

# MINERVA

## newsletter

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# Family Constitutions, a growing trend

**F**amily Constitutions are becoming increasingly common as families with business interests tackle succession issues and generally structure their affairs. In view of this trend, we asked Strategic Consultants Limited to draw on their wide experience of this subject, and to provide the following commentary.

This is an abridged version of a fuller article which is available in the news archive section of Minerva's website or by following [this link](#).

Human society is unique in the degree to which it is regulated. It comprises innumerable organisations or structures, each of which operates on a set of rules or guidelines. Companies have rules in the form of memoranda and articles, clubs have members' rules, States have laws and councils have by-laws, religious institutions have doctrines. The development of these structures has played a large role in our sustained growth as a society.

Yet when it comes to the institution closest to us – our family – things are a little different. The family institution tends to operate on the basis of unwritten rules and principles passed from parents to children and from generation to generation. Rarely are these rules formalised or documented.

In our work with families around the world over the past 25 years, we have found there is initially significant resistance to the idea of having written rules or guidelines for a family. The phrase “Family

Constitution” sounds very formal and legalistic and thus daunting and even unnecessary. There is also usually a fear that by

subscribing to a formal set of guidelines one is giving up the right to independent thought and action or the rules might be used to disadvantage some family members. Yet these fears are largely unfounded as people are constantly adhering to rules and guidelines in all other aspects of their lives and our experience is that unless a family develops certain rules and guidelines, adhering to family values and goals becomes a real challenge.

Formalising family values, goals and clearly defining rules or guidelines – into a Constitution, Creed, Code or any other similar document – has a number of benefits, particularly for those families which also operate family businesses, and where the lines between family and business relationships are necessarily blurred.

**“A boat doesn't go forward if each one is rowing their own way”**

**Swahili Proverb**

Some of the major benefits of having a constitution are:-

- In formulating the constitution, family relationships become clearer and their value – often taken for granted – is better understood
- The family's position on various issues is clearer and thus reduces the scope for misunderstanding
- It clarifies family philosophy and values for all family members to subscribe to
- Conflicts can be avoided before they arise, and those that do arise can be addressed through an agreed process that is acceptable to all parties
- Future decision making is improved through structured and objective discussions rather than purely emotional responses
- Increased chance of longer term success and prosperity of the family and its business

So how does one get the “buy-in” from family members to have a set of guidelines that will work for that family? The challenge is to make family members feel comfortable the guidelines will help and benefit all family members and to build a stronger institution without taking away their independence. Should the Constitution be legally binding - it can be, although most families take the view that it is a “guiding” document, and try to build strong values amongst family members so that its principles become a way of life.

What should the Family Constitution contain? The contents can and should be tailored to meet each family's particular circumstances. Generally, the Constitution can provide specific guidance on how the family conducts its affairs on issues such as:-

- Defining the family – what is the composition of the family
- The objectives of the family
- The family's values
- Procedures for appointment of a family council
- Procedures for resolving conflict in the family
- Family expectations from individuals
- What the individual can expect from family
- The do's and don'ts that will apply
- Policies on education, housing and medical costs for family members
- Ownership of the business
- Procedures for family members to enter into and exit from the business
- The links between family and its business

In this article we comment only on some of these issues in a little more detail.

Quite often we get a response to the first point – but the **composition of the family** is obvious! Well is it? Step back to think about it, “family” can be interpreted in so many ways. Does it mean immediate family only? What about including the wider family including in-laws, or adopted children etc.

The **family’s values** are very useful to write down on paper. Those can then form the basis of a code of conduct by which each family member strives to live. If the values are codified they are more likely to become the “natural order” across generations.

A **family council** can be an important forum for dealing with family issues, particularly in larger families. Just as in a business where you can have a Board of Directors to run the business on behalf of the shareholders, you can have a Family Council to provide guidance to the family. We have seen this body work very effectively in larger families by bringing focus to family decision making.

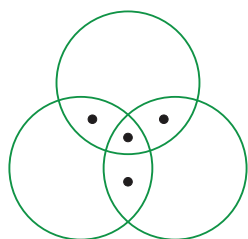
The **do’s and don’ts** are important to define so that all family members are clear on their boundaries. Just as in certain members’ clubs there may be a dress code or a code of behaviour, so a family can define codes of conduct and standards that are acceptable and those that are not.

So when does one think of drawing up a family constitution and how do you go about creating a document that is suitable for your family? The “when” depends on the circumstances of the family – but doing it when family relationships are strong is a good starting point. A constitution that is developed through a participative process is likely to have a greater chance of being adopted and implemented with success.

There are many benefits of having a family constitution. The constitution codifies the family values and objectives and becomes a very useful reference point when conflict arises in a family. A well crafted constitution also creates a sense of pride and belonging to a family that has a vision. As a family grows in numbers, and in today’s world of increased cultural diversity, having a constitution helps preserve and pass on family values.

Specially written for Minerva by Strategic Consultants Limited, a firm that specialises in Family Business Advisory services.

<http://strategic-ke.com>



## Jersey Foundations, an update

In our Summer 2008 newsletter we highlighted the growing popularity of Foundations: “Foundations, an Alternative to the Traditional Trust?” and mentioned that we expected Jersey to pass legislation introducing civil law Foundations to the Island.

We are pleased to report that on 10th June 2009, the Foundations (Jersey) Law received Privy Council consent, and the law should be in effect by the end of July, after which time the first Jersey Foundations will be registered.

In introducing law governing Foundations, Jersey’s law-makers have consulted widely with the private client industry to ensure the law is sufficiently flexible so as to make Jersey Foundations attractive to clients who are more comfortable with the “incorporated trust” concept that lies behind a Foundation.

This flexibility includes the ability to migrate existing Foundations to Jersey, and within the trust industry it is widely believed clients with Panamanian and Liechtenstein Foundations will take this opportunity as the process by which this can be achieved is quite straightforward.

We are delighted Jersey can now add Foundations to the Trust and Company vehicles which in their many guises have traditionally satisfied client’s wealth management and distribution needs. We expect them to be a particularly attractive option for wealthy clients in civil law jurisdictions where the concept of trusts is not so familiar.

Minerva is already licensed to conduct Foundations business, be this to arrange the migration of an existing Foundation, or create a new Foundation. A brief covering the features and benefits of Jersey Foundations will be posted on Minerva’s website once the law is in full effect, and in the meantime, if you require more information on this topic, please contact **Peter Nicolle** ([peter.nicolle@minerva-trust.com](mailto:peter.nicolle@minerva-trust.com)) or your usual contact person at Minerva.

# Minerva launches Diversified Deposit Service

For many years Minerva has operated a pooled client money scheme, whereby deposits are placed in Minerva's name on behalf of individual clients. The scheme has a number of features and benefits, chief amongst which is the concept of spreading bank risk across more than one institution.

During 2008, changes in anti-money laundering legislation obliged us to review the operational arrangements of this scheme. In particular it would no longer be acceptable for Minerva alone to hold "KYC" (know your customer) information on the ultimate owners and others associated with the structures we administer. As a result, complying with the changes would involve KYC data being shared with all the participating banks.

It concerned our Treasury team that the cost and bureaucracy involved in meeting this requirement had the potential to undermine the many benefits of the scheme. They struck upon an innovative solution whereby one lead bank acts as the conduit into the wider banking group and detailed negotiations followed. It has been agreed that Barclays will hold underlying client owner KYC and warrant to the participating banks that regulatory requirements have been satisfied. This highly desirable outcome avoids the significant costs associated with creating and administering multiple direct bank relationships on behalf of the structures we administer for our clients.

Our Treasury review coincided with a period of unprecedented turbulence in the banking sector, throughout which we fielded many queries from clients concerning bank risk, and the steps Minerva could take to reduce this. This served to reinforce our strong belief that spreading bank risk through the use of a pooled arrangement was highly effective, however that we should reduce specific bank risk still further by increasing the number of banks with whom the "pool" of funds is placed.

At this time of heightened anxiety around the security of bank deposits we thought it timely to profile the enhancements we have made to pooled client money scheme which we have now styled the Diversified Deposit Service.

**"This initiative positions Minerva amongst a very small group of Trust companies capable of offering a comparable service"**

This initiative positions Minerva amongst a very small group of Trust companies capable of offering a comparable service.

The participating institutions are all household names being Barclays Private Clients International, Royal Bank of Scotland, ABN Amro, Bank of Scotland International (Lloyds Banking Group), Bank of India, and Standard Bank. We have consciously limited participation to global banks maintaining a presence in Jersey as the Island's Regulators have over many years, built an enviable record of allowing only the best rated banks to operate from Jersey, and as a consequence have avoided some of the problems seen in other jurisdictions.

Spreading risk is a fundamental element of the Diversified Deposit Service however aside from giving greater peace of mind, there are significant other benefits as the service:-

- Avoids the adverse consequences of achieving diversification by individual splitting of deposits which has the effect of reducing the potential interest return and increasing administration costs, both to the detriment of the overall return
- Provides clients with real time reconciliation and book keeping of bank entries at no administration cost.
- Reduces the significant and growing cost of satisfying individual bank's requirements for documentation and underlying client "KYC"
- Allows Minerva to use its collective buying power, negotiating competitive rates for cash and foreign exchange transactions which may not otherwise be available when we act for an individual company or trust
- Enables Minerva to maintain close working relationships with a small number of core banks, and to improve service and overall returns as a result

The Minerva Treasury team has enormous depth of experience in banking, deposit taking, lending, and structured product matters, capabilities which allow the team to provide Minerva's client directors and administrators with highly professional support. Globally the Treasury team is headed by David Ryan however the Diversified Deposit Service and routine Treasury matters are the responsibility of Jackie Kean, Minerva's Jersey based Treasury Manager.

Looking ahead, all Sterling deposits currently held under the existing Minerva Treasury pooled client money scheme will be moved to the Diversified Deposit Service so as to benefit from these enhanced arrangements. Should you wish to know more about the Diversified Deposit Service, then please contact either your normal Minerva contact person, or **Jackie Kean**, (jackie.kean@minerva-trust.com).

# Minerva Geneva: expansion to new location and new appointment

Switzerland has traditionally been the home of private banking, although established private client work has given way over recent years to the increasing numbers of financial services companies offering their clients trust and company formation, and management services supported by the well established banking, legal and investment management professions represented in Geneva.

Switzerland remains the pre-eminent International Finance Centre administering more than US\$ 3 trillion of bank deposits, and continues to be fiercely protective of its banking system, its financial institutions and their clients.

Minerva opened an office in Geneva in 2001 and then in 2006 it combined the business of Professional Trust in Zurich into its Geneva operations. With this successful integration complete, Minerva required new premises to support its ongoing growth and after a long search suitable premises were found in the prestigious banking quarter of Geneva.

The move to new premises was completed in June last year, and the business of Minerva Trust Company (Switzerland) SA is now located at 12 Boulevard du Theatre, 1204 Geneva. The new office positions Minerva in the heart of the business community, and being located adjacent to the Grand Theatre, the new offices are easy to find.

In anticipation of continuing growth, earlier this year Minerva appointed David Ryan as General Manager of its Swiss business. David held various senior positions during a 22 year career with Barclays however left in 2000 to join a Swiss-based trust company as Treasury Director. In 2004 he joined Minerva, where he was the architect of Minerva's treasury policy, overseeing the creation of the group's innovative Diversified Deposit Service.

In addition to his duties as General Manager, David will continue to oversee group treasury services, although his immediate priorities are to implement another significant investment - the installation of a new standalone administration and accounting system in the Swiss business, and to further strengthen the team.

**“I am very excited by the opportunities this creates for our clients in terms of delivering a highly personal and flexible service”**

**David Ryan , General Manager**

Minerva's continuing investment in its Swiss operation underlines the strategic significance of this jurisdiction, and our commitment to further developing our presence in this most important of International Financial Centres. We see Switzerland as offering Minerva clients distinct advantages, which include:-

- The Swiss reputation for client privacy which we see as becoming an increasingly important differentiator between International Financial Centres in coming years
- Its stability and neutrality supported by centuries of democratic tradition
- The strength of the Swiss Franc
- The presence of a very well established legal and banking infrastructure

In addition to the jurisdictional advantages of Geneva, Minerva Trust Company (Switzerland) SA offers clients other advantages such as:-

- The scale of the business allowing the adoption of a more flexible and personal approach
- The standalone accounting platform reinforcing the privacy and independence of the business, and the jurisdiction
- Excellent transport and communication links, which added to the Central European Time Zone make it an attractive location for many clients

For more information regarding Minerva's Swiss operations, please contact **David Ryan**, General Manager ([david.ryan@minerva-trust.ch](mailto:david.ryan@minerva-trust.ch)).



## Minerva furthers its reach into the Middle East

On 12 February 2009, Minerva (Middle East) Limited was incorporated in the Dubai International Finance Centre (DIFC). We have been working towards this goal over the last two years with Umesh Sahai spearheading the drive supported by Romi Sahai and Vilas Adatia who have been on the ground during this time.

Our presence in Dubai is in response to existing client demand, our confidence in the region, and Minerva's strategy to focus on core markets where we know we have a competitive edge and can benefit significantly from a physical presence in the centre of the region.

With our clients spread evenly in a triangle from India to East Africa and up to the GCC region, Dubai was a natural choice from which to operate as it provides:-

- A natural hub for the MENA / Asian region with a first class infrastructure and easy access through airline connections which makes it an ideal place to meet clients
- A natural trading and networking hub for the region where many of our clients have an existing business presence
- High standard of international regulatory and legal framework from which to undertake fiduciary services within the DIFC
- Access to top tier professional intermediaries whether legal, accountancy, banking etc, to service our clients as well as our own requirements

India and the GCC region expect to see growth of between 4% and 6% in 2009 returning to nearer 10% in the next few years. Growth in the traditional economies of the UK, Europe and USA however is likely to remain depressed, and might

take longer to return to trend. In the medium and longer term, the probability is that a number of the highest growth economies will be in the Middle and Far East.

So, the fundamentals are compelling for why Minerva should have a physical presence in the region and we believe there is no better time to invest in our Dubai office and reinforce our commitment to the region, specifically because:-

- Many clients of financial institutions have seen a significant decrease in their wealth over the last 12 – 18 months and have therefore undertaken a thorough review of their existing relationships and suitable alternatives. A trend seems to be developing where clients are increasingly looking to move to smaller and independent boutique organisations.
- There have also been many casualties of the recent global financial crisis which has taken a heavy toll on the once booming property and construction sector. Businesses that have survived will now benefit hugely from the exit of competitors and the overall reduction in their cost base (as inflation falls away and prices correct to a sustainable level), and from the mere fact that they have survived the correction. There is plenty of work to go around and a multitude of opportunities in the region for those that are prepared to work for it.
- Minerva, as an independent, privately owned trust and corporate services group with over 30 years of experience and a loyal client base in the region is positioned to capitalise on the above.
- As representatives of professional and independent trustees, we are also ideally positioned to build our client base, as target individuals and intermediaries are increasingly receptive to the advantages of structuring their wealth responsibly and putting in place measures to ensure the 'riches to rags' story will not apply to them.



- Many have learnt that good old fashioned service and relationships are far more valuable than any product and false promise.

In terms of the services that the office will initially provide, these can be broadly summarised as follows:

- A representative office for the Minerva group, marketing the services provided within the group including trust, foundation and company administration, family office and fund administration.
- Client liaison and concierge services for existing and potential clients within the Minerva group. Providing an experienced point of contact close at hand for clients who either live in the region, or who pass through Dubai, and need liaison services, general advice or assistance.
- Company formation, management and administration services for UAE offshore companies and non UAE offshore companies (Jersey, BVI, Cayman, Cyprus, Netherlands etc). Administration services include book keeping and preparation of accounts, set up and day to day administration of bank accounts and other contractual / legal relationships, liaison with third parties and professional intermediaries etc.

- Provision of directors, registered office and company secretary where relevant and necessary.

Minerva is licensed by the DIFC to provide the services highlighted above. The intention is to extend this in future to enable the full range of Minerva group services including providing trust, foundation and fund administration services from the DIFC.

Our office is currently located in the Monarch Office Tower at Number One, Sheikh Zayed Road but we expect to move to permanent premises within the DIFC in the next 12 – 18 months once office space becomes available.

The Minerva team in Dubai are :-

Umesh Sahai FCA	Chairman of Board of Directors
Simon Hodges ACA	Managing Director
Romi Sahai ACA	Director
Vilas Adatia	Client Relationship Director

For more information regarding the services available through Minerva Dubai, please contact **Simon Hodges** (simon.hodges@minerva.me).

## Monitoring Investment Performance

That markets go down as well as up is an accepted warning accompanying most, if not all investment products however recent events have brought the downside contained in this health warning into sharp focus.

Potential volatility cannot be removed from markets however Richard Sayers, Managing Director of Jersey based investment performance analysts Enhance Investments argues more can be done to align investor expectations with investment performance. Richard shares some of his views in this brief article.

At Enhance, we believe events of 2007 and 2008 highlighted the importance of ensuring appropriate investment strategies are identified and investment managers, portfolio performance and risk are monitored frequently.

However, with so many strategies and investment managers to choose from, the identification of appropriate managers and on-going monitoring is challenging for any investor. As a result we have witnessed the growth of the “investment oversight sector” where specialist investment practitioners guide investors by providing detailed analysis around performance and the identification and monitoring of investment risk.

It is the identification of the investment strategy that will be the most important factor in determining longer term performance. However, reconciling the investment

strategy is not helped by the lack of consistency in commonly used financial terms. Words such as “conservative, balanced and growth” remain subjective as do risk classifications such as “low, moderate and high”.

We believe a single document can go a long way to ensure all parties fully understand the performance expectations and investment risk at the outset – an Investment Policy Statement.

An Investment Policy Statement sets out the long term requirements of the investor in an objective manner. For example; achieve a return above cash or after inflation. Through the Investment Policy Statement risk can be targeted in terms of a maximum loss or volatility target. Other details such as tax considerations, capital and income requirements and investment restrictions can be included.

In itself an Investment Policy Statement does not guarantee a positive return in all market conditions; however it can ensure the investment objectives are comprehensively understood, and can be robustly monitored such that performance and risk should, for the most part, remain in line with client expectations.

If you would like to know more about how Minerva works with specialists such as Enhance in either drafting an Investment Policy Statement, or using specialists to monitor investment performance, then please speak with your usual Minerva contact.

## Major Investment in New Systems at Minerva Fiduciary Services (Mauritius) Limited

**Minerva's business in Mauritius is the first of Minerva's international offices to benefit from the installation of Microsoft Dynamics NAV known more widely in the industry as "Navision". NAV is a comprehensive client administration and accounting system, and its adoption is a key component in Minerva's strategy of introducing a common core system across all its offices.**

A common system allows Minerva to introduce consistent working procedures and documentation, so that clients accessing our services from more than one location will find a familiar look and feel to the documentation we use, and the way in which we do things.

Following a successful migration to the new system in Jersey mid-way through 2008, NAV was successfully installed in Mauritius during the first quarter of 2009, and the team at Minerva Fiduciary Services (Mauritius) Limited are now well accustomed to working with the system and realising its benefits.

In conjunction with adopting the new technology, enhanced procedures were tailored to complement the system, and more helpful, client focused documentation made available through the new Minerva Mauritius website: [www.minerva-trust.mu](http://www.minerva-trust.mu)



Under direction from the Minerva Mauritius board, the installation was overseen by Chris Pursley, Minerva's new Head of Operations who commented "this has provided the business in Mauritius with a robust and comprehensive data platform upon which to further build its operations. The project acted as a catalyst for the introduction of new and improved working practices and procedures, which in tandem with the system, will help the operation attain the standards of service excellence Minerva wishes to achieve globally."

A standalone version of NAV is presently being installed at Minerva's office in Geneva, and installations planned for Dubai and London will result in a common operating system supporting consistent working practices across five jurisdictions.

Please contact **Manon Thamothiram** ([manon.thamothiram@minerva-trust.mu](mailto:manon.thamothiram@minerva-trust.mu)) for more information regarding the services available through Minerva Mauritius.

## Jersey Finance

No G20 summit can have received as much media coverage as the meeting of finance ministers in London in April.

International Finance Centres such as Jersey found themselves in the spotlight, and it was very pleasing the key outcome, as far as Jersey was concerned, was recognition from the G20 nations of Jersey's high standards of regulation and transparency, through inclusion in the top tier of countries "the white list".

Much was written in the press in the run up to the London summit, and at Minerva we felt the sensible comments posted on Jersey Finance's website by Geoff Cook (chief executive) very fairly addressed the issues, and countered some of the inaccurate reporting in the general media.

Geoff Cook's articles can be accessed **here** or by visiting [www.jerseyfinance.co.je](http://www.jerseyfinance.co.je) and navigating to his series of articles.

Jersey Finance is the voice of Jersey's finance industry and its website is an excellent source of comment, industry news and information concerning issues having a bearing on Jersey's finance industry.

## Grounds for optimism despite falls in first quarter of 2009

The latest figures on Jersey's Finance Industry confirm an anticipated fall in the size of its banking and funds sectors however when viewed against the global backdrop prevailing at the time, the figures highlight the resilience of Jersey as an international finance centre

The statistics for the first quarter of 2009 ending 31st March, collated and prepared by the Jersey Financial Services Commission, show that:-

Banking deposits decreased by £10.1bn during the first quarter from £206bn to £195.9bn.

The value of funds under investment management decreased by £0.7bn from £18.8bn to £18.1bn during the same period.

The Net Asset Value (NAV) of funds under administration decreased by £30.9bn during the last twelve months from £246bn to £215.1bn although the total number of funds increased by 43 from 1,370 to 1,413.