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2018-19



7 habits of the new HNWs

They're digital, demanding and want to make a positive social impact. How next-gens are transforming wealth management

BUSINESS FROM THE BEACH
HOW MODERN ENTREPRENEURS
LIVE AND WORK FLEXIBLY

ALTERNATIVE ASSETS
ART, BITCOIN, MEMORABILIA – WHAT
ARE MILLENNIALS INVESTING IN?

BEYOND CRYPTO
WHY BERMUDA IS AHEAD OF THE GAME
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Generation next

Baby boomers, the wealthiest generation in history, are preparing to pass down an estimated USD30 trillion of assets over the next three decades – a phenomenon described by economists as the ‘great wealth transfer’. The next-gen beneficiaries of their wealth have different priorities, interests and ideas about investing than their parents, and that fact is reshaping the trust and private client industry’s model for how younger high-net-worths (HNWs) need to be serviced.

This 2018–19 edition of *Trust Bermuda* looks at how the jurisdiction is adapting to changing demographics, trends and needs, while keeping a watchful eye on global issues that continue to impact wealth management decisions. Our cover feature, ‘The 7 Habits of the New HNWs’, examines the changing profile, behaviour and expectations of next-gen wealth, and how Bermuda is modernising to engage with younger HNWs around the world. We look at how the importance of social-impact investing, philanthropy and technology has increased, and ask Bermuda-based wealth advisors how this is changing the industry.

We are witnessing a paradigm shift that will require agility and creativity –

characteristics which Bermuda has proven to have in abundance. The recent passage of pioneering laws and regulations for fintech businesses on the island has laid the foundation for Bermuda to become a hub of technological innovation for years to come. And with that, we hope to see many more young tech entrepreneurs choosing this jurisdiction to launch their businesses, thanks to its globally respected reputation, legacy of sophistication, and infrastructure robust enough to ensure success.

Bermuda continues to provide a reliable safe harbour from external threats affecting all generations. The island remains the intelligent choice for HNW individuals and families navigating challenges such as unpredictable geopolitical events, cybersecurity risks, and a global business landscape defined by ever-increasing compliance and financial transparency demands.

It clearly is a new normal – but one that also holds great promise, for this generation and the next. ■



Sean Moran is Interim CEO at the Bermuda Business Development Agency and a member of the Bermuda Fintech Business Development Working Group

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habits of the *new* HNWs

Young high-net-worths (HNWs) are not like their parents. They want their wealth to have a social impact. They worry about security and, perhaps surprisingly, privacy. Financial education is high on their agenda, as are transparency and pricing. They are typically (but not always) risk-taking investors, are equally at home both online and offline, and are more likely to be swayed by the opinions of their peers than their parents. They are also increasingly likely to be female. Wealth advisors, it may be time to adapt the service you're offering. Here are seven reasons why...

By *Elliot Wilson*

They want their wealth to have a positive social impact

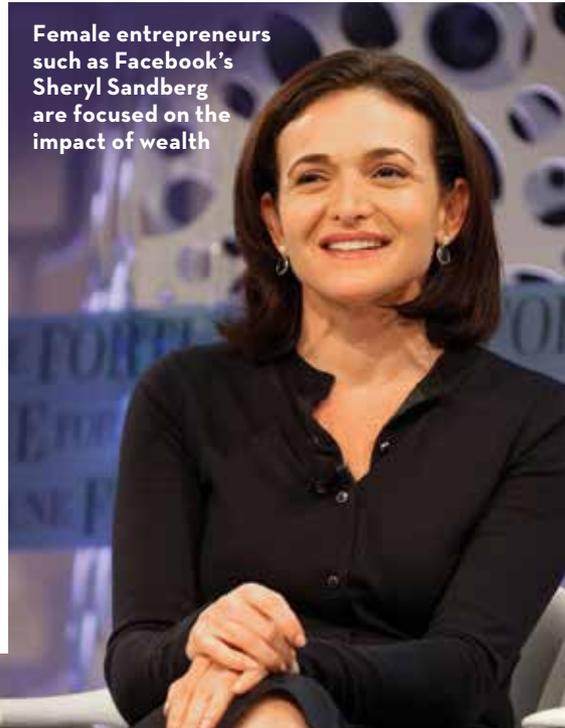
Younger generations want their wealth to be used responsibly. In a June 2017 report by HSBC Private Bank, 24 per cent of HNWs in their twenties cited 'having a positive effect in the community' as their key priority, versus 13 per cent of HNWs in their fifties. The latter demographic was also far more likely to view 'increasing personal wealth' as their primary goal. That matters, given that 23 per cent of the world's millionaires are millennials, according to data from the Shullman Research Center, and the 20-37 age group is set to inherit USD30 trillion from baby boomers.

'Younger HNWs are generally far more engaged with social impact, social justice and philanthropy than those who came before,' notes Dillon Hale, who has spent 20 years running or advising some of the world's biggest family offices, including

MSD Capital, tech billionaire Michael Dell's USD17 billion family office. Mary Duke, a New York-based family wealth advisor, adds: 'Socially responsible investing is de rigueur among young clients. There is far more awareness of wealth and its impact.'

Within the world of philanthropy, a clear division has opened up between generations. While older wealth focuses on broad-based giving, targeting arts or the environment, younger family members or entrepreneurs are 'more laser-targeted when it comes to philanthropy', says James Gibbons, director of Bermuda-based Harbour International Trust. 'They are often inspired by a singular motivation - perhaps they made their money in sports, but got a poor education, so they give to inner-city schools.' One thing is clear, though, reckons Gibbons: all generations 'get to an age where they want to do something good with their money'.

Female entrepreneurs such as Facebook's Sheryl Sandberg are focused on the impact of wealth





They need digital service, but with a human touch

According to Forbes, of the world's 10 youngest billionaires, six inherited their wealth, with the other four building their tech empires, and their fortunes, from scratch.

The average Twitter user is around 30 years old, and this number falls to 20 for Snapchat. Is this changing the way younger generations want to interact with their wealth manager? Well, that depends.

Hale says that younger HNWs 'expect to be serviced using technology - more so than human contact'.

But there isn't a clear-cut generational shift. 'Some of the savviest and youngest billionaires I know don't want anything to be online - they don't trust it or want it,' says Duke. 'On the other hand, I have 90-year-old clients who only want to Skype with me.'

Private bankers tell similarly contrasting tales. 'The younger "digital generation" is always online,' says one Singapore-based banker. 'They prefer to communicate using email and other digital means. But that doesn't mean they don't want to come and talk face-to-face.'

A Paris-based wealth manager offers an insight into the future, where HNWs keen to talk shop with their primary wealth advisor prefer to pop on a virtual reality headset. 'VR and virtual conferencing are the way forward,' he says. 'It is like you are in the room with one another. It's a mix of the physical and digital worlds.'



Women are leading the way in impact investing

Significant wealth is more likely than ever to be owned by women. A record 256 women made the *Forbes World's Billionaires* list in 2018, 72 of whom were self-made - compared with 56 the previous year. For the first time, their collective net worth topped USD1 trillion. Women control 51 per cent of personal wealth in the US, or USD14 trillion, a number that's set to rise to USD22 trillion by 2022. And they are more likely to strike out on their own: around half of all entrepreneurs under the age of 35 are women, according to a report by HSBC Private Bank.

This matters for many reasons. Eighteen per cent of women, compared with one in 10 men, consider themselves to be impact investors, according to the 2017 US Trust *Insights on Wealth and Work* report. The study found that women are 33 per cent

more likely to see investing as a manifestation of their personal, environmental, social and political values. Women are less likely than men to focus on returns and taxes, and more likely to emphasise impact investing, an industry that's tipped by the Global Impact Investing Network to swell to USD500 billion by 2020. 'For women, investment is less a case of "tell me how much I made and how I performed versus benchmarks", and more a case of "can I be proud of how my wealth is impacting on the world?";' says Duke.

'Women are 33 per cent more likely to see investing as a manifestation of their values'

4 They expect data security and privacy

High-profile data leaks have put immense pressure on wealth managers. But do next-generation HNWs have a different attitude to security than their parents or grandparents?

Gibbons points to a clear dichotomy between generations: 'A 60-year-old is likely to have greater awareness of the importance of security, while a 25-year-old will understand the guts of the problem better.' That doesn't mean a younger HNW is better at comprehending the danger or the scale of digital theft, or what to do about it. 'I've met 20-year-olds who have made millions of dollars by inventing an

app, but are utterly clueless about digital security,' Gibbons adds.

And when it comes to privacy, it turns out that younger generations do care about how their personal information is used, and by whom. In a 2017 study by the University of Sydney, when asked if there was 'no such thing as privacy', 41.9 per cent of those aged 18–29 disagreed, a higher share than all other age groups, except those aged 40–49.

'Young people want digital access, but they also want security of data from their wealth management provider,' says Gibbons.

'Young people are more willing to embrace risk, because they have less life scar tissue'



5 Investment strategies must be bespoke

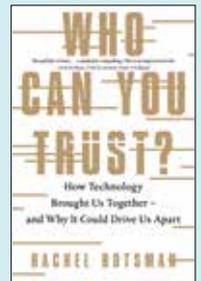
Are young HNWs more demanding than their forebears? The answer, according to wealth advisors, is an emphatic 'yes'. Millennials, says one London-based private banker, 'are more likely to engage directly with me. My first challenge, particularly when it comes to new wealth, is to win their trust.' They want to feel special, he adds.

That means 'creating a bespoke investment plan' that typically has less of an emphasis on low-yielding, interest-bearing instruments such as corporate and sovereign bonds, but instead contains a higher concentration of riskier assets. These might include private equity and venture capital or socially responsible investments that target a specific outcome, such as the advancement of a zero-carbon economy. Underlying this shift is a curious blend of risk-taking and social conservatism. 'Young people are more willing to embrace risk, because they have less life scar tissue,' says Gibbons.



6 Social proof and insight matter to them

Around the world, trust in governments and institutions is said to be in decline. But in an important new book, *Who Can You Trust?*, Rachel Botsman (pictured) says that trust is, in fact, shifting to the new digital platforms. We look to reviews, recommendations and ‘social proof’ to back up our decisions. Millennials, similarly, often seek validation in their choice of wealth advisor.



‘Who their friends bank with may matter more to them than who daddy banked with,’ says a London-based private banker. In this spirit, younger, better-educated HNWs also expect their advisors to act as a mixture of mentor and educator. ‘They want financial education and expertise – they want to learn,’ he adds. ‘And they’re more interested in pricing and transparency than their parents. They want to know what they are being charged. And they expect you to talk to them as peers, clearly and consistently, using straightforward language.’

‘Who their friends bank with may matter more to them than who daddy banked with’

7 They still like to be ‘near the money’

Most countries in the developed world are getting older, including Bermuda. According to the CIA’s *World Factbook*, the average Bermudian is 43.4 years of age. Life expectancy is 81.4 years. This may explain why Bermuda ‘is now drawing young entrepreneurs in their prime who are looking to escape the rat race,’ says Duke. ‘Now, a young tech entrepreneur might visit their advisor in Hamilton, fall in love with the place and buy a house there. Their spouses get involved in the community; their kids are enrolled in school. It’s becoming a much more dynamic and young place.

‘Entrepreneurs aren’t wedded to a specific urban centre any more; they can be wherever they want to be,’ adds Duke. But however portable wealth becomes, people still want to be ‘near’ their money.

There are a host of reasons why Bermuda is attractive to young HNWs, reckons Clare Maurice, Senior Partner at boutique private client firm Maurice Turnor Gardner. ‘You can locate your trust here; it’s tax neutral, politically stable and safe; and it has the rule of law and a deep well of professional talent – accountants, lawyers, wealth managers. Also, it is a very civilised place, full of dignity and respect. Young people crave that as they mature.’ ■



Elliot Wilson is a Switzerland-based business and financial journalist who writes for *The Economist* and *The Spectator*, among other media

BERMUDIAN BOOM

With soaring visitor numbers and increasing interest from global tech entrepreneurs, Bermuda is making history...

692,947

TOTAL NUMBER OF TOURIST ARRIVALS IN 2017 - THE HIGHEST EVER



PIONEERING TECH LAWS

New legislation such as the *Companies and Limited Liability Company (Initial Coin Offering) Act 2018* and the *Digital Asset Business Act 2018* demonstrate Bermuda's commitment to compliance and due diligence in the fintech sphere

665 miles

Bermuda's distance from the North Carolina coast

IN THE PINK

Bermuda's famous pink sands are made of crushed coral, calcium carbonate and the shells of tiny single-celled organisms

3,800

number of international business employees (including 2,100 (56%) Bermudians) contributing to Bermuda's economy. More than 75% of Bermuda's foreign-exchange earnings derive from global business activity

THE AREA OF BERMUDA?

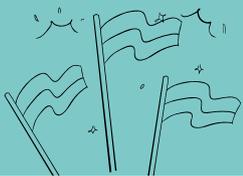
21
square miles

Often assumed to be part of the Caribbean, Bermuda actually sits in the North Atlantic

83%

OF THE GROWTH IN TOURISTS ARRIVING IN BERMUDA BY AIR IN 2017 WAS FROM VISITORS YOUNGER THAN 45





1505

the year of Bermuda's discovery by the Spanish - it was formally colonised by the English in 1612

102 UHNWIs

HAVE A PRIMARY BUSINESS ADDRESS IN BERMUDA (Wealth-X)



63,779

people reside in Bermuda (2016 census)



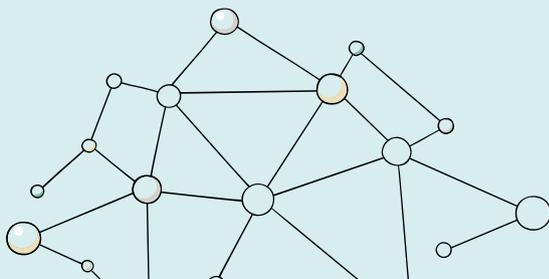
2hrs flight time to major eastern US cities



ENTERPRISE BERMUDA INCUBATOR PROGRAMME

launched in 2018 by government to equip local start-ups and entrepreneurs with the tools to succeed

1st Bermuda is the first jurisdiction to regulate blockchain-driven virtual currency offerings



THE NEW HNWs

millennial those born between 1981 and 1996 comprise the millennial generation, according to Pew Research

In the coming years, as a leading IFC, Bermuda will be servicing increasing numbers of the millennial generation, currently entering the period of their careers with maximum earning potential. But what marks this generation out as different from their parents? And how do they think about wealth?

USD30 TRILLION

the amount baby boomers will pass down to heirs over the next three decades (Accenture)

92%

of millennials care more about having a positive impact on society than doing well financially (compared to 52% of non-millennials) (Nuveen)



millennial investors are nearly twice as likely as the wider pool of investors to have made a purchase because of a brand's environmental or social impact (Morgan Stanley)

23%

of millionaires are millennials (Shullman Research Center)



OVER HALF

of millennials would change their bank relationship for a better technology platform solution (Deloitte)



30%

of millennials' wealth is invested in stocks (Deloitte)

SOCIAL CONSCIENCE

Large majorities of millennial investors believe their investment decisions can influence climate change (75%) and alleviate poverty (84%) (Morgan Stanley)





Welcome
to your
new office...

Stan Stalaker has built a global network of innovators - all from a beach in Bermuda. Here's the story of his empire built on sand, plus how you can follow in his footsteps
By Mark Rowland

BUSINESS FROM THE BEACH



Stan Stalnaker takes my call between airports. He's travelling across Europe on business, living in the gaps between flights. While he spends a lot of time in the air, his heart and his head belong in Bermuda.

Stalnaker's business, Hub Culture, is headquartered in Bermuda, including an innovation campus right on the beach at Ariel Sands.

'We're big believers in Bermuda,' he says. 'We always considered Bermuda this amazing kind of secret, and while we love being based out of there, we've always been very active in the world.'

Hub Culture is part network, part incubator, part currency innovator. It runs several 'pavilions' at international locations, including Rio de Janeiro, Ibiza, New York and Beijing. It also has its own digital currency, Ven, and Ultra, its own exchange system for digital assets. It runs networking and conference events regularly across its various locations.

Inspiring spaces

Stalnaker had the idea for Hub Culture when he worked for Time Warner. He was in Singapore on a business trip, staying in the Ritz-Carlton, which has a pool and garden on its grounds.

'I was supposed to go to the office and sit in my cubicle and do my work, but I managed to slip away for the afternoon, and I ended up working by the pool for the whole afternoon. I did so much work that day, and I remember looking around and thinking to myself, why can't I work in this kind of an environment all the time?'

That laid the foundation for Hub Culture, which, at its heart, is about getting work done in amazing spaces. The important thing is that those spaces feel special – inspiring and exciting places to work. Stalnaker's beach networks led directly to the creation of Ultra, his newest project.

'Ultra Exchange is a tokenised system for trading digital assets. And that whole project came out of the work in Bermuda last summer, from conception and the idea of what it could be through to the delivery of the project.'

A launchpad to the world

When you're developing a modern tech business, you've got to think about the ecosystem, says Stalnaker. Bermuda, in his view, has all the foundational points: great governance, and a location just 90 minutes from New York and seven hours from London by plane. 'So there is a "Bermuda Triangle" – London, New York and Bermuda,' he smiles.

'It has talent; incredibly well-educated and capable people live in Bermuda. You can find the people there who can get things done at the level required in, say, New York or London. It's also downright beautiful.'

Such is Stalnaker's belief in the Bermuda ecosystem that he's been working to encourage fintech and insurtech start-ups to set up in the country.

'There's this ecosystem emerging where we can all rely on each other. We can all help each other. We can all really do business with each other. So that's kind of how the reinsurance market got based in Bermuda and why 85 per cent of the market is now based there.'

Bermuda's entrepreneurs are on the rise, Stalnaker insists. 'Nobody's there just thinking about the 65,000 people in Bermuda. Everyone is there thinking about it as a launchpad to the world.'

'Incredibly well-educated and capable people live in Bermuda'

Stan Stalnaker

Turn to see 5 golden rules for thriving in the new entrepreneurial world ➤➤

5 golden rules

More and more top companies aspire to a high performance-meets-informal culture. To join them, keep these rules in mind...

1 CREATE THE RIGHT INFRASTRUCTURE

There are serious reasons to run a business with a beach culture – low operating costs, ultra-mobility, zero bureaucracy, to name just three.

To run the business effectively, people need to be able to connect and communicate. You need to have the right digital infrastructure in place.

‘We have printers at the beach,’ smiles Stalnaker, ‘but the reality is that most work, in the last two or three years, has actually gone paperless. All your files are on your computer now; your work is being done via Slack and collaboration tools.’

His company worked with Digicel to install fibre broadband at the beach club. ‘So, we have as good an internet connection as any office in London, but the cables happened to go into the edge of a shipping container!’

2 BUILD A FLEXIBLE CULTURE

The environment also needs to be conducive to different ways of working. ‘It’s hard to move 75 people to the beach, because not everybody’s a beach person,’ says Stalnaker. ‘The idea is to be able to have some infrastructure built in there that is flexible, so that you can accommodate the needs of different types of people at different times. I think that’s really important. There were days when we would go to a hotel, or we would have meetings in other offices when we needed a more formal kind of working environment.’

3 CULTIVATE A LIKE-MINDED SUPPORT NETWORK

If you’re doing something innovative, you need a good network of like-minded people around you,



says Tom Quay, whose digital agency Base is located near the coast in Bournemouth, UK. ‘There will be a lot of uncharted territory, so you’re going to need people to turn to who can advise about the sort of things you might come up against.’

To this effect, Quay has built a network of entrepreneurs in Bournemouth who exchange ideas, act as mentors and help with problem-solving. Base has also put on an annual networking event for local businesses.

‘The community aspect is important, particularly in tech. The community here is fairly active, and you get to know people quite well in the businesses that are similar to you.’

4 FOCUS ON TALENT

It’s all very well for your business to have a modern ethic, but you’ll also want it to be successful – and you need to be able to scale it. It will take more than a beautiful location to attract the talent you’ll need. Make sure you’ve got plenty of nearby amenities, good education options for people with families, and a good work/life balance.

‘It’s not sustainable to be working all hours,’ says Quay. ‘Some of the guys will walk out at lunchtime and go

down to the beach. It’s warm enough in summer for someone to come back with a load of ice creams. Half of us ride our bikes into work, and everyone is reasonably local.’

5 BRING THE BEACH TO YOU

‘Business from the beach’ is in many ways a state of mind. More and more entrepreneurial ventures around the world are trying to capture that beach vibe – flexible work schedules, easy collaboration, commitment to a cause, fun – even though many are nowhere near the sea.

‘Wherever you are, there are opportunities to build a comfortable leisure environment into the workplace around you,’ says Stalnaker, ‘whether it’s couches or ferns – anything that helps to foster the space and make it feel less regimented. I know companies that are getting rid of cubicles altogether, and just letting workers roam. You can have lockers in the office where workers can store materials that are important, but then let the worker decide where they’re going to spend time.’

Meeting rooms can be fashioned to be more formal working environments, but allowing people to work in the way that suits them within the working environment will bring the beach-working mentality to your business.

‘There are a lot of places where you can just walk outside and think, “Wow, I’m in a beautiful environment”. So, even if you’re in a traditional office, you’re surrounded by the environment, infrastructure and talent that make it viable as a global business.’ ■

Mark Rowland is Editor of *Accounting Technician* magazine

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PIPA calls the tune

How Bermuda is meeting the global data protection challenge

By Michael Bahar, Tony Ficarrotta and Trevor Satnick

This has been a watershed year for privacy. The EU General Data Protection Regulation (GDPR) came into force in May; in June, California passed the *Consumer Privacy Act of 2018* (CCPA), to take effect in January 2020; and, in December, Bermuda's *Personal Information Protection Act* (PIPA) will take effect.

This article is an overview of the laws' key similarities and differences.

Jurisdictional reach

The jurisdictional reach of GDPR, CCPA, and PIPA differs in important ways:

- PIPA applies to organisations that use personal information (PI) in Bermuda, even if that information is not about Bermudians.
- GDPR applies to the processing of personal data in the EU, even if that information is not about EU citizens, and it also covers businesses outside the EU which either: (i) offer goods or services to EU data subjects; or (ii) monitor their behaviour.
- CCPA's protections apply only to California residents; however, CCPA can cover businesses outside California that do business in California and meet any one of the following conditions: (i) they have annual gross revenue of USD25 million; (ii) they use the PI of 50,000 or more California residents, households or devices annually; or (iii) they derive at least 50 per cent of their annual revenue from selling California PI.

Covered activities

The laws all take expansive views of the kind of information processing covered.

- GDPR applies broadly to any kind of PI 'processing', including collection, use, sharing, storage and destruction of PI.
- PIPA applies broadly to any 'use' of PI, essentially the same as under GDPR.
- CCPA generally applies to the 'collection' or 'sale' of PI, rather than 'use' or 'processing'. But this approach will encompass many of the same

activities, as CCPA defines 'collection' broadly to include 'buying, renting, gathering, obtaining, receiving or accessing any [PI] pertaining to a consumer by any means', and includes 'observing' the consumer's behaviour. CCPA also defines 'sale' broadly to include 'selling, renting, releasing, disclosing, disseminating, making available, transferring or otherwise communicating' a consumer's PI not only for money, but also for any other 'valuable consideration'.

Covered PI

The laws have broad definitions of PI, and, while US laws typically have had narrower definitions, CCPA has the most expansive.

- Under GDPR, personal data is 'any information relating to an identified or identifiable natural person'.
- Under PIPA, PI is 'any information about an identified or identifiable individual'.
- Under CCPA, PI is 'any information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household'. Because PI includes household-level information, even electricity usage may be covered PI. It also specifically covers certain online metadata.

GDPR and PIPA provide further protection for 'sensitive' PI, such as race or sexual orientation. CCPA does not similarly treat these types of PI to heightened scrutiny and, with the exception of minor children's PI, treats all PI the same.

Cross-border data transfers

Companies subject to GDPR seeking to transfer PI to a non-EU jurisdiction face additional hurdles unless the European

Commission has determined that the jurisdiction to which the personal data is being transferred has 'adequate' data protection rules. In fact, PIPA may represent Bermuda's attempt to obtain such an adequacy determination to ease transfers from the EU to Bermuda.

Still, under PIPA, data transfers from Bermuda to the US will remain closely regulated. Under PIPA, transfers of PI outside Bermuda may be freely made to those jurisdictions the Privacy Commissioner has determined to have a level of privacy protection comparable to Bermuda's. Neither the European Commission nor the Bermuda Privacy Commissioner has determined that the US offers 'adequate' or 'comparable' privacy protections; US companies must rely on other mechanisms for cross-border transfers, including model contract clauses and binding corporate rules. Bermuda, unlike GDPR, does allow companies to reasonably self-determine that an overseas third party provides 'comparable' privacy protections.

CCPA does not govern cross-border transfers of PI *per se*, except to the extent that such transfers involve the sale of a California resident's PI.

Conclusion

As the global regulatory environment continues to evolve and grow in complexity, companies operating internationally should have a global regulatory strategy for data privacy and protection. The most efficient and effective strategies should account for both important similarities and differences with respect to GDPR, PIPA, CCPA and privacy regulations in other jurisdictions. ■



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Confidential and flexible

A round-up of the most significant recent Bermuda trust cases

By Alec Anderson and Keith Robinson

The last 12 months have seen the Bermuda Court issue a number of important decisions in trust cases. The Trust Law Reform Committee of the Bermuda Business Development Agency remains active and has recently proposed further legislative reform that it is expected will be considered by the Bermuda legislature later in 2018.

Among the recent law-reform initiatives of the Committee, the amendment to the *Perpetuities and Accumulations Act 2009* (2009 Act) by the *Perpetuities and Accumulations Amendment Act 2015* (2015 Amendment Act) has resulted in significant interest among international advisors and local practitioners. It has also seen a number of high-value trusts re-domiciling to Bermuda to take advantage of the flexibility afforded to the Bermuda Court to perpetuate trusts which were perhaps settled some time ago. The Supreme Court had occasion to consider the issues raised by the 2015 Amendment Act in *In the Matter of the G Trusts*.¹

Prior to the 2009 Act, the perpetuity period under Bermuda law was 100 years. The 2009 Act effectively abolished the rule against perpetuities as a matter of Bermuda law prospectively, save for trusts which held Bermuda land. Thus, in respect of trusts holding assets for ultra-high-wealth international families established on or after 1 August 2009, those trusts could be of indefinite duration, something which is often of particular appeal to settlors interested in a dynastic settlement.

With regard to trusts which had been established prior to 1 August 2009, there was no straightforward method to perpetuate them. The 2015 Amendment Act addressed this issue with an amendment to s.4 of the 2009 Act.

This section now provides that the Court has clear jurisdiction to grant an order on the application of the trustee extending the duration of Bermuda law trusts which were in existence prior to 1 August 2009 (again excluding trusts of Bermuda land) or trusts governed by a foreign law (whether established prior to or after 1 August 2009). The test to be applied by the Court under s.4 is a discretionary one.

The C Trust and G Trusts cases

Section 4 was first considered in *Re The C Trust*,² in which Chief Justice Kawaley held that it could be appropriate to grant relief under s.4 on an *ex parte* application by a trustee, provided that the Court was comfortable that any adverse impact on beneficiaries had been properly considered. The principles which Kawaley CJ set out in the *C Trust* were: (a) the Court should not act as a 'rubber stamp'; (b) the Court should have regard to the best interests of all interested parties, broadly defined and looked at as a whole; and (c) the fact that extending the duration of a trust will dilute the economic interests of existing beneficiaries will ordinarily be an irrelevant consideration.

In the *G Trusts*, the Court granted the application to extend the duration of trust. The factors which Kawaley CJ took into consideration included: the family whose wealth was held in the G Trust genuinely looked on wealth as dynastic; and the distribution of wealth to the generation that happened to be in existence at the conclusion of the existing

perpetuity period could be detrimental in a number of respects, including in terms of taxation and the resulting dissipation of the family wealth.

The case is also of considerable interest in two further respects. It considered whether the provisions of the Bermuda *Children Act 1998*, which abolished the concept from Bermuda law of illegitimacy prospectively from 2004 onwards, would apply to a foreign law trust (such as the G Trust) or instruments made under such a settlement on a change of governing law to that of Bermuda. The Court held that it would not, and thus it follows that a valid restriction of the beneficial class to legitimate issue in a foreign law trust would endure upon the trust becoming governed by Bermuda law. The Chief Justice also considered the practice of the Bermuda Court of anonymising trust cases in uncontentious cases, and held that this practice was constitutional and ought to continue in appropriate cases.

We have only touched on the large body of recent trust case law emanating from the Bermuda Court, the most recent of which is the important decision in *In the Matter of the X Trusts*,³ in which it was held that the Court did not have jurisdiction to compel the directors of a private trust company to resign. We have demonstrated, however, that Bermuda remains the pre-eminent offshore jurisdiction for confidential and flexible trust restructuring. ■

¹ [2017] SC (Bda) 98 Civ ² [2016] SC (Bda) 53 Civ
³ [2018] SC (Bda) 56 Civ



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The unusual rise of the alternative asset

Art, bitcoin, action figures – young HNWs are pushing the boundaries on investment, and advisors need to keep up

By David Hawkins

We are seeing the emergence of a new generation of internationally mobile high-net-worths (HNWs). And while their origins are diverse, they share at least one thing in common. Their behaviours and investment attitudes differ profoundly from those of previous generations.

This difference manifests in modern HNWs' tendency to seek non-traditional sources of wealth management. Also, many young investors have grown

up post-2008 financial crisis, and are less interested in stocks – actually seeing the sector as intimidating and uncertain. Instead, young, globally focused investors are inclined to look for alternatives. This includes social investments – those delivering a social, as well as financial, return – such as the financing of infrastructure projects in Asia and Africa, or venture-funding social enterprises.

Here are some of the latest investment trends, and what they mean for advisors.



Digital currencies

The positives for digital as both a currency and an asset are real – but expect to see consolidation in the currency space. Initial coin offerings (ICOs), whereby firms sell their tokens in exchange for Bitcoin or Ether, provide an opportunity to fund the tech sector using the foundation of the digital economy – digital currencies.

Regulation-wise, Bermuda is a leader. It has put in place a coherent regulatory framework – including ICO legislation and KYC procedures – effectively de-risking this space.



Jean-Michel Basquiat's *Untitled* (1982) sold for USD110.4 million at auction in 2017

Contemporary art

The contemporary art market has been burgeoning for 15 years. This has been driven by an increase in wealth among a certain demographic – the rich are younger, as are their tastes. We have also seen the internationalisation of art from China, south Asia and Latin America.



Coinbase CEO Brian Armstrong, 35, has built a fortune in crypto assets

London is a hotspot of VC activity in the tech sphere



Venture capital

VC investments in the tech sector, and in artificial intelligence (AI) start-ups in particular, now offer some of the most attractive investment opportunities. Research indicates there were 768 AI firms in London alone in June 2018. Forward Partners and Outlier Ventures are two examples of VC firms investing in tech and distributed ledger technology companies.

‘Millennial investors are wedded to tech and believe it can have a positive impact’



From bedroom wall to auction house: movie memorabilia's value is soaring

Nostalgia and novelty investments

‘Nostalgia investments’ are enjoying a surge in popularity. In July 2018, a Dubai-based collector auctioned the world’s rarest prototype *Star Wars* action figures, including mint-condition Luke Skywalker, Princess Leia and Han Solo figures. Elsewhere, a rare poster for *The Empire Strikes Back* sold for USD26,400.

Political memorabilia is also enjoying increased attention. At the Christie’s sale of the estate of Ronald and Nancy Reagan, the top lot was a diamond, sapphire and ruby ring by Bulgari that realised USD319,500 against an estimate of USD5,000–8,000. Nancy Reagan wore the ring on 4 July 1986 for the Liberty Weekend celebrations.

Where tech meets art

Tech and art are converging. Maecenas – the first blockchain-based art investment platform – auctioned 49 per cent of Andy Warhol’s *14 Small Electric*

Chairs; investors were able to purchase digital certificates on blockchain using digital currency. Codex, meanwhile, is a decentralised registry for art and collectables.

Violins and violas

As investment behaviours and attitudes change, wealth management professionals adapt to new trends. Millennial investors, in particular, are informed and have opinions. They also look at the world in a certain way, seeing value in places – socially, culturally and environmentally – that may not have been of interest to their parents. They are also wedded to tech and believe passionately in the positive impact that it can have on the world.

Specialist advice must also adapt to the changing nature of the market, as well as the investor. This is particularly true in the art market, where valuation is a delicate process requiring refined expertise. And, as ever, advisors need to stay abreast of the tax rules, and be able to answer questions around liquidity and exit strategy.

But above all, know your market. A Stradivarius violin may be valued at USD16 million. A viola? USD45 million. ■

David Hawkins is Managing Director at Cliveden Advisory

BEYOND CRYPTO

How Bermuda is emerging as a hub for digital assets

By Sean Moran

While many nations are taking a cautious, wait-and-see approach to cryptocurrencies and other products enabled by distributed ledger technology (DLT), Bermuda is embracing the revolution. Swift, progressive efforts by Bermuda's government, regulator and industry groups have succeeded in making the island the world's first jurisdiction to regulate blockchain-driven virtual currency offerings and myriad other digital assets – a factor that is already driving revenue-generating fintech incorporations and investment.

Next-gen Premier

Bermuda's push into the world of blockchain was advanced by the July 2017 election of a new Progressive Labour Party government, whose leader, David Burt, became the island's youngest ever Premier. Burt, now 39, is a tech-focused entrepreneur who graduated from George Washington University with a master's in information systems development. He pledged to make Bermuda a leader in the world of blockchain and financial technologies, and a few months later had established two working groups to develop a road map to that end.

One, the Fintech Legal and Regulatory Working Group, was tasked with building the framework of laws and supervisory rules to govern the island's nascent fintech industry. The group comprises legal and financial experts from Bermuda's private sector, as well as officials from the Bermuda Monetary Authority, National Anti-Money Laundering Commission, Ministry of Finance and Attorney General's Chambers.

The second, the Fintech Business Development Working Group, is made up of local technologists, entrepreneurs, various financial services providers and the Bermuda Business Development Agency. It was created to develop key messaging

and a marketing strategy to promote the jurisdiction, and secure strategic partners to enable a thriving fintech ecosystem.

Work began immediately on crafting Bermuda's legal and regulatory framework. Premier Burt took a lead role in the jurisdictional promotion effort when he attended the World Economic Forum in Davos in February 2018, accompanied by Bermuda's Minister of National Security, Wayne Caines, who, assigned responsibility for ICT Policy and Innovation, has been dubbed the 'Minister of Blockchain'. At Davos, they invited several leading blockchain experts to visit Bermuda the following week to brainstorm how best to build a new industry powered by blockchain. Supporters of this vision flew directly to the island a few days later, and ideas from the impromptu think tank were promptly put into action.

In consultation with international advisors, legislation and regulation governing initial coin offerings (ICOs) and digital asset businesses were passed by Bermuda's parliament within five months. Both the *Companies and Limited Liability Company (Initial Coin Offering) Act 2018* and the *Digital Asset Business Act 2018* (DABA) oversee compliance and due diligence requirements, among other things. They regulate all ICOs and businesses that operate digital asset exchanges, facilitate payments of virtual currencies, provide custodial wallet services, or generally issue, sell or redeem virtual currency as a commercial activity. The DABA is modelled on laws already governing insurance and investment funds companies in Bermuda, thereby setting a suitably high bar to attract quality businesses seeking a well-regulated domicile from which to operate, while also protecting Bermuda's reputation as a blue-chip international financial centre.

Several memoranda of understanding were signed in 2018 between the Bermuda government and strategic

partners, who pledged to be anchors for the island's new fintech community. These included Binance (the world's largest cryptocurrency exchange by transaction volume), along with high-profile companies such as Omega One, Shyft Network, and Medici Ventures, which confirmed their plans to launch operations on the island and offer support in enabling operating efficiencies by investing in educational programmes and infrastructure initiatives.

Silicon Valley of the Atlantic

The fast pace of fintech developments has set Bermuda apart as the 'Silicon Valley of the Atlantic'. Bermuda-based tech firm Trunomi, for example, announced a joint venture with Shyft to develop a blockchain-based system for hosting and maintaining digital identity information for Bermuda residents and businesses. By the summer of 2018, the government had also announced plans to amend the island's *Banks and Deposit Companies Act 1999* to allow for a new class of bank for fintech and DLT companies. In addition, Bermuda began a programme to convert its Land Title Registry database to a blockchain solution.

It is clear that Bermuda's burgeoning fintech sector will create opportunities for those looking to invest in the economy of the future – where blockchain technologies and the digitisation of assets will soon be an integral part of everyday business. Wealthy next-gens, entrepreneurs and technologists looking to support the development of innovative solutions to global problems will find those solutions in Bermuda. ■



Sean Moran is Interim CEO at the Bermuda Business Development Agency and a member of the Bermuda Fintech Business Development Working Group



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