

Relatively few constitutions stretch to wealth management

Very few Family Constitutions stretch to the governance and management of wealth outside of the family business, reflecting both the priority of family business-related questions and the complexity of reaching agreement in this area for multi-generational families. One member of a multi-generational family felt it would be virtually impossible to bring the family's wealth outside the business together at this late stage.

The nature of Family Constitutions vary dramatically

One advisor working in the legal profession noted the variety of different documents used for Family Constitutions. "We talk in terms of a formal Family Constitution, you know written on parchment in old English script, it may be like that, but there are many forms of family constitution. That could be either written or simply passed on from one generation to the next."

Case study

Third time's a charm

An advisor to a family in Asia-Pacific shares the unusual story of how the third generation of a UHNW family came together to develop a Family Constitution after relationships between the second generation became strained.

Background to the Family Constitution development

"It was really driven by the third generation, the cousins, who were very different, as cousins typically are. But they were very close as a family and had an overwhelming interest in preserving and continuing the core family business. And they saw some dysfunction in the second generation, that concerned them, and they wanted to avoid that."

The challenges involved

"There were plenty of challenges. (The attitude of) the second generation ranged from quietly supportive to angrily oppositional. As far as I know, they just never really agreed to cooperate, but I think what they did agree was to let the third generation move on beyond them."

The nature of the third generation

"The cousins' generation was very varied from a freshman in college to people in their 30s. And some were living in Europe and the United States and weren't available to regularly work on this. So all the cousins agreed that a working group would be formed by the older cousins who were living and working in Singapore and that I (the advisor) would work with them. And, as portions of the constitution were developed they would be brought back to annual family meetings where they would be reviewed and revised as necessary and then ultimately approved and adopted."

Progress with implementation

"Once it was done, their family council was put in place. This had one of the second generation on it, but everyone else was third generation. And as far as I know, they have been able to move forward from there. One of the major accomplishments was to bring in a non-family CEO, and to add some independent directors to the board."

Factors for success

"While I think that it was the desire to exercise and demonstrate their own individual entrepreneurial ability that began to divide the second generation, it also enabled a process, because I think the second generation members were content to focus on their own individual enterprises and not really resist the changes that the third generation needed to bring to the main business itself, in terms of professionalising the management of the business."

Case study

The power of elders as facilitators

An Indian family member who led the drafting of his family's constitution outlines the collaborative approach that they took, which cast his mother and father in the role of 'facilitators' to the process.

Background to the process

"In about 2010/11, I thought it was opportune and right to have a Family Constitution in place. Now the role that I played was the lead member that engaged with the consultants in terms of drafting the entire constitution. We have a few consultants in India who actually do that. I engaged with them in terms of putting the entire constitution into a framework which is acceptable."

The process involved

"It was more a consensual thing (among the family). Nobody had one say. The consultants tried to strike the right balance between the various siblings in terms of the constitution. There was a full presentation given to family members at the family meeting. The family's main concerns were around security and expectations. Their main queries were about how the flow would happen, who had responsibility and who had the authority."

Role of the elders

"The parents' role was to convey to the siblings that this is what is going to happen and this is the way to go ahead. So their role was not from a drafting or a consensual perspective, it was more to get the remaining family on board. The formulation of these Family Constitutions is more psychological and emotional. People keep talking about fathers in terms of the professional side in all of this but I think my mother played a larger role in getting the emotional side sorted out. There are a lot of bridges that she helped us cross."

Dividing up communication

"At the meetings between me and my parents, we decided who should communicate what to whom. Sometimes my father would communicate something much better, sometimes my mother and sometimes me. Because I am more like a friend to my siblings, I could communicate something in a different, more matter-of-fact way."

Use of authority

"You need to decide very categorically who should use the authority and at what point in time. Because excessive use of authority I think just fails the constitution. It doesn't work. I think it is essential to decide who plays what role: who plays the devil and who plays the angel especially in India."

Section 3

Family Constitution Implementation and Future Challenges

- * Constitutions that follow a sound process have positive outcomes, and commonly result in better communication within families.
 - * There are concerns for the longevity of patriarch-dictated Family Constitutions given the lack of consultation and buy-in from subsequent generations.
 - * Constitutions may need to reconsider their stance on women to treat them more equitably within families and businesses, and possibly even in-laws in future.
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Generally positive outcomes from sound processes

These are unquestionably early days in the implementation process for many families, but the general consensus from the research was that families in the implementation stage are experiencing positive outcomes provided the processes they followed to develop constitutions were sound and consultative.

“Those that are willing to spend the time together, listen to each other, and have respect for each other, they’re the ones that have success”

– advisor

Of course, the specific outcomes or changes vary from family to family, depending on the nature of the Family Constitution. Among the interviewees, these outcomes included greater clarity around distributions, the creation of an advisory council or the appointment of a non-family CEO. Inevitably, families have had to grapple with how quickly any changes are introduced and given responsibility. One family member shared his experience with their advisory council: “Even while the document was being finalised, we had already implemented an advisory council. But it has no power right now. We are just practicing at this point.”

Improved communication has been a common benefit

One advisor stressed the real benefits that Family Constitutions commonly brought to communication within the family. “If there is one good thing that comes from Family Constitutions among Asian families, it is a way in which they formalise communication.” Comments made about the state of communication within families before they developed Family Constitutions certainly suggested that information wasn’t shared as widely and frequently as many family members would have liked, reflecting the centralisation of power and decision-making within some families.

There is early evidence of short-cuts not working

One of the family members interviewed said that they had decided to dispense with their first Family Constitution and develop a new one, after realising the shortcoming of their first attempt, developed with limited family consultation and local consulting input. “They decided they needed a more robust constitution and engaged the services of an advisor from abroad, one of the bigger banks.”

Concerns for patriarch-dictated Family Constitutions

As mentioned in section two, Asia-Pacific has seen a number of Family Constitutions developed with little or no family consultation, where the constitution is simply an expression of the views of one or more elders. There are understandable concerns for the longevity of these constitutions. Put bluntly by one advisor: “As likely as not those (patriarchal) wishes will sit in the box with the guy when they carry him away, once he’s dead nobody cares because you’ve got a new patriarch.” Such a situation is explored in the case study accompanying this chapter.

Attitudes to certain family members will need revisiting – women and in-laws

A number of individuals highlighted the shortcomings of Family Constitutions when it comes to women. Many Asian families do not allow women to play an active role in the family business, and restrict their share ownership.

“One thing that will be a very big factor (going forward) is the rise of women in family and business situations. I think that is going to have a great deal of influence on how some of these families behave going forward and is something that people have not taken into account, but they should”

– advisor

One male family member stressed the need to lift restrictions around the passing of ownership to female members of the family, so that they were on a similar footing as males. He said there was a reluctance among branches of his family with male descendants to address this, since the existing protocols were in their self-interest. “For them (those with male descendants), of course, they are not willing to change the constitution. But for those who don’t have (male descendants), they want to change.”

Another family role that Family Constitutions may need to reconsider is the involvement of in-laws. One advisor noted that in-laws had been completely sidelined in the constitution by one family. “That was hard for me, because I’ve seen great value in getting in-laws involved, appropriately involved, based on their skill-sets and their interests and their knowledge and abilities. Some of them have a tremendously positive impact on family business systems.”

Case study

Storing up problems

An advisor tells of his experience working with a family in Asia-Pacific where a dominant second-generation member developed the Family Constitution together with his advisors, without any consultation with the wider family. The tale is certainly not uncommon in Asia-Pacific and is instructive.

Reason for developing the constitution

“The patriarch had dealt with conflict in his sibling group and just didn’t want any kind of conflict in his children, especially since his oldest daughter was just about to get married. That was really a turning point for him to start the processes – he was going to have a son-in-law.”

Dominance of the patriarch

“One of the cultural differences that became apparent early on in the work was the deference to the patriarch of the family. If that was what the patriarch wanted, that was what was going to happen. The siblings didn’t really necessarily agree that it was a great use of time, energy and resources, but they went along with it nevertheless.”

Process involved

“What I realised along the way was that the patriarch was not sharing anything with anyone about the development of the constitution. It was not an inclusive process. It was me, the patriarch and his trusted advisors. He did include his wife, so he asked his wife a few times what do you think about this, what are your concerns about this. He wanted to know her opinion and change things based on that... The patriarch was also very focused on the idea that his business was a very big part of his legacy. In a sense it made him immortal.”

Concerns of the advisor

“I didn’t have high expectations for it (the implementation of the Family Constitution), because there wasn’t a tremendous amount of buy-in and inclusion in the sibling group. I asked the patriarch a number of times, ‘Are you sure that’s the best approach?’ He put it like this: ‘It is the Asian way, this is my culture, the father decides and the children obey.’ I said: ‘If they (the siblings) don’t believe in this or they don’t feel like they’ve been included, I just feel like it’s got a lower probability of lasting.’ And he said: ‘No they have to do it, they don’t have a choice. I’m their father and I’m doing what’s best for the whole group.’”

Role of the advisor

“My job was not to just say yes to everything that he wanted. My job was to push and ask appropriate questions. Most of it (the patriarch’s views) was just based on experience with his own family, his own sibling group, and also paying attention to catastrophic family business meltdowns in the region that he had read about.”

How it compares to other constitutions

“The major difference (of this constitution) is back to the (dominant) role of the patriarch. So this constitution reads: ‘Thus sayeth God...’ so to speak. It reads like commandments. Whereas my goal in Family Constitution work is to use the pronoun ‘we’ much more in the writing and to say: ‘This is what we have concluded together as best process and best practice for us going forward.’”

Advice for Asian families

“My advice would be, first of all do it, and do it together. Take the time to deliberate over ideas and principles, and to listen to each other. And certainly to defer to the wishes of the senior generation. I think that is a good notion, especially when they have created and shepherded assets for a long time and big businesses.”

Section 4

Conclusions

- * Families in Asia-Pacific find themselves at a very important stage in their adoption of Family Constitutions, when they have had enough experience for them to look back, reflect and learn some lessons. It is very important that as many families as possible learn these lessons, given the expected uptake in constitutions going forward. Drawing on the insight from the preceding three sections, this final section identifies some key suggestions for both families and advisors looking to develop and implement Family Constitutions.
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Suggestions for families

Start with education

Buy-in from the family is absolutely central to the success of a Family Constitution, and this needs to start right from the beginning of the process. Before work can begin on a Family Constitution, all the relevant family members need to understand the nature and benefits of a Family Constitutions and be broadly supportive of its development. This explanation or education can take place in a variety of ways but it needs to take place.

Be consultative and inclusive

The more inclusive and consultative the Family Constitution drafting is, the more likely it is that the constitution will be supported by the existing generation and relevant for future generations. As one advisor noted: "If it is done any other way, then the constitution, no matter how long or short, legalistically written or whatever, is in my view, useless, and in some places damaging. So to me it's the process to get to the documentation that is the important thing."

Philanthropy – a useful test bed

This is the first time philanthropy has been mentioned in this report, which is in itself telling. But philanthropy could serve as a very useful test bed for families looking to develop their family governance. It is an ideal way to build family cohesion, experiment with different types of decision-making and engage the next generation. It should be considered by more Asia-Pacific families either prior to or as part of the development of a Family Constitution.

Suggestions for advisors

Think holistically

There is certainly merit in involving outside experts in the development of a Family Constitution, be they lawyers, consultants, psychologists or wealth managers. But it is important that the experts who are involved don't work in isolation and don't think only about their specialist areas. There is a real need for them to think holistically about the best interests of the whole family, and to balance competing interests and navigate associated complexity.

Help the next generation find a voice

The next generation are an important catalyst for the development of Family Constitutions, but they often struggle to find their voice or be heard by patriarchs and matriarchs. Advisors can help the younger generation

communicate better and help the older generation listen more. Challenging firmly held views of elders may be difficult or even impossible, but if it facilitates worthy change it can be enormously important for the family and the advisor.

Ask the questions, but don't provide the answers

Experienced advisors who have been through the process of creating Family Constitutions may be tempted at times to fast-track progress by providing answers to the many questions. But like every other short-cut, this one isn't useful. As one experienced Family Office executive and advisor notes: "The family has to come up with the answer themselves. You can guide them, you can push them in a certain direction to consider certain things, but you can't impose."

Methodology

The research insights for this report derive from qualitative interviews with members of UHNW families and their advisors conducted during the first half of 2016. A total of five in-depth interviews were conducted with prominent members of UHNW families in Asia-Pacific that had given real thought to family governance and in most cases developed a Family Constitution. A further eight interviews were conducted with individuals who had been intimately involved in helping UHNW families develop constitutions. These advisors came from a variety of different backgrounds including large family offices, academia, consulting and law. We thank all of the participants for their input into the research.

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