



HAN KUN LAW OFFICES

Legal Commentary



CHINA PRACTICE • GLOBAL VISION

July 29, 2013

An Introduction to Family Office

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1. What's Family Office?

A Family Office is a private institution established to provide wealth-management and family service for high net worth families, for the purpose of long-term development of family assets, and thus guaranteeing the maintenance, appreciation and also the succession of family assets.

Currently, the Family Office is a rather unfamiliar concept in China, whereas in countries like USA, the Family Office has experienced a longer-term development course. As early as in 1882, John D. Rockefeller established his Family Office, designed to manage his family wealth, which became the precursor of Rockefeller & Co. The Agnelli family in Italy, holder of FIAT, also had their own Family Office established in Switzerland, which has served the family for more than 3 generations.

2. Unique Advantages of Family Office

Comparing to other financial intuitions, such as private banking, the Family Office possesses the following unique advantages:

- a) It can provide multi-dimensional investment services. Throughout the world, many countries made regulations to enact the mode of separate operation in banking; therefore private banking cannot provide multi-dimensional services to their clients. Whereas Family Office can invest directly in many fields such as banks, insurances, securities, trusts or industries, and provide highly individualized investment portfolio. Furthermore, it can participate in the operation and regulation of the family business;
- b) It can provide more inclusive and individualized services. Other than providing services in terms of asset management, Family Office also provides butler services specially tailored for wealthy families, for instance the management and succession of family business, assets distribution among family members, establishment of charity

foundation and affairs derived within the whole family, etc. All services aforementioned can not to be provided by other financial advisors;

- c) Family office has consistent interests with the family and keeps the family information highly confidential. Private banks and other financial institutions pursue the maximization of profits for themselves, whereas Family Office always stands on the side of the family to provide service in line with the family's interests. As a result, Family Office can effectively avoid information leakage.

3. Typical Services Provided by Family Office

Family Office generally provides the following services:

- a) Assets management. To manage family assets efficiently thus guaranteeing the stable appreciation of value;
- b) The succession of wealth. To design plans to solve the issues about the succession of family wealth and the distribution of revenue;
- c) Tax planning. Dealing with tax affairs such as the individual income tax, business income tax of the family business, inheritance tax and donation tax among family members;
- d) Aiding the establishment and management of charity foundation. Managing charity business can promote the reputation of the entire family and enjoy reduction in tax;
- e) Family business management. Design management pattern special for family business;
- f) Educating family descendants. Help the next generation to foster the ability to directly or indirectly manage family business;
- g) Other butler services. For instances: bill payment, daily life, travel arrangement and real estate management, etc.
- h) Personal legal services. Usually there is at least one lawyer served on the Family office, coordinate and handle all legal issues arisen with the family or family members.

Apparently, each independent Family Office serves for purposes vary in accordance to the situation of the family member and the family business. The afore-mentioned are the most usual types of services provided.

4. Establishment of Family office

In USA, the Family Office was structured as limited partnerships or limited liability companies, and was organized similarly to hedge fund management companies. Based on the number of

families it severed, the Family Office can be classified as Single Family Office or Multi-family Office.

Judging from the current situation in Chinese mainland, most Family Offices were structured as Investment Management Consultants Ltd., then in the name of Family Office to operate. In addition, there are some professional investment companies also starting to offer some services related to the family wealth management. However, such companies are not Family Office in the strict sense.

5. Qualification of Family Office

To establish a Family office in Mainland China and engage in services such as wealth management, competent qualification(s) shall be obtained, or instead, certain statutory procedures shall be performed. Especially where the management of financial assets is involved, it may be subjected to the business license of CBRC (China Banking Regulatory Commission), CSRC (China Security Regulatory Commission), CIRC (China Insurance Regulatory Commission), or subject to the registration and filing procedures of the industry associations.

Foreign investors wanting to establish the Family Office and offer the aforesaid services, in addition to obtaining the qualifications and performing the statutory procedures, shall also follow the *Catalogue of Industries for Guiding Foreign Investment (2011 Revision)* (hereinafter referred as to "Guiding Catalogue"). According to the Guiding Catalogue, the Trust, Securities Investment Fund Management and Insurance Brokerage are categorized as restricted industries for foreign investment. So for Foreign investors, to engage in such businesses, they shall apply to the provincial commerce department at the locality of the investee company.

6. Supervision of Family Office

In USA, the Family Office shall comply with the *Investment Advisers Act*, and register with the Securities and Exchange Commission (SEC) as a Registered Investment Advisor, and then accept the supervision from SEC and disclose its detailed information.

In Chinese mainland, the different businesses the Family Office is involved in are subjected to the supervision of different authorities, but it remains to be determined which authority is entitled to supervise the Family Office itself.

7. Business Model of Family Office

As mentioned above, to offer different asset appreciation services, the Family Office shall apply to different supervisory departments for the relevant qualifications, and meet different statutory

requirements. So it is not easy to establish a Family Office and obtain all relevant qualifications for business in Mainland China.

To solve such problem, the Family Office may cooperate with the trust companies, insurance companies, fund companies or third-party financial institutions. In the aspect of the asset appreciation services, the Family Office may offer the investment suggestions or plans for families, but the specific operational issues can be delegated to a qualified third party.

Important Announcement

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