



Alan Taylor

Alan 在新西兰开始他在法律行业的职业生涯，此后他移民海外，并在库克群岛、泽西岛和新加坡的国际金融服务行业供职。他在公众和私人机构中担任过法律、商务开发和高级管理的职位。在加入 FSDA 前，Alan 在新加坡为一家瑞士上市的金融服务机构管理一个资产管理和信托服务业务。

Alan 在经常欧洲、北美和亚洲代表他供职的公司出差，并就财富管理和金融服务发表演讲。

Alan 有新西兰奥克兰大学的法律和经济学学位。他获批加入新西兰律师协会且是 STEP 和新西兰管理学院的会员。Alan 现在已和家人一起回到库克群岛，他期待为库克群岛金融服务行业的发展壮大贡献力量。

Alan commenced his career practicing law in New Zealand before moving overseas where he worked in the international financial services industry in the Cook Islands, Jersey and Singapore. He has held legal, business development and senior management positions in both public and private organisations. Before joining the FSDA, Alan was based in Singapore heading the asset management and fiduciary services businesses

库克群岛的财富管理 解决方案

Wealth Management: The Cook Islands Solution



for a Swiss listed financial services organisation.

Alan has travelled extensively through Europe, North America and Asia representing the organisations he works for and speaking on wealth management and financial services.

Alan has degrees in law and economics from Auckland University in New Zealand. He has been admitted to the New Zealand bar and is a member of STEP and the New Zealand Institute of Management.

Alan has now returned to the Cook Islands with his family and is looking forward to contributing to the development and growth of the Cook Islands financial services industry.

Despite the slowdown in the Chinese economy and continued volatility in its share market, private wealth continues to be generated at unprecedented rates. However, if history teaches us nothing else it is that that such prosperity will not continue indefinitely and the next financial crisis is just around the corner. That being the case, and given the globalisation of Chinese families and businesses, now is the perfect time for Chinese nationals who have, or are in the process of accumulating, wealth ("HNWIs"), to consult their professional advisors about an international wealth management plan. That is, a plan

尽管中国的经济增速放缓和股票市场持续波动，私人财富管理却以前所未有的速度上升。不过，就历史上的经验来看，这一繁荣景象将不会无限期地延长，下一个金融危机已经近在咫尺。这就是说，在中国家族财富全球化的今天，现在是一个中国人正在，或正准备积累财富的过程中向专业的顾问人士咨询国际财富管理计划和生意，包括利用一个架构来持有、投资、管理和保护他们所处国家之外财富的时刻。

没有比中国这样一个更需要财富管理的国家了，中国的高净值人士数量呈持续增长的势头，富人们对在中国境外的投资、学习和寻找机遇有着前所未有的热情。

信托的使用

几个世纪以来，信托都被证明为理想的财富管理工具，因此也是财富管理计划中的重要组成部分。信托是英国普通法中规定各种规划目的的手段，尤其大部分为：

- 传承——根据特定意愿把一个人的资产向下一代传递的方式；
- 财富保护——保护资产免受外来势力、法规或诉讼案的剥夺；
- 避免遗嘱检验——在身故时通过把资产从遗产中移除的方式来免受遗嘱检验的需要；
- 税务——资产的转移和销售和通过其产生的收入用合法高效的方式来最大限度地降低赋税；
- 预迁移——用财政高效的方式在成为另一国居民之前架构资产；
- 保密性——允许高净值人士及其家人从他们的资产中获益，并在不必要暴露个人信息的前提下管理生意。

通过谨慎架构的信托方式，中国的高净值人士可以决定受益人如何和何时

tailored to the individual's present and future personal, family and business needs including a structure to hold, invest, manage and protect wealth located outside of his/her home jurisdiction.

Nowhere is the need for wealth management planning more prevalent than in China where the number of HNWI's continues to grow with those individuals showing a desire to invest, study and explore opportunities outside of China.

Use of a Trust

For centuries trusts have proved to be the ideal wealth management vehicle and therefore the key component in a wealth management plan. The trust is a creation of English common law and used for a variety of planning purposes, most notably:

- Succession - the desire to have one's assets pass to the next generation in accordance with specific wishes;
- Wealth protection - to protect assets from those who by force, legislation or litigation may try to take them away;
- Avoidance of probate – remove the need for probate on death by removing assets from the estate now;
- Tax - the effective legitimate minimization of tax charges on the transfer or sale of assets and the income they may generate;
- Pre-migration – to structure assets and affairs in a fiscally efficient manner before becoming resident in another country;
- Confidentiality – to allow the HNWI and his/her family to benefit from their assets and conduct their business without unnecessary





从信托中确定的资产受益，避免资产受到不确定的政治和经济因素的影响，避免特留份继承权，以及通过架构生意的方式来确保高效管理和公司传承。信托是计划中的终极资产所有工具。它可以持有，不论通过直接或间接的方式，所有形式的资产、可移动或不可移动资产、银行可接受或不可接受的，从投资组合、房地产到私人控股中的股份、投资和贸易公司、豪华资产比如游艇、飞机和艺术品等资产。执行的架构也能向高净值人士提供针对投资和信托资产管理的各种不同程度的适度控制，而不必牺牲其有效性或提供的利益。

受托人的选择

国际财富管理规划的基础，也就是建

disclosure of personal information.

Through a carefully constructed trust the Chinese HNWI can determine how and when a beneficiary will receive assets settled onto the trust, protect assets from uncertain political and economic climates, avoid forced heirship rights and structure businesses to ensure effective management and corporate succession. The trust is the ultimate asset owning vehicle in the plan. It can hold, directly or indirectly, all types of assets; moveable and immovable, bankable and non-bankable - ranging from investment portfolios to real estate to shares in private holding, investment and trading companies to

luxury assets such as yachts, planes and works of art. The structure implemented can also provide the HNWI with varying and appropriate degrees of control over the investment and management of trust assets without compromising the validity of the trust or the benefits it offers.

Choosing a Trustee

The first and most important decision to be made when establishing the trust structure to form the basis of the international wealth management plan, is choosing the trustee to manage and administer the trust and its assets. Creating a trust requires ultimate legal ownership of the HNWI's assets to

立信托架构时的最重要决定就是，选择受托人来管理和监督信托和其资产。创建一个信托需要高净值人士资产的终极所有权归受托人所有。高净值人士因此就必须对受托人的经验、实质、专业声誉，以及其雇佣的专业人士资格有极大的信心。受托人应该位于一个这位高净值人士所不在的行政辖区之内。这个行政辖区需要有强健的法律法规，用来加强信托所提供的利益和保护个人资产和权利，并有一个经验丰富的法律系统来应对信托相关事宜，和一个尊重法律的良好声誉。最后却也是最重要的，这些高净值人士应该希望他指派的受托人由一个独立的管理机构来监管，监督受托人的行为和接受和调查由高净值人士或信托收益人提交的任何投诉。在建立信托时需要高净值人士向一家位于外国行政辖区内的专业公司受托人转移其资产的终极所有权，他/她个人对该公司并不一定很熟悉，因此有效的法规保护是让人安心的根本要素。

中国的高净值人士在选择正确的受托人和行政辖区来建立、管理和监督自己的信托时选择很多。信托源自于英国普通法，中国人对此不见得熟悉，但不熟悉却不应该成为不利用信托的众多利益和不采用专业顾问意见和可用管理方式的理由。

库克群岛

从上述选择信托所在的行政辖区和受托人的标准时，库克群岛会是一个绝佳的选择。

法律

库克群岛坐落于新西兰东北面和夏威夷南面的南太平洋上，作为一个成熟的国际金融中心，已有超过 30 年的时间。库克群岛国际金融服务行业的基石是按照 1984 年的《国际信托法》

be with the trustee. The HNWI must therefore be very confident as to the trustee's experience, substance, professional reputation, and the quality of the professionals it employs. The trustee should be based in a sovereign jurisdiction where the HNWI is not resident. The jurisdiction will need robust legislation designed to enhance the benefits provided by a trust and protect the individual's assets and rights, together with a legal system experienced in dealing with trust matters and a reputation for respecting the rule of law. Last and by no means least, the HNWI should want his/her trustee to be regulated by an independent authority that will monitor the trustee's activities and accept and investigate any complaints made against the trustee by the HNWI or trust beneficiaries. As establishing a trust will require the HNWI to transfer ultimate legal ownership of his/her assets often to a professional corporate trustee in a foreign jurisdiction with whom he/she personally may not be familiar, effective

regulation is essential for peace of mind.

Chinese HNWIs will have a number of options when selecting the right trustee and jurisdiction in which to have their trusts established, managed and administered. As the trust is derived from English common law it may not be a familiar concept to those in China, but that unfamiliarity should not be a deterrent to using a trust given the benefits it can provide and the professional advice and management available.

The Cook Islands Option

When judged against the criteria set out above for choosing a trust jurisdiction and trustee, the Cook Islands would appear to be an excellent option.

Legislation

The Cook Islands, located in the South Pacific northeast of New Zealand



(ITA) 建立的国际信托。它让库克群岛成为外国高净值人士和家人的行政辖区之选, 因为能为他们提供现代社会更符合要求的信托服务。ITA 的特点包括:

- 受托人必须根据法定责任行事, 须有专人作为专业受托人来管理其它事务;
- 受托人有权进行任何合法的投资;
- 受托人可以代表除决定权之外的所有权利的裁量权;
- 委托人可以对信托和其资产保留一小部分的控制权;
- 通过引用特定的时间和活动来要求信托资产的人将获得确定的权利;
- 信托可以代际传承而无固定的终止日期;
- 在外国行政辖区内的特留份继承权规则不应该影响信托或向信托转移的资产有效性;
- 如果不符合库克群岛法律的规定, 外国法庭的判决可不被承认。

除了 ITA 之外, 库克群岛法规也提供其它控股、投资和资产保护的架构, 得以和国际信托整合使用来形成国际财富管理规划的组成部分。这些架构包括国际公司 (1981-82 年的国际公司法, 修正案), 有限责任公司 (2008 年有限责任公司法, 修正案) 和基金会 (2012 年基金会法, 修正案)。

税收中立

高效的税务规划可以通过采用库克群岛国际信托来实现, 并将取决于委托和受益人作为税务居民的所在地和资产的所在地。中国的高净值人士在建立信托以及, 如果他/她或家庭成员希望向这些行政辖区移民之前, 应该寻求税务顾问。库克群岛的税法规定中国的高净值人士能够有免税的可能, 否则就有可能被课税。

and south of Hawaii, is a mature international finance centre having been in existence for over 30 years. The cornerstone of the Cook Islands international financial services industry is the International Trust established pursuant to the International Trusts Act 1984, as amended ("ITA"). It has made the Cook Islands an industry leader in the preservation of wealth and the trust jurisdiction of choice for foreign HNWLs and their families by providing law better suited to the needs of people in today's society. Features of the ITA include:

- Trustees must act in accordance with a statutory duty of care being that of a prudent person engaged as a professional trustee managing the affairs of others;
- A trustee has the power to make any lawful investment;
- A trustee may delegate the exercise of all powers and discretions excluding dispositive powers;
- The settlor can retain elements of control over the trust and its assets;
- Certainty is given to the rights of those who might claim against trust assets by reference to specific dates and events;
- Trusts can be dynastic with no fixed termination date;
- Forced heirship rules in foreign jurisdictions shall not affect the validity of a trust or transfers on to trusts.
- Foreign judgements will not be recognised or enforced if inconsistent with Cook Islands law.

In addition to the ITA, Cook Islands

legislation provides other structures for holding, investment and protection of assets that may be integrated with an International Trust to produce or form part of an international wealth management plan. Those structures include international companies (International Companies Act 1981-82, as amended), limited liability companies (Limited Liability Companies Act 2008, as amended) and foundations (Foundations Act 2012, as amended).



法庭

库克群岛法庭对牵涉到信托法和信托问题的案件有丰富的审判经验，在遵守法律的规定上有着良好的声誉。库克群岛的最高法院法官都是经验丰富的新西兰法官，都能施行库克群岛的法律法规。

专业的服务提供商

受托人公司在库克群岛持证提供信托和公司服务，具有丰富的相关经验，

Tax neutral

Effective tax planning may be possible through the use of a Cook Islands International Trust and will be dependent on where the settlor and beneficiaries are tax resident and assets are located. It is important that a Chinese HNWI obtains Chinese tax advice before establishing a trust and, if he/she or members of his/her family intend to emigrate, in such jurisdictions to where they intend to move prior to

arriving. The Cook Islands' tax laws are designed so that it is possible to incur no tax charges in addition to what the Chinese HNWI would otherwise be charged.

Courts

Cook Islands courts are experienced in hearing and deciding upon cases involving trust law and trust issues and have a reputation for respecting the rule of law. The Cook Islands' High Court judges are experienced New Zealand judges who apply Cook Islands law.

Professional Service Providers

The trustee companies licenced to provide trustee and corporate services in the Cook Islands contain a depth of relevant knowledge, experience and expertise to rival any jurisdiction in the world. Most of these companies have existed since, and contain professionals who were involved in, the formative years of the Cook Islands as an international finance centre. They have experience in dealing with Asian and particularly Chinese clients and some are part of organisations with an Asian presence.

Regulation

Trust Companies in the Cook Islands are licensed to carry on "trust company business", as that term is defined in the Trust Companies Act 2014 ("TCA"). They are regulated by the Financial Supervisory Commission ("FSC") in accordance with the provisions of the TCA, which give the FSC the power to vary, revoke or add conditions to a



知识和专业度来和世界上任何一个行政辖区竞争。这些公司中的大多数都在库克群岛成为国际金融中心伊始就开始提供相关专业服务。他们在和亚洲，特别是中国客户打交道方面经验丰富，其中有些公司甚至是在亚洲有业务的机构成员。

法规

库克群岛的信托公司持证从事“信托公司业务”，这一称谓在2014年信托公司法（TCA）中已有明确定义。它们由金融监管委员会（FSC）根据TCA的条例进行规范，这让FSC有权在必要的时候对许可证的条款进行变更、撤销或增补。库克群岛致力于国际法律法规和最佳实践的执行和遵守。

在这些因素和现代通讯设施、政府监管、支持行的政治环境、银行业务设施和便捷的商务交易时区相结合时，库克群岛对中国的高净值人士来说是真正的理想之选。

库克群岛解决方案

国际财富管理规划应该在各方面都达到这一标准：国际化。它将持有高净值人士的非本国资产，通过工具在行政辖区内法律的保护下建立，提供最大限度的保护，灵活度和管理的便捷性。金融资产将在这些金融中心内通过专业人士和机构，以最适合高净值人士需求的方式进行监管和管理。根据每位高净值人士和其家族的不同情况，该计划必须相对简单，或对特定的案例更为精细化。

由于每个人的情况各不相同，因此每个财富管理规划都是各不相同的。当然中国的高净值人士财富管理架构将类似于此：

- 库克群岛国际信托由库克群岛居民受



licence as it sees fit. The Cook Islands is committed to the implementation of and compliance with international regulatory best practice.

When these factors are combined with its modern communication facilities, sovereignty of its government, supportive political environment, banking options and convenient time zone for transacting business, the Cook Islands does stand out as the ideal option for the Chinese HNWI.

The Cook Islands Solution

The international wealth management plan should in all respects be just that – international. It will hold the HNWI's non-domestic assets in vehicles established in jurisdictions and under laws which provide the maximum protection, flexibility and ease of administration. Financial assets will be custodied and managed in those financial centres with the professionals and institutions best suited to the

HNWI's needs. Depending on the HNWI's personal and family circumstances, the plan may be relatively simple or it may be more sophisticated requiring detail and focus on particular aspects.

Given that no two individuals are the same it follows that no two wealth management plans will be the same, however the Chinese HNWI's wealth management structure may look something like this:

- A Cook Islands International Trust administered by a Cook Islands resident trustee. The HNWI names a class of persons (which will include his/her spouse and children) to benefit from the trust;
- Powers to direct investment of trust assets is reserved to the HNWI or someone nominated by him/her;
- A bank account is opened in the trust's name operated by the trustee to receive and hold cash to be distributed to beneficiaries;

益人管理。高净值人士指定一队人(这些人将包括他/她的配偶和子女)来从这个信托获益;

- 指导信托资产的投资权利为高净值人士,或者由他/她指派的人所保留;
- 以信托的名义开设一个银行账户,并由受托人操作来接受和持有现金来向受益人分配;
- 高净值人士签发的委托书来列明在他/她的有生之年和身故后对投资、管理和资产分配方面的意愿;
- 高净值人士指导受托人在库克群岛的有限责任公司内投资。受托人是该有限责任公司的完全所有人(成员),高净值人士,或者他/她的受命人可以是有限责任公司和其资产的管理人;
- 一个或以上的离岸控股公司,取决于所持有资产的种类和数量,可以向有限责任公司转移。控股公司可以已经成立或需要成为转移人的资产的公司所建立;
- 例如,一家控股公司持有金融资产、投资组合、安全贸易账户,另一家持有房地产、商业或住宅地产,第三家则持有任何由高净值人士或他/她的家族所拥有的贸易公司的股份。

结论

中国的高净值人士咨询他们国内的顾问来讨论现有的财富管理可能性是十分必要的。过去和当前,地区和全球的经济和政治事件都要求他们能够理解,这些问题有可能影响到他们现在和未来的财富,以及他们如何以最佳方式来保护他们。库克群岛国际信托和库克群岛居民受托人给了中国的高净值人士一个平台,以保护他们现在和未来的财富,同时进行投资、管理和根据他/她的意愿在有生之年和身故后进行分配。库克群岛显而易见,是能够提供上述完美解决方案的理想选择。

- A letter from the HNWI to the trustee details his/her wishes as to the investment, management and distribution of assets both during his/her lifetime and beyond;
- The HNWI directs the trustee to invest in a Cook Islands LLC. The trustee is the 100% owner (member) of the LLC and the HNWI, or his/her nominee, can be the manager of the LLC and its assets.
- One or more offshore holding companies, depending on the type and number of assets to be held, can be transferred to the LLC. The holding companies may already exist or will need to be incorporated and assets transferred in;
- For example, one holding company holds financial assets, investment portfolios, security trading accounts, another holds real estate, commercial or residential, and a third holds shares in any trading

company owned by the HNWI or his/her family.

Conclusion

It is imperative that Chinese HNWIs consult their domestic advisors now to discuss the wealth management possibilities available. Past and current local, regional and global economic and political events highlight the need for them to understand how such issues may impact their present and future wealth and how they might best protect it. A Cook Islands International Trust and Cook Islands resident trustee gives the Chinese HNWI a platform to secure existing and future wealth whilst having it invested, managed and distributed in accordance with his/her wishes both during his/her lifetime and indefinitely after his/her death. The Cook Islands would appear to provide a perfect solution. ©

