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In conversation with Hassan Zawawi: Structuring for Saudi business owners

NOVEMBER 2025

Following a recent trip to Jeddah, Angela Calnan had the pleasure of sitting down again with fellow private wealth lawyer, Hassan Zawawi, Partner at Alzawawi Law Firm. Here she shares her thoughts and key takeaways from her time in the Kingdom of Saudi Arabia.

'I first met Hassan last summer in Jeddah through Guernsey Finance. Hassan has his own boutique law firm in Jeddah – Alzawawi Law Firm. Having trained as a solicitor at Taylor Wessing in London and then qualifying as a lawyer in the Kingdom, he understands the issues that arise from the interaction between common law structures and the application of Sharia principles for his Saudi clients.

Our latest conversation came out of a roundtable I was hosting in Jeddah that Hassan attended. We were talking about structuring solutions for Saudi business owners and how we solve the problem of succession in order to preserve the longevity of Saudi businesses for generations to come.

For decades, GCC families have used offshore trusts and companies to help with succession issues but there are certain local nuances in Saudi for certain asset classes that require us to tread carefully.

Hassan explained to me that, in the main, families expect for their local business assets to pass in accordance with the principles of their faith so there is less demand for offshore for business assets.

I asked Hassan how local families overcome the fragmentation of business ownership on death. He explained: *'For local families, the Saudi LLC can in some instances be a really good solution. Each individual shareholder would have his/her own LLC so a death event wouldn't impact the ownership in the family holding company or smooth running of the underlying Saudi operating company.*

'We must take note that in some instances there are many subsidiaries under the holding company that will include joint ventures with multinational partners. Therefore, these multinational stakeholders also want the comfort of stability and longevity.

'Where there is a large number of shareholders, families will convert their holding companies to closed joint stock companies to allow for greater governance and mitigate the risk of one shareholder disrupting the family business, as might occur when the holding entity is a limited liability company.

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'Under the new Saudi Companies Law, which came into force a couple of years ago, shareholders agreements' and family constitutions are now enforceable instruments protected by statutory authority they can be referenced in the articles of association and bylaws of the company. This very change has also given a greater motive for families to review and update current corporate structures in the Kingdom.

'There is also the added advantage that structuring business assets with local companies would not trigger the 20% corporate tax on the income of the operating company which would bite on the transfer of the operating company shares into an offshore company owned directly by the family members or by an offshore trust.'

We went on to talk about the wider policy and religious reasons for structuring family businesses locally within the Kingdom which led on to a discussion about waqf and giving away assets absolutely during life; waqf being very distinct from our common law ideas about trusts and beyond the scope of this piece.

We do see some families structuring their operating companies offshore but offshore structures are much, much more prevalent for bankable assets for Saudi families. I had always thought that the reasons that we see more liquid assets offshore was the reticence of some institutional trustees to accept private company shares. It was very interesting to hear from Hassan that local Saudi tax is also a really powerful driver for local families in conjunction with the desire for Sharia to apply to those assets with a strong commitment to preserve their religious beliefs in relation to inheritance.

Could there be a world in which a local Saudi trust product akin to our common law structure appears in the Kingdom? Hassan certainly thought this was interesting. We have seen trust laws introduced in other GCC countries such as Bahrain and Dubai but these have not really gained traction with local families so it is unlikely that we will see a common law trust in Saudi – at least any time soon.

For me, the recent trip to Jeddah and the conversation with Hassan really reinforced the importance of working hand in glove with local Saudi advisors to deliver holistic wealth preservation planning using local corporate structures and offshore companies and trusts in tandem.

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