



Death, divorce and dispute

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27 September 2012

Introduction

- Death, divorce and disputes can have catastrophic effects on families and their wealth
- The effects are inevitably much worse without preparation, planning and advice
- Simple steps can avoid the problems or greatly limit their adverse impact
- This can be done while preserving and enhancing the existing client/banker relationship
- Death
- Dispute
- Divorce

Death - 1/2

- Unfortunately inevitable
 - Must plan
- Without planning
 - Uncertainty
 - Catalyst for disruption and/or dispute
- Disruption
 - No shareholder
 - No director

Death – 2/2

- Dispute
 - True shareholder
 - True director

- Solutions
 - Will
 - Trust
 - Advise affected parties

Disputes – 1/2

- Shareholder disputes
 - Family business
 - Non-family business
- Not inevitable, but common
- Infinite range of causes
 - Money
 - Power
 - Ego
 - Business strategy

Disputes – 2/2

- Consequences
 - Focus on dispute, not business
 - Paralyse business operation
 - Prevent or delay decision making
- Solutions
 - Dispute resolution agreement
 - Shareholders agreement
 - Separate business ownership from the parties
 - » Trust
 - » Foundation

Divorce – 1/2

- Not inevitable, but becoming more common, litigious and public
- Different laws will apply depending on where the divorce occurs
 - International families
 - Jurisdiction “shopping”
- Hong Kong divorce law closely modelled on UK law
 - Presumption of equal asset division

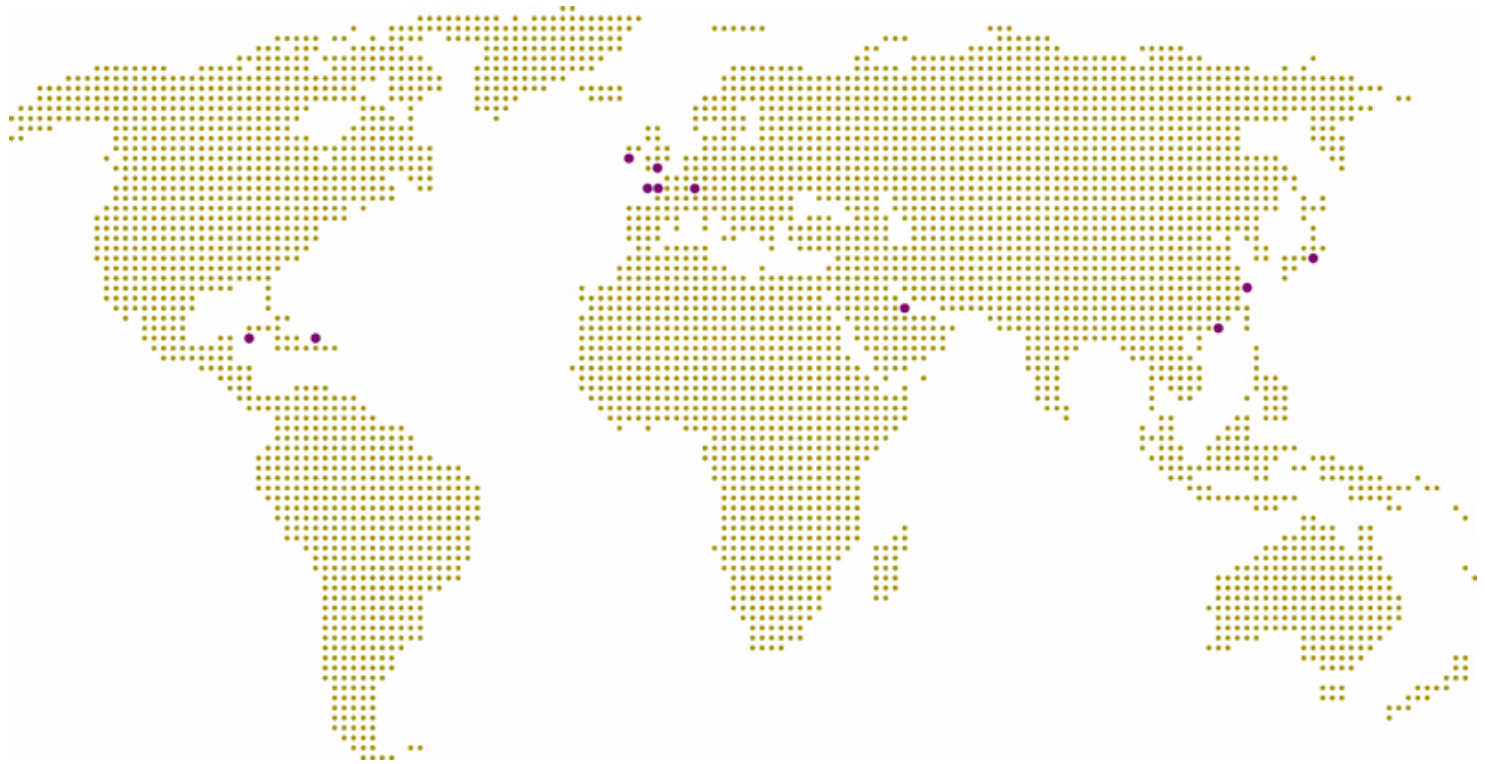
Divorce – 2/2

- Offshore assets are likely to be included in matrimonial assets for division
 - Includes offshore company shares
 - Includes offshore trusts
 - Can not be hidden or ignored
- Solutions
 - Pre-nuptial agreement
 - » Not binding but can be persuasive
 - Trust structuring

Conclusions

- Death, dispute, divorce
- Unpleasant, but need to plan
- Planning can avoid or limit impact
- Planning need not have any adverse impact on banker/client relationship
 - Continue on same relationship
 - Can enhance relationship

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Thank you

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