

By Kathryn M. McCarthy

No Train Wreck, Now What?

Single family offices were braced for a crash. It didn't happen

Despite the dire economic prospects of 2008-2009 and many families' fears that they'd have to shut down their single family offices (SFOs), the train never went off the rails.¹

To keep firmly on track, they're thinking outside the box, considering collaborating with other SFOs and multi-family offices in new ways. For example, there's more talk about SFOs sharing a chief investment officer, or joining to perform due diligence on investment managers, or using each other's specialized knowledge in, say, personal security, fine art management, or airplane ownership. They're even sharing office space in major cities to keep the overhead down.

Having been surprised, even astounded, by the recent economic catastrophe, there's a whole new emphasis these days on preparedness and all kinds of planning, not just for investments. For example, family offices are actually creating handbooks on what to do if a family member gets ill or is going to die soon. Handbooks are much more than a list of contacts: They run 50 pages-plus, containing legal documents from a health care proxy right down to the current list of medications a family member is taking.

Strategic Plan

The concept of the strategic plan for the family office has taken hold. It's no longer a bound volume sitting on the shelf gathering dust. Indeed, these days, the strategic plan is being revisited to test its relevance and to plan for change. Once the SFO has a strategic plan, a best practice is to revisit it periodically (every 3 to 5 years). I'm happy to report that this is actually being done

even in the resource/time constrained environment of most SFOs. Families I know hire experienced firms and facilitators to assist in the process of developing and implementing a strategic plan. Having an experienced outsider involved has merit and one ancillary benefit: The strategic plan actually gets done!

Post financial crisis, the strategic planning process is also successfully being used to engage the next generation in a discussion about the long-term viability of the family office. Not to uncover what "could be" from the senior generation's perspective, but to focus on next-gen questions like, "Is the family office something we want?" "Need?" "Or can even afford?"

Looking ahead, SFOs are keenly aware that the regulatory landscape is shifting. Everyone is watching and waiting for changes that could be coming down the line: SEC regulation of family offices, changes in income tax rates and, of course, what's going to happen with the estate tax (or lack thereof). Planning in this environment is difficult at best.

What to Do

What are family offices doing? They are taking stock—in simple, taking inventory. The law firm Withers Bergman recently briefed family offices in New York on pending legislation.² The Withers Bergman session offered up "The Family Office Legal Audit" as a way to prepare for the changing regulatory landscape. It's essentially a review of all family entities (such as trusts, limited liability companies, family limited partnerships, etc.). Are they still relevant, efficient, protective? What's the effect of proposed or anticipated legislation on these family entities? Answering the questions will certainly keep the family office staff engaged and deep in the archives as the legislators deliberate.

Family office governance also has renewed importance today. With some families, their investment



Kathryn M. McCarthy is an advisor to families and family offices in New York City

policy (a form of investment-related governance) saved them from disastrous moves last year. Relying on long-term strategic investment guidelines kept some (not all) from capitulating in early 2009. Today, many family office chief investment officers are stress testing the family investment policy statement and there is a renewed interest in adding tactical guidelines, just in case of disaster.

On the other hand, a strong theme seems to be that all forms of governance need to be simplified or at least revisited. Families in general find they have too many committees, too many meetings, too many rules. There is a growing recognition among well-respected advisors like Ivan Lansberg, senior partner of Lansberg, Gersick & Associates in New Haven, Conn., that “governance is a lifelong process rather than an engineering problem for which there is a lasting ‘silver bullet’ solution.”³ Family offices are being viewed not only as financial services bureaus, but also as a family governance mechanism. Certainly not new thinking. In the go-go days, many SFOs were consumed with investments. Now families are rethinking how the family office can streamline, as well as support, their governance practices, family meetings, family councils and family advisory boards.

Risk Taking

One unexpected turn of events is the current focus on risk taking and entrepreneurship assisted by the family office. Sophisticated families have always viewed their family offices as risk managers. The Family Office Exchange (FOX) codified 30-plus risks faced by wealthy families in its 2006 risk study, “Recasting the Central Role of the Family Office as Risk Manager.”⁴ It’s no coincidence that FOX updated and refocused the original study post-financial crisis. The 2009 study, outlined in *Trusts & Estates*’ January 2010 issue, focuses on risk

planning. The new version emphasizes “the importance of positive, calculated risk taking by developing a risk taking culture in the family and family office.”⁵ Family offices will always be called on to manage the downside.

One unexpected turn of events is the current focus on risk taking and entrepreneurship assisted by the family office.

With the new realization that many families need to generate new capital, their family offices will become true risk managers, seeking out opportunities for wealth enhancement, not just protecting the downside.

“There is no standing still” is now the mantra among the very wealthy families I know. Everyone in the United States (not just the wealthy) is looking to regenerate wealth. It’s just that wealthy families are assessing how the family office can support this goal and continue to keep the train on the tracks. **TE**

Endnotes

1. Kathryn M. McCarthy, “Shake Up!” *Trusts & Estates*, January 2009, at p. 34.
2. See Institute for Private Investors, Special Briefing, “From Private Office to Public Registration: An Outlook for Family Offices,” February 2010, www.memberlink.net; www.withersworldwide.com.
3. Ivan Lansberg, “Ruling vs. Governing: On the Dialectics of Governance,” *Family Business*, August 2009, at p. 55.
4. See www.foexchange.com.
5. *Ibid.* See also Anna Nichols, “Revisiting the Conversation about Risk and Risk Taking,” *Trusts & Estates*, January 2010 at p. 45.