PENNINGTONS MANCHES COOPER
PUTS THE CHANGING WORLD OF WEALTH IN

# context

ISSUE 03 | 2023

## SEEKING THE PERFECT SETTING?

WE APPRAISE DESTINATIONS FOR THOSE IN SEARCH OF CALM AND CLARITY

## THE GLOBAL ISSUE

FEATURING SURROGACY, ONLINE SAFETY & SUSTAINABLE INVESTING

# THE GLOBAL ISSUE

**WELCOME! Did you know that, rather than being a Chinese curse, the phrase 'may you live in interesting times' is more likely to derive from a speech by Neville Chamberlain's father, Joseph, in 1898:**

"I think that you will all agree that we are living in most interesting times. I never remember myself a time in which our history was so full, in which day by day brought us new objects of interest, and, let me say also, new objects for anxiety." Well, I suppose there is some comfort in the reminder that the turmoil of the past few years is nothing new if viewed in the context of history.

Climate change, technology disrupters, regime change and new virus variants all have the capacity to impact every person on this interconnected planet of ours. 'New objects for anxiety' is right. But then again so is 'new objects of interest'. Humanity is nothing if not innovative. The global challenges we face inspire the very invention needed to adapt, survive and, ideally, thrive.

From energy transition to entirely new currency systems, this edition of *Context* considers examples of our ability to reimagine yesterday's normal. In such a fast-changing world, where its citizens and their assets (and threats to both) are more global than ever before, jurisdictions that successfully attract investment will do so on the back of a reputation for stability and the rule of law – but also for innovation. If there is one lesson to be learnt from 'interesting times', it is to learn from interesting times.

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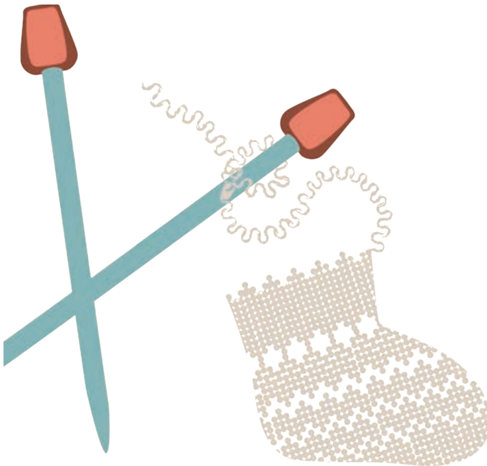











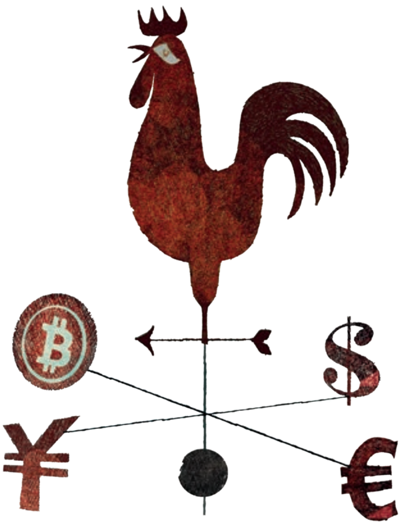




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# NEWS, VIEWS and ASSORTED INFORMATION

## The new billionaire philanthropy

**Billionaires like Amazon's Jeff Bezos and Patagonia's Yvon Chouinard are exploring new ways to give away their significant assets.**

When Microsoft founder Bill Gates and Berkshire Hathaway CEO Warren Buffett developed the Giving Pledge in 2010, it gave ultra high net worth individuals (UHNWIs) a way to openly pledge their money to good causes.

Now, other UHNWIs like Patagonia founder Yvon Chouinard and Amazon's Jeff Bezos are exploring new ways to give away their wealth.

Chouinard caused a stir by changing Patagonia's structure so profits flow directly to climate change philanthropy. He saw this as a way to maintain the company's ethical approach to business and maximise the utility of profits at the same time.

Similarly, Amazon founder Jeff Bezos, who has pledged to give away most of his wealth but has not signed the Giving Pledge, recently gave $100 million to Dolly Parton to invest as she sees fit.

Parton is herself a fascinating active philanthropist, giving $1 million to help develop the Moderna Covid-19 jab while supporting child literacy by donating millions of books to children every year.

Bezos gave the money through his Courage and Civility Award, part of the $2.4 billion he has given away to charity in his lifetime.

In the US, charitable giving is tax deductible. Cynics might say that these donations are a win-win for billionaires eager to improve their reputation with little or no downside. However, Bezos famously avoids paying tax on the vast majority of his wealth and Chouinard's approach shows something novel and self-sustaining.

Taken together, these show UHNWIs are looking for more innovative ways to manage their charitable affairs and could be an opportunity for radical new ideas for philanthropy.

## The risks of promises

**While promises may seem perfect for the playground, many adults make life-changing decisions based on them, and there is a legal enforcement of a kind.**

Imagine someone promising to give you their house after they die, as long as you help them to manage it while their health deteriorates.

Now imagine you work diligently to fulfil your promise, but you are eventually left without the house.

Two recent cases have focused on the principle of Proprietary Estoppel, an attempt at redress where a significant promise may have been reneged on that is unacceptable or unconscionable.

In the first, Guest v Guest, parents David and Josephine cut son Andrew out of their will after a squabble, despite him working on his parents' farm for more than 30 years with little reward.

The Supreme Court found in favour of Andrew because he had given up the chance to pursue an alternative education and career in order to manage the farm.

The second case is more complex. A successful solicitor, Mrs White, claims she gave up her career in order to live in and manage the house and estate of David Gladstone, a former High Commissioner of Sri Lanka and descendent of the homonymous Prime Minister. In return he was to leave the estate to her.

However, Gladstone claims never to have made any such promise, and the courts have to decide who lives in the house and whether White should be recompensed to the tune of up to £20 million.

As Penningtons Manches Cooper Senior Associate Siân Hodgson explains, this law has often been applicable to farmers reluctant to write wills, but more cases are emerging. "It is always better to write down exactly what you are promising, or risk running into precisely this kind of dispute," she says.

# upfront

## PERSONAL PASSIONS

## Rebecca Dziobon

**Wealthy individuals have long been interested in collecting art. It offers owners a unique source of enjoyment and a distinctive expression of personal identity and prestige.**

A recent Bain & Company study of the luxury market reveals that, despite the global economic turbulence, spending on luxury goods and experiences grew roughly the same amount in 2022 as it did in 2021. This growth was driven almost entirely by Gen Z's and Y's spending, which was mostly on personal goods. The study suggests that younger

groups' spending is set to grow three times faster than other generations through 2030.

These figures caught the eye of Rebecca Dziobon, Partner and Head of Private Individuals at Penningtons Manches Cooper. Having studied global art history before becoming a lawyer, Rebecca is a strong believer in the staying power of art, as well as the joy owning a timeless piece can bestow.

She says: "In difficult economic times, art is often a wise investment, as well as conferring cultural kudos. A further plus is that it does not attract the same negative connotations of conspicuous or 'over' consumption that other personal goods like watches and jewellery might do."

Rebecca's specific passion is East Asian Art, cemented during the time she lived in Taiwan and later when she worked in the Chinese antiquities trade. A recent exhibition at the Freud Museum in London exploring Sigmund Freud's fascination with China and Chinese objects was curated by her former art history professor, Craig Clunas.

The exhibition demonstrated the fascination that East Asian art in Europe has endured down the centuries. "With increasing buying power, volatility in other investment markets such as cryptocurrency, and the rise of visual culture, it will be interesting to see how the values and traits of younger Asian collectors impact the art world in Europe, the US and beyond," she says.

## 68,300

**THE INDIVIDUALS ESTIMATED TO BE CLAIMING NON-DOMICILED TAXPAYER STATUS IN THE UK ON THEIR SA TAX RETURNS IN THE TAX YEAR ENDING 2021, WHICH HAS DROPPED FROM A PEAK OF 123,000 IN 2015, ACCORDING TO A STUDY FROM RIFT TAX REFUNDS.**

## In the press...

*"The last few years have seen exciting growth both internationally and domestically. In Singapore, for example, we've added some excellent expertise to complement the existing practice areas. Operationally, we've invested in new technologies and in re-energising our workspaces to support our strategy of being a truly agile firm.*

**Helen Drayton,** CEO, Penningtons Manches Cooper


*"Why didn't you bring a cardigan or lightweight jacket?"*

Cultural attitudes around having children are changing faster than the law can adapt. The consequences could be significant.

BY CHRIS HAWES

# THE RIGHT FOOT

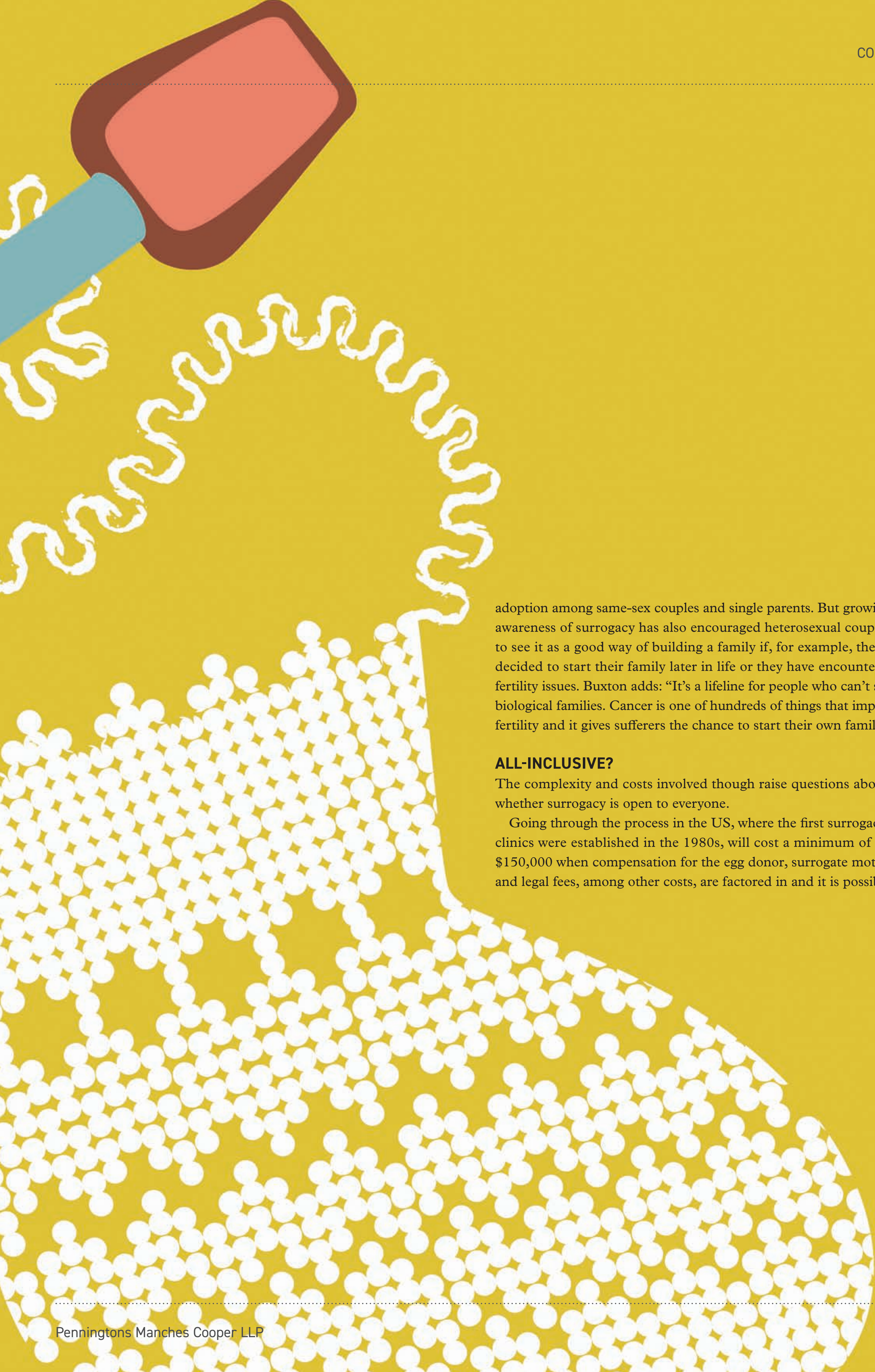
## Unpicking international surrogacy

Following the birth of her first child via an Indian surrogacy arrangement in 2015, British citizen Anna Buxton was looking forward to introducing her daughter to family and friends.

The meeting, however, would have to wait, while the British government granted the child a UK passport. To stay with their baby, Buxton and her partner would need to remain in Delhi, conducting their jobs remotely.

International surrogacy has become increasingly popular since Buxton went through the process. A joint study by UK agency My Surrogacy Journey and the University of Kent found that the number of parental orders – where legal parenthood (and in turn parental responsibility) is transferred from a surrogate and her husband/civil partner (as relevant) to the intended parent(s) – granted rose from 117 in 2011 to 413 in 2020.

Part of the increase is down to people choosing to have children later, but cultural attitudes towards what the 'traditional family' looks like are also changing, leading to an increase in surrogacy and



adoption among same-sex couples and single parents. But growing awareness of surrogacy has also encouraged heterosexual couples to see it as a good way of building a family if, for example, they decided to start their family later in life or they have encountered fertility issues. Buxton adds: “It’s a lifeline for people who can’t start biological families. Cancer is one of hundreds of things that impacts fertility and it gives sufferers the chance to start their own family.”

## ALL-INCLUSIVE?

The complexity and costs involved though raise questions about whether surrogacy is open to everyone.

Going through the process in the US, where the first surrogacy clinics were established in the 1980s, will cost a minimum of $150,000 when compensation for the egg donor, surrogate mother and legal fees, among other costs, are factored in and it is possible for surrogacy agencies to operate on a commercial (rather than non-profit basis). Even for high net worth individuals, the cost of international surrogacy is an important consideration.

Less expensive destinations had included Thailand but commercial surrogacy was banned in 2015 after a series of scandals revealed that lax regulation was putting mothers and babies at risk. Ukraine was another popular destination for commercial surrogacy, but the recent outbreak of war left thousands of intended parents unable to be united with their babies who were trapped in the country with their surrogate mothers.

To square international surrogacy with the duty to protect parents, surrogate mothers and babies, the laws that govern the process need simplifying and wherever possible to be applied uniformly across different jurisdictions.

Much of the complexity is borne out of the interaction of different attitudes to surrogacy. The discrepancy between states in their recognition of intended parents as legal parents is only part of the picture.

Another legal quagmire arises for internationally based intended parents obtaining the status of legal parents while living in the UK. "One of the criteria for obtaining a parental order in the UK is that at least one of the intended parents must be domiciled in the country," explains Emma Willing, Partner in the family team at Penningtons Manches Cooper.

"If, for example, you were a couple or individual from Switzerland, France or Germany, living in the UK for work purposes but not considered domiciled here, it would not be possible to obtain status as the child's legal parents in England by applying for a parental order and other routes to legal parentage would need to be considered. The concept of domicile is a complicated one and relates to where an individual considers their permanent home to be, rather than the country in which they are currently living. It is a concept which in itself will be carefully scrutinised by the English Court when a Parental Order application is made."

"INTENDED PARENTS AND LAWYERS ALIKE NEED TO BE MINDFUL THAT CIRCUMSTANCES CAN CHANGE DURING THE PROCESS AND THE POTENTIAL IMPACT OF THOSE CHANGES ON THE PARENTAL ORDER APPLICATION."

The earlier someone seeks advice, the easier it is to guide them through these issues, explains Hazar El-Chamaa, Partner in Penningtons Manches Cooper's immigration team. "We would advise British clients to consider choosing an unmarried surrogate in the US, for example, because UK law considers the gestational carrier's husband to be the father. This is the type of thing that can impact on entitlement to British citizenship among other things."

## REFORM ON THE WAY

Fortunately, reform is on the horizon. The Law Commission of England and Wales conducted a consultation in relation to

proposed surrogacy reform in the hopes of simplifying the process and improving the legal framework, including some aspects of international surrogacy. It published its final report alongside a draft Bill on 29 March 2023.

The report addresses how the current laws are no longer fit for purpose and proposes a new system, which will offer greater protection and certainty to intended parents, surrogates and ultimately the resulting child. The key proposal is the development of a new 'pathway to parenthood'. If followed, it will enable intended parents to be recognised as the child's legal parents from birth and to be named on the first birth certificate. The new pathway will be overseen by new non-profit-making surrogacy organisations, which will be called 'regulated surrogacy organisations'.

While the report may not go as far as some hoped, the opportunity for comprehensive reform in this area should not be ignored, in contrast to the piecemeal approach through case law over the past few decades.

"Intended parents and lawyers alike need to be mindful that circumstances can change during the process and the potential impact of those changes on the parental order application," explains Linzi Bull, Partner in the family law team at Penningtons Manches Cooper. She has acted in cases where couples have separated midway through the surrogate's pregnancy and others where one intended parent was accused of domestic violence by the other.

"The current law could have meant that the parental order applications failed in those cases, causing a huge amount of stress for the families involved," she adds. "In fact, both applications were ultimately successful but policymakers should focus on creating legislation that not only fills the current gaps in the law but also simplifies the process."

Efforts to reach international consensus on recognition of legal parentage across jurisdictions are also under way. The Hague Conference on Private International Law is currently examining the possibility of an international protocol on legal parentage in international surrogacy arrangements – the current lack of uniformity can impact on a child's nationality, immigration status and the attribution of financial and parental responsibility for a child.

"Considering the immigration law element is essential," adds El-Chamaa, who has had clients approach her who are unable to travel home with their child because their country-of-origin doesn't legally recognise their parenthood and so the child cannot even obtain a travel document. "These situations carry a huge financial cost so, until the law changes, the best approach is to seek advice and avoid them."

Reform is widely considered to be good news, but the Law Commission's proposed surrogacy law changes, for example, have already taken more than half a decade. This suggests cultural forces are reshaping the modern family faster than the law can adapt to it.

The fault line between law and reality threatens the security of families around the world. To continue allowing people the freedom to build a family and for those wishing to help them do so, the law needs to change and it needs to change now.

## A CASE OF COMPLEXITY

A recent case saw two European dads forced to leave Denmark after the government threatened to deport their three surrogate-born children. The fathers had opted to have a child born via a surrogate in California, owing to the maturity of the state's commercial surrogacy industry and the quality of its healthcare services.

The difficulty arose in 2019 when the couple travelled back to Denmark with their newly born child and applied for Danish citizenship and to obtain a Danish passport. Not only were they rebuffed, but they were told that Danish citizenship granted to their surrogate twins, born two years earlier, must have been issued by mistake.

Unlike California, Denmark only recognises the genetic father and surrogate as legal parents. Stuck in legal limbo, the couple decided to relocate to Britain (where one father still held British citizenship) and apply for British passports for the children.

The children were eventually granted British citizenship and allowed to remain in the UK, but this still didn't guarantee them security. From an English perspective, in order for intended parents who have entered into a surrogacy arrangement to be recognised as a child's legal parents, it is necessary for them to apply for a parental order. There is a requirement that the application for a parental order should be made within six months from the date of the child's birth.

Given that the couple hadn't considered moving to Britain until the issues in Denmark, a High Court judge eventually ruled that it was in the children's best interests to grant the parental order despite the fact of the application being made outside the six-month timeframe

The emotional and financial toll this took on the couple was immense and hundreds of others will undergo something similar each year as they navigate the patchwork of international legislation.

*How can we help?*

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Penningtons Manches Cooper's Partner and crypto specialist, Charlotte Hill, talks about the long-term viability of the blockchain ecosystem and the trends and changes coming its way.

# ANOTHER BLOW FOR CRYPTO?

## A few pointers on what's next for bitcoin

**BY LYSANNE CURRIE**

After more than a decade of being portrayed as the financial world's Wild West, cryptocurrency is now firmly in the mainstream despite the recent collapse of several exchanges. With more businesses accepting cryptocurrencies such as Bitcoin and Ethereum as payment, it is only a matter of time before decentralised finance (DeFi) operates on a level footing with the traditional finance (TradFi) space of the financial services sector and beyond.

For Penningtons Manches Cooper's crypto expert, Charlotte Hill, the key word is 'accessible'. Despite its reputation as a complex technology, cryptocurrency is now straightforward to purchase: "Download an app and you can buy it instantly. There's no market closing, so you can trade 24/7 – it's there anytime, day or night."

According to the last Wealth Management report by IT adviser Capgemini, 71% of high net worth individuals (HNWIs) have invested in digital assets (which include cryptocurrencies and non-fungible tokens, more commonly known as NFTs), and 91% of those are under 40. "I know 16-year-olds who are becoming wealthy traders overnight," says Hill. "They'd never do that with stocks and shares."

The high-performance DeFi market can be volatile, of course. In May and June 2022, it crashed spectacularly: cryptocurrencies lost approximately $1 trillion in value. In August, the value of Bitcoin slumped to £15,499 from a November 2021 peak of £49,838 and there have been several exchanges that have recently collapsed, with serious reports of frauds being alleged against the founders.

Despite the large losses, Hill believes this 'crypto winter' was ultimately a good thing. "It has given the industry a chance to calm down, reset and look at what works and what doesn't.

"Blockchain [and crypto] will become more prevalent and mainstream as time goes on," says Hill. "It is a fantastic piece of technology which is already revolutionising the way the modern world works." She cites the way Ukraine has used donations in crypto to finance elements of its defence, bypassing costly FX charges and ensuring almost instantaneous receipt.

Hill sees 'education' as being the missing piece of the puzzle, which she says will help those who deal with cryptocurrencies to ensure that they understand the market and the risks when dealing with it. But even as crypto is becoming more widespread, there remain three significant challenges to its progress.

## 1. SUSTAINABILITY MATTERS

Cryptocurrencies have traditionally been 'mined' using a process known as 'proof of work', in which computers solve complex cryptographic problems. This is highly energy intensive and, as a result, crypto has become notorious for its carbon footprint – the Bitcoin network, for example, uses more energy each year than Argentina.

Efforts are under way to address this, however. The Ethereum blockchain, which includes Ethereum crypto – the second most popular cryptocurrency – recently switched to an alternative model – 'proof of stake' – which is predicted to reduce its energy consumption by 99.9%. It's hoped that proof of stake will become the standard, leading to a more open and environmentally friendly industry.

## 2. TAX ISSUES

Investors may think they can squirrel away gains in crypto holdings but tax collectors are increasingly savvy on the technology. "HMRC are relatively au fait with crypto and capital gains tax applies if you make a profit," explains Hill. "But I think HMRC have got a long way to go when it comes to being able to audit the traders who are making 100 or 200, or even 1,000, trades a day, each time generating miniscule changes that affect the profit and loss."

## 3. KEEP AN EYE OUT FOR FRAUDSTERS

Due to the lack of regulation and its accessibility, the crypto sphere attracts its fair share of criminals targeting investors. In the UK, around £146 million was lost to crypto fraud in the first nine months of 2021, according to Action Fraud, as scammers look to exploit naïve investors keen to get involved in the Bitcoin boom.

In June 2022, for example, Santander warned that cases of 'celebrity-endorsed' scams – where famous faces are misused on social media to con people out of large sums of money – have risen 65% year on year, with the average value of the scam reaching £11,872.

It can take time to locate and freeze fraudsters' wallets on chain, and that at present "for an individual investor, there's very little protection in the UK compared with say shares in a PLC", says Hill. Why? Because assets, which are easily moved around in crypto, need to be frozen to preserve the asset and freezing can often be expensive.

"It is time intensive to get this kind of case up and running and into court quickly. It needs to be a sizeable sum to make it worthwhile, unless a group action can be formed on behalf of a number of victims.

"There needs to be much more protection in this area for consumers," Hill urges. "But that also has to be balanced – it's a nascent industry, so you don't want to stifle the creativity of the underlying technology and its potential."

### CRYPTO AND DIVORCE

The ownership of cryptocurrency can complicate the division of assets between two parties – particularly when one tries to hide large amounts. There is an uphill battle to retrieve those assets, or even prove they had them in the first place once they have been transferred out of a party's wallet.

"Whereas a court can order a bank to freeze monetary assets in a bank account, if you hold crypto you can take it offline and off-chain," says Hill. "And, if it's a De-Fi entity, where nobody really knows where it is, there's very little that we can do."

In that event, Hill advises partners to find a way to value digital assets – and then seek to retrieve the equivalent of that value from the other party. Her tip for those going through divorce? "As soon as you know there's potential crypto and it is likely to be moved to avoid detection, find a way to freeze it and protect it. Once it's moved to a different wallet, it's often game over."

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We appraise destinations for those in search of calm and clarity

# SEEKING THE PERFECT SET

BY CLAIRE COE SMITH

For wealthy individuals, geopolitical uncertainty can drive the need to relocate wealth into new jurisdictions, or even lead to decisions to go and live elsewhere. Here, we discuss the reasons why HNWIs move their families or assets to a new country.

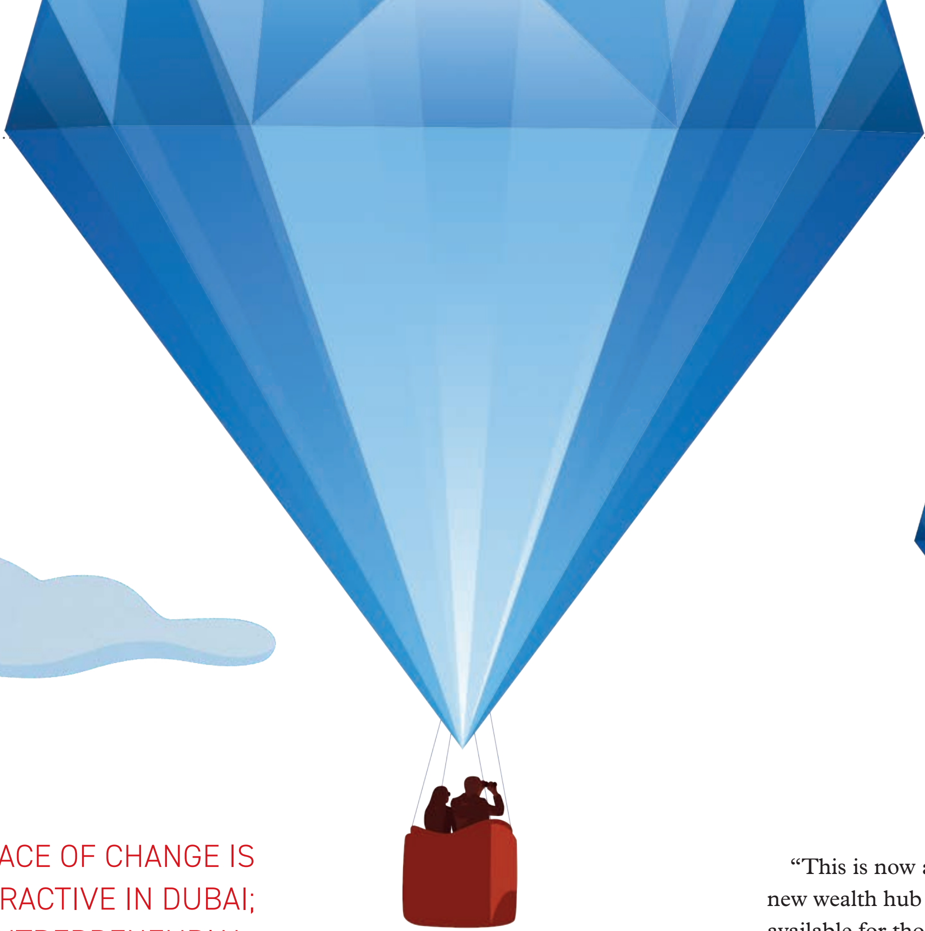
As we move through the third decade of the 21st century, geopolitical threats are high on the agenda. The war in Ukraine and the ever-changing relationship between China and the West are pushing wealthy individuals with assets around the globe to reconsider the safest places in which to base both their families and their wealth. There are a number of other drivers that may affect individuals' decisions including personal security and applicable immigration and tax rules.

While the UK, and particularly London, continues to attract its share of internationally mobile individuals, a recent report by Henley & Partners, which tracks wealthy individuals around the world, found that New York tops the list of 20 cities with the most millionaires in the world. Despite the US dominating with a total of six cities in the top 20, it is Dubai and Abu Dhabi that appear to have the fastest growing populations of high net worth individuals (HNWIs), growing their millionaire ranks 18% and 16% respectively.

Russia, at the other end of the scale, has seen the largest outflow of millionaires of any country in the world, with data suggesting that as many as 15,000 millionaires were expected to have emigrated by the end of 2022, many of them heading to the United Arab Emirates.

James d'Aquino, Partner in the London Private Client team at Penningtons Manches Cooper, says: "Dubai has actually managed to remain fairly open for business during the difficulties of the past few years. There were a lot of wealthy people that decided to spend a significant amount of time there or to relocate indefinitely during the pandemic and subsequently given its central geographic location and ability to move around freely."

# TING?



"THE PACE OF CHANGE IS ATTRACTIVE IN DUBAI; IT FEELS ENTREPRENEURIAL, INTERESTING AND PEOPLE WANT TO DO BUSINESS THERE."

He says the UAE, and Dubai in particular, has long been gearing up to attract more millionaire immigration from around the world. "Dubai has done incredibly well over the past few years to tread an interesting line in terms of attracting both professionals and wealthy people and continuing to maintain a level of control to try and ensure that the growth is sustainable," explains d'Aquino.

"During Covid they were open and people were able to get there and move about relatively freely. The big change now is that they are also managing to attract people who are bringing with them a greater economic substance, as wealthy individuals opt to run their businesses from there."

He adds: "For some years, people were living in Dubai but still holding their wealth in Swiss banks or offshore structures. Now, Dubai is making its way from a frontier market to a more secure regulated jurisdiction as a safe, credible hub for many service providers including trust companies, banks and law firms."

The UAE is continuing to prove attractive to Europeans, Indians and Africans as well as relocating Russians. "The pace of change is attractive in Dubai," says d'Aquino. "It feels entrepreneurial, interesting and people want to do business there."

Martyn Crespel is Chairman of the UAE business at private wealth fiduciary and corporate administration services company Praxis in Dubai and says as many as 4,000 millionaires were expected to have arrived in the UAE in 2022, more than anywhere else in the world.

Crespel says: "The vision of the ruler of Dubai, Sheikh Mohammed bin Rashid Al Maktoum, is that the current population of around 3.4 million people should grow another 3 million by 2040. It is now considered well-established as a jurisdiction – the climate speaks for itself and it is considered comparatively stable and secure, with a neutral political outlook and world-class infrastructure."

He adds: "From a legal and financial perspective, we have a pretty well-developed regulatory framework that is improving all the time, and with new visa opportunities there are now myriad ways one can obtain a visa to come and live here.

"This is now a highly skilled, professional new wealth hub with all the quality advice available for those wishing to structure their affairs as well as making it their home."

## SAFE AND STABLE

Another burgeoning wealth hub that is currently enjoying a huge influx of HNWIs is Singapore, which was expected to have attracted some 2,800 millionaires to its shores in 2022. Many of its new arrivals hail from mainland China and other parts of Asia, with Singapore rapidly eclipsing Hong Kong as the most popular place for wealthy individuals in the region to live and work.

A wave of capital started moving from Hong Kong into Singapore in 2019 after the Chinese authorities ramped up their response to pro-democracy protests in Hong Kong. "At that point, people who had preferred Hong Kong started to feel it wasn't safe anymore," says Ryan Myint, Partner in the Private Client team at Penningtons Manches Cooper in London.

"A number of wealthy individuals started leaving mainland China for reasons of personal safety and Hong Kong, which had previously been viewed as the centre with the strongest and most stable rule of law in Asia, became undermined by political interference from mainland China."

Rich Hong Kong residents became concerned about China's potential ability to run roughshod over the laws relating to property and commerce. "When people are looking for the best jurisdiction to hold their wealth, their prime concern is stability," says Myint. "That is different to what they are looking for in the jurisdictions in which they make their wealth. Often people make their money in frontier markets that are riskier and they accept that because of higher returns. Having accumulated capital though, they typically want to base it somewhere safe and stable so that if their business subsequently goes wrong they still have the family nest egg to distribute."

The ongoing relocation of capital from Hong Kong into Singapore has since been spurred on by China's handling of Covid-19, where it only recently ended its zero-tolerance approach, which also extended into Hong Kong. "Even now, the scale of quarantines and the strictness and severity of lockdowns in China is like nowhere else in the world," says Myint. "That is another reason people have been leaving Hong Kong and mainland China – and one of their primary destinations has been Singapore."

There are many reasons why Singapore has benefited from the dislocation, including the fact that the Chinese language is widely spoken and there are cultural similarities.

Rachel Yao leads Carey Olsen's trusts and private wealth practice in Asia and is based in Singapore. She says: "At the moment, people from all across Asia are quite keen to park their money in Singapore or move to Singapore with their families. For those leaving China that is easy to understand and relates to the internal policies of the current government, tensions between the US and China and the tensions with Taiwan."

She adds: "Singapore is an ideal place for Chinese clients, firstly because of its proximity to mainland China, which means that people can move the headquarters of their business to Singapore and there is no time difference and minimal language or cultural barriers with China – it is just a five-and-a-half-hour flight away.

"Singapore is also an easy platform for investment into the whole of southeast Asia. There are a lot of ultra-HNWIs from India, Malaysia and the Middle East also coming to Singapore right now."

**THE APPEAL OF THE SINGAPORE FAMILY OFFICE**

As the number of HNWIs in Asia continues to grow, the tax incentives and exemptions that Singapore has introduced to encourage the establishment of single-family offices mean it is often there that HNWIs head for wealth management advice and structuring.

Another especially big draw is the residency rights for family members that come with establishing a family office in Singapore, which does not have the fast-track 'investor visa' or equivalents that the UK and other countries offer to HNWIs. Establishing a family office is one of the most important routes to gaining residency.

The number of new family offices established in Singapore has increased significantly in the past three years, from 27 in 2018 to 453 in 2021, and prominent multinational family offices are now often choosing to establish a satellite family office on the island as a gateway to access investment opportunities in Asia.

Over the past 20 years, global law, accounting, asset management and banking firms have established and grown operations in Singapore, meaning the government's efforts to attract family offices have rapidly borne fruit.

"WE ARE SEEING A FLIGHT TO STABILITY, TO TRANSPARENCY OF TAX RULES AND, ULTIMATELY, TO PERSONAL SECURITY."

The Singaporean government is taking active steps to encourage professionals and the wealthy to relocate, promoting a new single family office regime, relaxing work permit regulations and investing in education and healthcare provisions. "Singapore is an independent country that is really well regulated and the government is forward thinking and liberal," says Yao. "People can see what is happening and are confident it is making Singapore more attractive."

At a time of so much geopolitical uncertainty, hubs such as Singapore and Dubai can steal a march by offering wealthy individuals a safe haven. "All of these places have things in common," says d'Aquino. "We are seeing a flight to stability, to transparency of tax rules and, ultimately, to personal security.

"We take for granted that we can walk around safely in London and the same is true in Dubai and Singapore. But in other parts of the world the super wealthy often fear being kidnapped or having their assets seized without good reason. That is what drives them to move their families and their money to these growing hubs."

***How can we help?***

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The growing challenge of cyber risk

# Something amisss?

BY DAVID PROSSER

HNWIs and wealthy families are prime targets for cyber criminals, who are becoming more active and more sophisticated in their modes of attack. Here we look at what steps people can take to protect their assets, their finances and their families.

Cyber criminals have wealthy families and high net worth individuals (HNWIs) firmly in their sights. It might be tempting to assume that only large companies need to worry about falling victim to a cyberattack, but criminals prey on all our optimism.

Even before Covid-19, planned attacks on HNWIs were on the rise. A study by Campden Wealth found more than a quarter of wealthy individuals had been targeted at least once. But since the pandemic, as society has moved to working from home, or in hybrid environments, their digital activities have accelerated, increasing their vulnerability to cyberattacks.

"At the height of lockdown, GCHQ received 160,000 reports of suspicious emails in a single week," says Penningtons Manches Cooper Partner Alex Fox. "Even the former head of MI6 fell victim to an attack – if he is vulnerable, we all are."

Cyber criminals are well-organised and do their research, often mining publicly available intelligence, including social media, in order to target their victims. They also access open sources on the dark web and sell information that might help with an attack or share vulnerabilities they have identified.

"EVEN THE FORMER HEAD OF MI6 FELL VICTIM TO AN ATTACK – IF HE IS VULNERABLE, WE ALL ARE."

## STAYING SAFE AND SAVVY

Well-prepared attacks can be highly convincing. One HNWI recalls receiving a message from a family office adviser he knew well, asking him to use his email and password details to log into a Dropbox account. When he tried and failed, he assumed there had been an IT glitch; in fact, the message had come from a fraudster, not the adviser – and that was the start of an attempt to steal £1 million.

In another case, the head of a Middle Eastern family discovered one of his advisers had sent a series of five-figure payments to an account he didn't recognise. When questioned, the adviser produced emails, apparently from the victim, ordering the payments. Investigators discovered the victim's email account had been compromised while he was using a public Wi-Fi connection.

"It's often the simple things that people don't think about," says Benedict Hamilton, Managing Director in the forensic investigations and intelligence practice of security adviser Kroll. "They neglect password and Wi-Fi security, and they don't worry about public information that exists about them – that's how the attacker pounces."

## POINTS OF VULNERABILITY

Everyone should have basic security features such as high-quality firewalls, anti-virus protection and up-to-date software and devices in place at home as well as work, but HNWIs may need extra help.

Kroll's Benedict Hamilton suggests hiring a cyber security professional to assess your vulnerabilities and advise on how best to protect yourself. "We perform this service for HNWIs frequently and it's rare that we don't find some sort of weakness," he says.

Such experts can also audit the advisers and providers with whom you work to see if they represent a weak link. You may want to consider running background checks on your own staff – employees with access to systems are a weak point in many organisations.

However, improving your cyber security may also require you to change behaviours. Think carefully about what personal information you share online – and what information your friends and family share. Be automatically suspicious about all digital communications you receive, particularly where they are requesting any kind of information.

Still, even with these preparations in place, attacks may sometimes get through. "Our advice is to always assume that you're going to get breached," explains Tony Macey, Chief Technology Officer at cyber security adviser Mollis Group. "Think about how you can reduce the blast radius – for example, do you need to keep personal information or financial information on the same system as everything else?"

Good preparation, and if necessary a robust response, is vital.

## PREPARE AND PROTECT

Criminals' motivations vary too. Sometimes, the goal is to steal from the target. In other cases, they might be after private information, which can be sold on or even used for extortion and blackmail. Ransomware attacks, where attackers take control of your systems and demand cash to unlock them, have become increasingly common in the last few years.

How then do HNWIs protect themselves? Fox says: "You need to take steps to protect yourself now, but also have plans for what you would do if an attacker gets through, as well as who you'd approach to recover after a scam."

The natural response is to freeze when you realise you've fallen victim to a scam, warns Fox. "Call the experts for advice straight away, leave your PC switched on so that records of the attack aren't lost or deleted and get as much information from the attackers as possible."

Similarly, have plans in place for any recovery action. Keeping your data backed up on an independent PC or IT system will be invaluable if your current system is compromised, for example. You may also need further professional specialist advice in the wake of an attack. "If you have sensitive information stolen, there are legal routes you can explore to seek damages and secure injunctions to try to prevent the information being shared further or otherwise misused," adds Fox.

The bottom line is that you need to be prepared for all eventualities. Vigilance will help you ward off many attacks but accept it is likely that some will get through – so you need to be ready to fight back. ■

***How can we help?***

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# Green growthers

## Investing sustainably to make a positive impact

The world of asset management has transformed in the past two years, with new regulations putting ESG higher up the agenda of responsible investors. What do HNWIs need to know in order to make informed decisions about sustainable investment opportunities?

**BY LYSANNE CURRIE**

Last year witnessed several record-breaking weather events, many caused by man-made climate change. Coupled with almost three years of coronavirus, this has left many of us reflecting on the impact of human activity on the planet.

As a result, impact investing in the latest developments in renewables is increasing, especially in Asia, with many countries pledging to 'build back better' after the pandemic by investing in cutting-edge green technology. To those ends, asset management has transformed, with new regulations in Europe and elsewhere putting ESG higher up the agenda.

With so many new developments happening at seemingly lightning speed, what do high net worth individuals (HNWIs) need to know in order to make informed decisions about sustainable investment opportunities?

Nick Dingemans, Partner at Penningtons Manches Cooper, and colleague and fellow Partner John Zadkovich, based at the firm's Singapore office, have some indispensable advice for investors in this rapidly evolving world.

### MOVING THE DIAL

Distinguishing between impact funds and green energy funds is key if you want to use money meaningfully to have a positive net impact on the environment. It boils down to the most essential rule in sustainable investment: due diligence. It's vital to establish that what you're investing in is really doing what it's supposed to be doing. It's not enough to simply look at a prospectus, you need to dig deeper and be forensic – who is verifying the performance metrics? Is there independent monitoring? Where's the verification?

Dingemans explains: "With green energy, that could just be a rooftop solar installation on a commercial building. Sure, that's green and sustainable, but is it impactful? Probably not. It's just reducing the cost of power for the person who put it on their roof. Impact needs to be something that's really moving the dial."

Another factor is consumer risk. Dingemans warns: "The reputational damage that can be done by not looking at ESG factors is really high. You need to consider the social and governance elements too, particularly if you're making investments in emerging markets. What is the impact on local communities? That's important."

Zadkovich agrees that it's imperative to do your research and consult experts: "There are myriad new funds coming up, which have laudable aims. But you need to look beyond that. Some of them might be greenwashing – I've seen this first-hand: a 'sustainable' project to generate energy in Indonesia through palm oil. But getting there meant decimating thousands of hectares of rainforest."

Diane Seymour-Williams, Partner at Acorn Capital Advisers, concurs. "You really need to lift up the bonnet to ensure there isn't any greenwashing going on. You need transparency on how they are making a difference and how they are assessing ESG values, both positive and negative.

"When you look at measurement frameworks, it's not one-size-fits-all. You need to measure impact at a very granular level."

What is helpful for prospective sustainable investors, however, is that some protocols already exist. The World Bank and others have criteria to measure the environmental and social impacts (known as the Equator Principles) of a particular investment on local communities, and there are also the UN's Sustainable Development Goals.

The UN Climate Change Conference in 2021 (COP26) saw the creation of the International Sustainability Standards Board, part of the International Financial Reporting Standards (IFRS), which will mean a consistent accounting measure of sustainability around the world, making it easier for investors. As well as being able to penetrate any greenwashing, it will be a fiscal measure too.

Dingemans and Zadkovich agree that, to create meaningful change, it's all about the groundwork – consulting with experts and due diligence.

Dingemans gives the example of solar panels: "If you produce solar panels, you've got to mine silica. So where's the silica coming from? You need to look at the entire supply chain and interrogate every part of it. You could be looking at something you understand to be sustainable, but if you don't look at the whole supply chain and lifecycle, you could end up creating something worse when it comes to ESG metrics."

Seymour-Williams adds that the onus remains on you as an investor: "You need to do that homework or have an adviser who is going to do that homework for you."

" WHEN YOU LOOK AT MEASUREMENT FRAMEWORKS, IT'S NOT ONE-SIZE-FITS-ALL. YOU NEED TO MEASURE IMPACT AT A VERY GRANULAR LEVEL."

## ESG INVESTMENT ENDEAVOURS

Despite the greenwashing, real change is underway. Hydrogen, for example, is the focus of considerable investment, with some governments including those in Australia and Indonesia offering great incentives such as subsidies or tax concessions. Zadkovich explains: "Hydrogen is one of the most talked about renewable and sustainable fuels right now, and billions are being invested in it across the world.

"Of course, different markets have different drivers, depending on the availability of the resources. APAC is still largely dependent on fossil fuels, and has an abundance of them, and the US is largely self-sufficient, given its shale reserves. So there's more green capital available in Europe than there is in APAC or North America."

Dingemans adds that India is interesting too. "The government decided a few years ago to really push renewables, particularly solar. They have a huge energy demand and though they still build coal-fired power stations, they are creating significant capacity in utility-scale photovoltaic solar power stations.

"They're doing this because they've got lots of land and demand. This gives India the economics and physical space, which means more reliable and long-term projects. With scale the cost comes down. Today the cost of building and operating a utility-scale solar power station, versus building a coal fired power station, is now cheaper. The consequence of the economics is that India has logically been pushed towards a significant build out of renewables."

He also mentions Indonesia. "It has a massive population, so has huge power demand, but, interestingly, Indonesia has overcapacity of power supply on the islands of Java and Bali, mainly from coal. Essentially, the build out power for security of supply has gone well but is probably in the wrong place. Java and Bali have nearly 180% capacity for current demand. Other parts of the Indonesian archipelago have under capacity.

"So how do you use this capacity? One option, though costly, would be to capture the carbon from these coal-fired power plants and use electricity to create hydrogen from electrolysis, and then blend hydrogen with the captured carbon to make synthetic gas.

"This is the type of project that requires significant capital but does have an impact. It reduces carbon, transitions to a hydrogen economy, and displaces some natural gas with synthetic gas. Over time the coal can be replaced with renewables, the carbon captured through direct air capture and you potentially have a carbon negative power supply."

Dingemans agrees that Australia is definitely one to watch, with the government looking to rapidly build out solar, hydrogen and other green technologies. He expects Australia to become an exporter of hydrogen to Asian markets, because Japan, Korea and China are all pivoting towards a hydrogen economy.

But Dingemans and Zadkovich's main takeaway is wherever you choose to put your money, you have to do your research. Due diligence on all aspects of ESG, keeping up with constantly evolving regulations and avoiding greenwashing are vital. In short, get expert advice before you invest if you really want to maximise returns and truly help the planet.

### KNOW THE RULES

Regulations are constantly evolving, which is something for all investors to keep front of mind. Dingemans says: "A number of European countries, including the UK, have passed legislation that requires governments to reach net zero by 2050, or earlier.

"What we don't fully know is how that's going to be imposed on businesses. How is the transition to net zero going to be achieved by law and regulation? What we do know is that businesses will need to transition and 2050 is not that far away in terms of business planning cycles. This means you can't wait for government to regulate you. If you don't start to plan and execute a transition now, you will have it imposed on you later, which could cost you more or put your business into financial trouble."

Zadkovich adds: "I'm also seeing certain funds, especially private equity groups, which used to be heavily invested in fossil fuels diversify or shift capital to invest in technologies in the green space, even without regulatory changes."

It's still unclear when regulations from the IFRS's International Sustainability Standards Board are going to be enforced. But the message from Dingemans and Zadkovich is clear – if you're investing for the future, you need to invest in a sustainable way now, rules or no rules.

Seymour-Williams agrees, concluding that when it comes to impact investing, the basics are quite simple: "People are looking for the holy grail – but really, the solution is due diligence, hard work and focus."


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# the PHILANTHROPY fixer

We talk to Rebecca Eastmond of Greenwood Place about how to develop a giving strategy.

**What should individuals and families consider if looking to develop a philanthropy strategy?**

**RE** Start with your values and what you care about. These questions are particularly helpful: What really makes you angry or sad about the world? What would you like to fix? What would you like to see more of and encourage?

Also think about how much you want to give because that will influence where your money will go to make the most impact.

**How might people go about building a strategy and identifying organisations to support?**

**RE** The next step is to do some research. See what issues are out there and start to map out what is happening, what is being done and where the gaps are. Then talk to experts to test what you've learnt – in philanthropy, people are happy to talk because everyone is on the same side.

Then, quite early on, start making some gifts as testers as you start to understand the area. You can get to know those charities while being clear that you are not yet making a long-term commitment.

**What are the biggest challenges or obstacles for new philanthropists?**

**RE** You must enjoy it – if it feels like a chore, then it is not the right cause for you.

Often people give to causes based on requests from friends and they don't know whether their gifts have done any good. You need to spend time understanding an organisation before you donate, see what their plans and milestones are, then check in on those plans to measure progress.

**How has the range of giving opportunities changed over time and what are the biggest areas of focus right now?**

**RE** Many of our clients are looking at their whole wealth now and seeking to make a difference through their investments as well as their philanthropy. The range of opportunities to leverage capital has got much broader.

Five years ago, very few of our clients gave to issues around biodiversity or climate change, but that has altered. Still, the majority of our clients start with people and look to support others who have not been as fortunate.

**REBECCA EASTMOND**
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What would you like to see in the next issue of *Context*?

The experts at Penningtons Manches Cooper would be delighted to hear from you:
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## SEEKING THE PERFECT SETTING?

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