By **Don Kozusko** & **Paul McKibbin**

Risk Management for Wealthy Families

Anticipating and adapting through scenario planning

You're gonna need a bigger boat.
—Chief Brody in the movie "Jaws" (1975)

It's not all about the money. Working together as a family while investing or operating a business can enhance financial outcomes, but that kind of success doesn't, by itself, ensure that the family will continue to work together and flourish. Wealthy families who have long-term aspirations devote at least some attention to the softer issues as well. Many of these efforts tend to be more reactive than proactive, waiting until the issue is defined by the oncoming course of events. Waiting identifies the need and simplifies the choice of a response. When a succession plan is called for or personal frictions surface, for example, the family engages a suitable expert for that particular issue—and keeps the other advisors close at hand, but focused on their sphere of specialization. This avoids duplication of effort and deploys experts to where they're most knowledgeable and least likely to trespass on someone else's turf.

Yet, does emphasizing such efficiency limit effectiveness? The alternative we consider here has the same aims as business planning: to anticipate changes and take actions earlier to manage the risks of certain negative outcomes and promote positive results. As explained in the previous article, "Coordinating Risk Management" (*Trusts & Estates,* December 2012 at p. 12), the greatest attention would be paid to those areas most neglected by established wealth management techniques—not the dynamics of the investment portfolio or the family business operations, but instead, the risks and rewards that arise on the outside of assets at the intersection of family, ownership, management, regulation and taxes.[1] Expanding risk management in this way is challenging because a proactive coordinated effort is necessary to sort through and prepare for events and influences that may, or may not, surface in the future. In this evolving domain of interpersonal relationships, intangible issues and multiple outside influences, is it even possible to steer clear of blind spots and address issues early on in meaningful ways? Would the family become overwhelmed by all the relationships and possibilities or be concerned that they're wasting resources by attacking problems that never materialize?

Don Kozusko, far left, is a partner in the Washington, D.C. office of Kozusko Harris Duncan LLP. **Paul McKibbin** is a partner at Family Office Metrics LLC in New York

Collaboration and Divergent Thinking

Let's start with something obvious: Such an ambitious process would require a commitment to collaboration among the family and its advisors, possibly augmented by additional experts. Different advisors from different fields brainstorming together could open up the planning process to accommodate more points of view and more than one presumptive future. Collectively, they could better identify and evaluate the relative importance of factors generating risks and opportunities and propose a positive response, as compared to a single expert or family member, or several contributors offering separate observations from discreet silos. Everyone's judgment is affected by the limits of personal experience.[2] We act on our perceptions, not a hidden reality. A collaboration of advisors could move perception closer to reality. If the group could explore different versions of what changes and challenges might arise during the planning time frame, it should enhance the

ability to prepare for and adapt to change, and thus, build resilience into the family relationships, so the family works together more smoothly and successfully.

Controlling Divergent Thinking

Is this realistic? Could such a collaborative effort actually bring the family to consider different ways of how the future could unfold, so that the family's plans anticipate alternatives and adapt if the future, in fact, differs from the single path that everyone naturally expected? If unmanaged, this comprehensive collaboration could instead produce an expensive and open-ended demonstration of another obvious point: The future has no limits. Are we trying to solve a Rubik's Cube that has no fixed dimensions and randomly changes colors? We've previously illustrated in brief examples how multiple factors in wealth management of a family can interact at the intersection of ownership, management, regulation and taxes. (We've reproduced those fact patterns in "Case Examples," p. 37.) In a real world setting, the possible combinations of future events and forces seem beyond measure and control, even in a single family, if the time frame stretches beyond a few years. In a world crowded with ideas, information, finite resources and growing demands, no family can be expected to endure a perpetual competition of divergent ideas and opinions.

Thus, we need a process to open up our thinking, but only within the boundaries of rational judgment. The aim is to understand how a particular family can be affected over time by several forces or events, objective and subjective, internal and external, operating at different times, some more powerful, disruptive, undefined, interrelated or evolutionary than others. The response can't be embodied in a single contingency plan or a static power point diagram or designed by manipulating spreadsheets. Yet, a disciplined method is essential to bring together collaborators who hold varying, even conflicting, views and to generate, analyze and manage thinking around combinations of events and forces leading to different potential paths and then to empower mere mortals to grasp the implications and make informed decisions.

Fortunately, business and public policy strategists have long since identified the same challenges in their planning environment and, decades ago, began to develop and apply a discipline that became known as "scenario planning." In its various forms, the method has proven so useful that scenario planning continues to enjoy considerable attention in the academic and consulting literature and is widely employed by planners in business, military and public policy circles. Scenario planning has become a recognized means to deal with multiple factor interactions in uncertain and frequently changing environments, in which qualitative insights about the future prove to be at least as valuable as quantitative forecasts.[3] Tackling interrelationships over time looks a lot like planning for risk management for wealthy families, as we've described it previously.

> We suggest that scenario planning can be used as the enabling discipline for our proposed risk management process.

Scenario Planning

Plans are worthless, but planning is everything.[4]
—Dwight D. Eisenhower

Scenario planning isn't a forecast run by changing quantitative variables in today's formulas, much less a prediction of what those variables will be in the future. It's a practice of planning that opens up the participants to an adaptive way of thinking that's no longer critically dependent on the assumption that reality will, in fact, follow the expected future path that the mind derives from past experience.[5] While it shares some of the same creative methods as design thinking and brainstorming,[6]

it focuses more on interactions that play out over time. In the context of family wealth management, think of it as a process for moving people and things (investments, business holdings, legal structures) through time in a virtual way by creating and examining alternative story lines for the future: the scenarios. We suggest that scenario planning can be used as the enabling discipline for our proposed risk management process, which allows the family to understand and adapt as ownership, management, regulation and taxes interact and change as the family's financial and human capital changes.[7]

The scenario planning process is directional, but not linear.

Although scenario planning has evolved into different versions in use today in business and public policy forums, and specific kinds of projects call for different applications, the basic process is consistent throughout the consulting landscape. Scenario planning moves our thinking across the dimension of time by following a natural progression of imaging and articulating alternative plots of the future and examining the implications of those story lines: (1) study the domain, (2) identify relevant trends, forces and events, (3) create and explore scenarios and their implications, and (4) consider and prioritize adjustments for the future.[8] The process is directional, but not linear. It can circle back in iterative fashion through mental feedback loops, such that, for example, thinking about the first set of scenarios and the questions they raise can uncover trends and forces previously overlooked or misunderstood, causing the set of scenarios to be revised or even entirely redesigned and the time frame adjusted.

The creation of thoughtful scenarios is critical to a successful experience. Humans are always scenario planning in an ad hoc way (it's how we perceive, organize, decide and take action by relating the events of today to past experience, to act or react to what we then surmise is the story of tomorrow). The scenario planning process, however, is much more systematic, deliberative and focused on a specific area of concern or opportunity—a problem domain. While scenarios are intended to be creative enough to challenge existing assumptions, the scenario construction process doesn't begin and end with raw imagination, nor does it unleash mystical powers of prediction. It's logical but, nonetheless, subjective.

After participants select the problem domain and planning horizon, they must examine and understand the trends and forces in the environment well enough to reach a judgment as to which of these are more or less pre-determined and which are more uncertain.[9] The participants draw these subjective distinctions to frame the boundaries of the scenarios, at least initially. The scenarios then are constructed in story lines that embody those judgments as to what forces are more certain or less certain and more powerful or less powerful, and the scenarios play out how different directions and combinations of cause and effect could affect the problem domain in the future. The purpose isn't to eliminate uncertainty (that is, to pretend that it doesn't exist), but instead to recognize and remain conscious of how it could affect the future course of events.[10]

In its simplest application, four scenarios are created from matching two forces or events of high impact/high uncertainty, putting one on the X-axis of a diagram and the other on the Y.[11] The four scenarios in the grid then mix the lesser or greater impact of each of these two drivers as you move along the axes, as shown in "Four Scenarios" (p. 38). This particular diagram reflects the starting point of scenarios that the family office might use to consider the potential impact on its future governance and operations from two factors of highest uncertainty/greatest impact: (1) if the family members disperse and reside in multiple countries, rather than continue to cluster around the original home town, and (2) if the family office sells a core asset holding that anchors the family to the home town, financially and emotionally. The approach in "Four Scenarios" assumes that there's a constant relationship in which the "dispersal" and "sale" drivers will be the greatest influences on whether the family continues to work together and use the family office as in the past. The four quadrants show different scenarios reflecting the initial judgment that the asset sale and dispersal of residences will cause the family to be less cohesive due to losing frequent informal personal contacts and will attenuate

Case Examples

As we explained in our article "Coordinating Risk Management," which appeared in the December 2012 issue of Trusts & Estates, *these fact patterns are drawn from a composite of our own clients' experiences and public records*

Neglected Beneficiary

The trustees of a 100-year trust have broad discretion to sprinkle distributions among the descendants of the grantor. The trustees keep no records, except for tax returns and custodian statements, because no one has ever asked for an accounting; all the living beneficiaries, except one estranged grandchild, have always had substantial other resources and never expected distributions from this trust. That grandchild, Harry, has drifted away, and no one cares to give him information on the trust since the family considers him to be antagonistic, lazy, irresponsible and unlikely to ever deserve a distribution. What's the unmanaged risk at this point? Fifteen years later, a woman contacts the trustees in her capacity as the mother of Harry's teenage child, and, on her child's behalf, she seeks redress against the trustees for neglecting her child as a beneficiary. The trustees believe they exercised reasonable diligence, but have no records to show attention to their duties apart from occasional investment decisions.

A Daughter's Premature Death

At a father's death, the family farm continues in trust for his 25-year-old daughter, Katie, until she reaches age 35. What's the unmanaged risk at this point? Over the next decade, Katie works hard to run the farm to emulate her father's success, but the operation is under financial stress when Katie dies in a farm accident just a month short of age 35 and outright distribution to her. The ownership continues in trust for her infant child, but the child's surviving guardian, Katie's recently divorced husband, seizes the opportunity to sue the two trustees, including his former mother-in-law, for damages due to the poor financial returns attributable to the holding of the family farm. He's hoping to squeeze out a settlement and force the sale of the farm so he can claim a large guardianship management fee. Katie had released the trustees each year from any such liability, but that doesn't necessarily bind her infant child as successor beneficiary, and the guardian claims that the losses, including the investment returns that could have been achieved elsewhere, must be calculated for the entire 10-year term of the trust.

Troublesome Charitable Bequest

A widow with no children leaves her entire estate, including a large share of an underdeveloped real estate parcel, to a favorite local charity launched years ago but still primarily funded by the family. What's the unmanaged risk at this point? While the widow's estate is being wound up, the real estate parcel spikes in value when it becomes a critical link in a potentially very profitable long-term redevelopment plan. The family wants to control the redevelopment, but must first buy out the charity (with borrowed funds backed by personal guarantees) to meet state regulatory standards and must navigate through the evolving tax rules for charities. Once the charity is cashed out, it appears that the charity can't have its funds managed as a client of the family office (unless the family office registers as an investment advisor with the Securities and Exchange Commission or restructures the charity's endowment), because the charity doesn't qualify as a family client under the single-family office exemption. As a result, the family isn't only being forced to take on more leverage in its redevelopment plan, but also will lose the ability to add the buy-out proceeds to the assets it manages.

The Founder's Team

Fifteen years ago, a successful entrepreneur died and left part of her business holdings in trust to provide for her grandchildren and named two long-time business partners as trustees and her lawyer as protector. She wanted to encourage entrepreneurship among the beneficiaries, but their interests and talents vary widely, and only a few have followed that path, including joining in the management of some of the trust's businesses. What's the unmanaged risk at this point? One of the trustees has moved his personal residence to a state that might impose an income tax on the trust. The second trustee is slowing down physically and mentally at age 80. The trust protector has the power to replace these trustees, but the family hasn't been able to agree on a qualified younger individual who's willing to assume the risk of personal liability as trustee. Moreover, both existing trustees prefer to continue serving and have begun to question the capability of the protector, who seems to be distracted by personal financial stress and health issues. More fundamentally, the trustees have succeeded in active businesses all their lives and can't imagine selling off the businesses and investing in the volatile public markets, apart from a small bond allocation. Meanwhile, those beneficiaries not involved in the businesses are confused as to what's the true purpose of the trust and frustrated by their own inability to understand business and by the trustees' lack of attention to the beneficiaries. The beneficiaries see conflict among their lives and the life cycles of the trust, its holdings and its trustees.

— By Don Kozusko & Paul McKibbin

an emotional connection to the home town, where the family history and influence is still prominent. When the anchor asset remains but the family disperses, the scenario is the hardest to imagine, the so-called "dark territory," because it may represent an unbalanced mix of countervailing forces.

In fleshing out these fact patterns, the participants might conclude that their starting scenarios were too wedded to past experience and underplayed more recent influences (such as family activities

involving international philanthropy, "hands-on" direct investments and journeys to fun places) that have begun to replace historical bonds. As a result, the scenarios might be redesigned to consider an alternative view of cause and effect and ways in which the family office can address these new trends. Thus, in the process of creating the scenarios, the future drivers become better understood, and then further reflection and analysis may lead to rethinking and possibly changes in the scenarios. Along the way, some uncertainties are reclassified as unimportant or pre-determined, as the scenarios open up new mental models for viewing future risks and opportunities.

Why Scenario Planning Fits

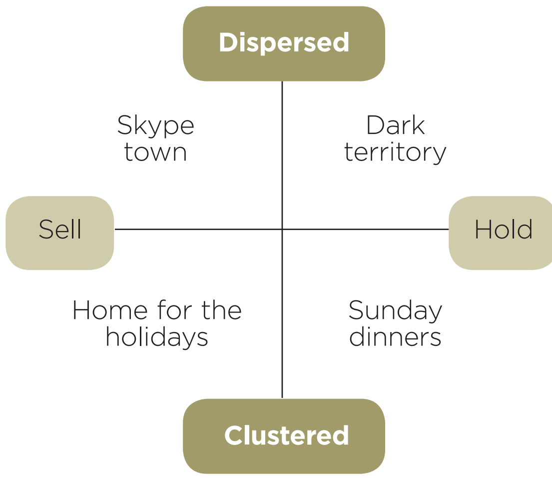
Several characteristics of scenario planning make it highly appealing for use by families in the risk management process we're describing. Scenario planning is well suited to managing collaboration by multi-disciplinary groups of advisors and interactive participation by family members and executive leaders. It's naturally collaborative, manageable and accessible because it's built around story lines.

1. Our minds are attuned to absorbing and understanding complex interrelationships and developing insights through stories, much more so than through changing multiple variables or creating complex graphics on a computer screen. This fundamental principle is recognized by cognitive psychologists and by other professionals from multiple fields.[12] As an illustration, the events that transpired in the example of **Troublesome Charitable Bequest**[13] involve the interaction of multiple consequences, but they could have been revealed in advance and understood through a scenario process, and couldn't have been uncovered by a quantitative or mechanical tool or forecast. (See "Case Examples," p. 37.)

2. Stories embody forces and people moving across time, and our appreciation for these "shapes in time" is an essential aptitude for planning for a future with multiple variables.[14] **Troublesome Charitable Bequest** illustrates the point, but **A Daughter's Premature Death** further shows that multiple complex interactions are not the only way in which a plan is derailed; the passage of time can bring forth a threatening combination of just a few "ordinary" risks (death and divorce) that can undermine what appeared to be a well-conceived plan.

Four Scenarios

The family office can consider the potential impact on its future governance and operations from matching two forces or events of highest uncertainty/greatest impact



— By Don Kozusko & Paul McKibbin

Neglected Beneficiary reminds us further that even the simplest of cases, from a legal point of view, can become much more problematic if the natural progression of events in time isn't considered. (See "Case Examples," p. 37.)

3. A process built around story lines is a great equalizer because it facilitates collaboration from contributors with different kinds of knowledge, experience and thinking/learning styles. Developing insights through story lines requires relevant knowledge, of course, and collaborations can flounder not only over an unmanaged divergence of opinions, but also over distinct and uneven levels of experience and knowledge within the group and the different thinking styles of creative and analytical problem solvers. Story line thinking and organization, however, allows family members and executive leaders to participate more naturally in the same group as do the expert outside advisors, blending specific knowledge of the family with insights and expertise on the issues. Unlike in a traditional analytical process run by top-down thinking, some people can be thinking from the outside in, and others from the inside out, in the same group at much the same time.[15]

4. Just as in business environments, the scenario process for wealthy families can be used in a range of plans, from comprehensive strategic planning to dealing with tactical issues of more limited impact. Scenarios, like stories, come in all shapes and sizes and with different settings. The time frame is determined by the goals of the effort, although it's typically mid-term.[16] The scenario story lines can be epic in scale, reaching for a long view of major questions, or pithy, dealing with discreet operational adjustments or only a subset of the family's activities. You can start out with low profile, emotionally neutral questions and progress from there. Scenario planning is a method of thinking; it's not content-specific or embedded with value judgments or substantive solutions. This allows scenario planning to be useful to families with different objectives, values and priorities. It enables families to then enlist new or existing advisors to help address in a substantive way the priority issues highlighted by the scenarios, which may involve, for example, family leadership succession or participation in decisionmaking or, at an operational level, something as concrete as the services that the family office will offer after the next transition. The process doesn't displace those advisors, but helps the family identify the need.

5. Creating and moving through scenarios allow questions to arise in context, which encourages the participants to reach out and understand why the questions warrant attention and to appreciate how the mindset of other participants perceive the question and value its importance differently. Families often address questions that are emotionally charged and on which family members will have different perspectives. These are questions or issues that even the same person will see differently at different stages in life. Typical examples are: what are the personal goals and family roles of those next generation family members who won't be joining the business, or how will those who join the family through marriage come to understand what the family shares in common, and what it does not? The scenarios provide a virtual role playing dimension and, thus, tend to encourage empathy, or more accurately, to appreciate what psychologists call "theory of the mind" or just "TOM."[17] Put another way, the stories encourage us to imagine being one of the other actors in the next acts in the family's plans:

- In the example of **The Founder's Team** (see "Case Examples," p. 37), nothing unusual happens in the future, but the trust fails to fulfill its purpose nonetheless, due to failures of empathy and lack of good advice and prior informative experience. No one imagined how it would be to walk in the shoes of the beneficiaries during the life of the trust, nor how the trustees would and should play their role. As the mindset of these elderly former business associates hardened with time and retirement, the mindset of the beneficiaries was being energized by the independence and eagerness of emerging adulthood. This potential disconnect began by miscasting the grandparent's business associates as trustees for grandchildren. This was then reinforced by 15 years of omission, that is, by a failure to anticipate the growing gaps in mindsets of the players and the failure to respond by orienting the trustees to their role of understanding the beneficiaries and the beneficiaries to understanding the founder's team and the trust's business investments and their own role as beneficiaries.[18] No great calamity ensued, but opportunities were missed.

- Just as scenario planning could have been used to visualize how the actors in **The Founder's Team** would walk through their scenes several years after the trust's inception, scenario planning can be used to bring other legal structures to life, uncovering what trust or corporate documents mean—not just what they say. It's been shown elsewhere, for example, that the proper functioning of a modern trust that has multiple decisionmakers (such as protectors, investment advisors and distribution committees) requires coordination among these positions, consistent with a clear functional definition of each role.[19] Scenario planning can help. The various roles can be understood and articulated more readily if the structure is examined through scenarios projected out into the future using a story line in which illustrative events occur as players in these positions come and go.

- Developing a capacity to understand the mindset

of other participants includes understanding the external influences that will influence them in future interactions.[20] In **Troublesome Charitable Bequest**, the family, and the widow in particular, need to anticipate the mindset of the charity as it later receives the bequest of real estate. Though the charity's board members and executives will always try to cooperate with the donor community, these actors must be attentive to their fiduciary obligation to the charity's mission. Other actors with different mindsets are waiting in the wings. State regulators have the authority to supervise local charities, but may

Because story lines cause questions to arise in context, the scenario process facilitates sorting out and prioritizing the issues, which is a critically important contribution to planning for wealthy families.

fear criticism in the press if they can be accused of favoring powerful families over deserving charitable causes. Other converging forces could magnify the risk, such as the unpredictable timing of the widow's death, a spike in value for a unique parcel of land, the implementation risk inherent in any development project and volatility in the availability of financing. Working through some scenarios would have prompted the family to foresee the importance of an option to use a pre-packaged plan with seller financing to buy out the charity after the widow's death.

6. Because story lines cause questions to arise in context, the scenario process facilitates sorting out and prioritizing the issues, which is a critically important contribution to planning for wealthy families. These families are surrounded by a stream of solicitations from providers of products and services and, of course, have many other demands on their time and attention. Scenario learning ideally positions the family to sense the priorities because the questions arise out of a plot of the future. The action items that follow have acquired concrete meaning from the scenarios, such that the steps in designing a governance structure or undertaking a family sustainability assessment[21] are appreciated by a wider group of participants, beyond the family's activist leadership. Similarly the family's leaders can more effectively prioritize issues by understanding the differing mindsets that inhabit the family and anticipating how those could change over time as the family matures and grows. Here are some examples:

- In **The Founder's Team** (see "Case Examples," p. 37), the question of who to cast in the trustees' role and how to advise them wasn't an abstract "fill-in-the-blanks" question. The suitability of the trustee, including the capacity to grow into the role, was central to whether the trust would fulfill its purpose when the beneficiary-grandchildren become independent young adults, with their own talents and aspirations.[22] You can wait to see this scene open in the real world after 15 years, or you can imagine it in advance in a scenario. Prioritizing the issues requires a technical judgment of an expert in many cases, such as the lawyer drafting the trust in **The Founder's Team**, but it also requires weighing the emotional impact of the question, the disruptive affect should the risk materialize and the consequences of missed opportunities.

- It seems obvious that context affects the importance of a question, but commonly, the missing step in risk management for wealthy families, particularly when investment management or business operations aren't involved, is the failure to take the time to visualize future contexts in which issues can arise. Scenario planning holds open that door. The divorce down the road in **A Daughter's Premature Death** (see "Case Examples," p. 37) undoubtedly affected the plan for relying on the annual releases from liability. The question of what information is provided to trust beneficiaries may not be of pressing importance in most trusts, but it certainly surfaces with alarming significance in the future described in **Neglected Beneficiary**.

- Consider how easy it may be to put off explaining a family trust to a college sophomore who's preoccupied with athletics and, yet, how embarrassing it may be for that same beneficiary a few years later to explain to his fianceé why he's clueless about the family's wealth. We know that even without the overlay of unresolved prior issues, the circumstances in which spouses join the family carry emotional content.[23] Complete ignorance of family wealth in young adults may send a message of lack of responsibility by that generation or a lack of confidence in them by elders and trustees. Scenario thinking for a business family may also suggest that the best step forward wouldn't revolve around cold financial statements, but instead would reach out to the young adults who aren't involved in the family business by, for example, retracing some critical past business decisions through "war stories" and video interviews of some of the key players.

- More broadly described, scenario planning can help a family identify the more important influences and consequences that can play out over time in their specific circumstances, and thus, they can enjoy greater confidence to put aside other items on the long list of concerns proposed for families generally.

How It Fits

We're not suggesting that scenario planning comes pre-assembled out of the box and ready for use in a family setting. Indeed, even in the business and public policy environment of its origin, scenario planning requires preparation and diligent attention to the case at hand. The environment must be well understood, forces and influences identified and evaluated, time frames and goals of the process selected and scenarios created that are plausible, vivid and fresh.

We have handicaps to overcome in planning for the future because we're human. It's common to overvalue what we know and undervalue the implications of our ignorance. We have a stronger emotional connection to the past experience that we have known and felt, so in the competitive balance, we tend to overlook the limits of that experience and believe it's more predictive of the future than is warranted.[24] This bias can be compounded by a tendency to overestimate what control we had over past events, so taken together, we believe more strongly in our ability to control future events.[25] Cognitive psychologists have explored many ways in which our thinking about the future is biased, and this is only a sampling.[26]

Given these challenges, we don't want to imply that scenario planning is always fully successful in changing how one understands and prepares for the future.[27] Scenario planning can fail to reach its potential in any given instance for many reasons.[28] Instead, we propose that noticeable improvements will be achieved by using scenario planning when a wealthy family undertakes deliberative plans to manage future risks.[29]

Scenario planning also requires adjustment when adapted to the context and objectives of wealthy families. Problem domains that are tightly connected to interpersonal issues call for careful preparation to consider who participates and in what sequence. Advisors need to serve as proposers, leaders and filters rather than commanders and competitors. Many times, the different kinds of family issues and concerns will be affected by drivers that interact over time in a sequence of overlapping time frames of different durations, so a tiered set of scenarios could be required to represent these layered time frames. Furthermore, we have used four brief case examples to illustrate the potential of the process, but these examples highlight issues more clearly than would be typical in actual family settings in which the connections between cause and effect tend to be fuzzy, and it may even be difficult to differentiate cause from effect. In the next article in this series, we'll consider how the process would be adapted for risk management for wealthy families, including how it promotes an adaptive, learning mindset.

—This is the second of a series of three articles. The first in December 2012, proposed that a more comprehensive approach should be used to manage risk and opportunities for wealthy families. The third article will outline how scenario planning can be adapted from the role in business to serve families.

Endnotes

1. Don Kozusko and Miles C. Padgett, "Coordinating Risk Management," *Trusts & Estates* (December 2012), at p. 12 (Kozusko and Padgett).

2. Ronald M. Bradfield, "Cognitive Barriers in the Scenario Development Process," *Advances in Developing Human Resources,* Vol. XX, at pp. 7-8 (Sage Publications 2008) (Cognitive Barriers); Kees van der Heijden, *Scenarios: The Art of Strategic Conversation,* at p. 49 (2005) (Heijden). A colorful example of perspective influenced by experience is the assessment of Tony Espera, a former "repo man" from Los Angeles, converted into a Marine grunt. As reported by his platoon leader Nathaniel Fick in the book *One Bullet Away,* at p. 318 (2005), the lowly Marine, who was one of the "boots on the ground," made an uncannily accurate prediction shortly after the fall of the Saddam Hussein regime. In colorful language, Espera described why the "guys our age" in the Iraqi population would turn against the Americans. Defense Secretary Donald Rumsfeld's message to Congress was then quite different—that the attacks against the U.S. troops were merely the last remnants of a dying cause.
3. To learn the basics about scenario planning, visit *www.scenariothinking.org,* which provides an online community. *See also* Youtube videos featuring Paul Schoemaker, an early leader in the field.
4. From a speech to the National Defense Executive Reserve Conference in Washington, D.C. (Nov. 14, 1957); in Public Papers of the Presidents of the United States, Dwight D. Eisenhower, 1957, National Archives and Records Service, GPO,at p. 818.
5. Thomas J. Chermack, *Scenario Planning in Organizations: How to Create, Use, and Assess Scenarios,* Part III, no. 11 (Berrett-Koehler Kindle ed.)
6. As the name implies, "design thinking" comes from the design world; it emphasizes human-centered observation, among other attributes. Tim Brown, "Design Thinking," *Harvard Business Review* (June 2008). "Brainstorming" was born on Madison Avenue as a process that suspended judgment to give the imagination the opportunity to "storm the brain" with fresh thinking, as the father of the concept, Alex Osborn, later described it in the seminal book, *Applied Imagination* (1951).
7. The scenario planning method we discuss here is the one most often referred to by business consultants. To differentiate it from other schools of thought it's been categorized as the "intuitive-logics" school, as in Ron Bradfield, George Wright, George Burt, George Cairns and Kees Van Der Heijden, "The origins and evolution of scenario techniques in long range business planning," *Futures* 27 (2005) available at *www.sciencedirect.com.*
8. Thomas J. Chermack, Susan A. Lynham and Wendy E. A. Ruona, *A Review of Scenario Planning Literature* (2001) (Literature Review).
9. Mats Lindgren and Hans Bandhold, *Scenario Planning: The Link Between Future and Strategy,* at pp. 45-46 (rev. ed. 2009) (Lindgren); Heijden, *supra* note 2 at pp. 91-95. While it's certainly difficult to distinguish between what is and isn't predictable, Heijden aptly observed that strategic planning wouldn't be meaningful in a world where everything was entirely predictable or entirely uncertain.
10. Heijden, *supra* note 2 at pp. 107-111.
11. This approach isn't universally suitable, however, and several different kinds of organizing formats are in use. Lindgren, *supra* note 9 at pp. 72-74; "Guidance Note, Scenario Planning," Foresight Horizon Scanning Centre, Government Office for Science, at pp. 12-14 (Guidance Note).
12. Heijden, *supra* note 2 at p. 49. "Narrative" ways of organizing and communicating data and patterns are being used in knowledge management and software development due to the complexity theory. *See www.cynefin.net. See also* Perry *infra* note 23 at p. 125 on the role of stories in family legacy.
13. Kozusko and Padgett, *supra* note 1.
14. Dietrich Dörner, *The Logic of Failure: Recognizing and Avoiding Error in Complex Situations,* at p. 198 (1996). In a novel by Mark Haddon, *The Curious Incident of the Dog in the Nighttime* (p. 156), the lead character, an autistic child, describes why it's more difficult to keep track of "time" as compared to "things:" "... time is only the relationship between the way different things change," and there's no "place" to look for something misplaced.
15. Heijden, *supra* note 2 at p. 49.

SPOT LIGHT

A Little Shade

"L'ombrelle" (24 3/8 in. by 20 in.) by Pierre-Auguste Renoir, sold for $15,128,963 at Christie's recent Impressionist and Modern Art Sale in London on Feb. 6, 2013. One of the leading lights of the Impressionist movement, Renoir's work is known for its use of vibrant light and saturated color.

16. A typical horizon time is more than three and usually 10, 15, or 20 years. Guidance Note *supra* note 11 at p. 8. The time frame varies with the problem domain and objective because scenario planning fits best in a time frame that includes both predictable and unpredictable elements of importance. Heijden, *supra* note 2 at p. 111; Lindgren, *supra* note 9 at p. 57; Guidance Note, *supra* note 11 at p. 8.
17. For example, Lisa Zunshine, *Why We Read Fiction: Theory of Mind and the Novel* (Kindle 2012).
18. Hartley Goldstone and Kathy Wiseman, *Trustworthy: New Angles on Trusts From Beneficiaries and Trustees,* at pp. 58, 69, 91, 111 (2012), describes several case histories of successful trustee-beneficiary relationships in which the favorable result was not pre-determined, and one in particular at p. 44, in which the beneficiary feared being treated as a generic beneficiary, one of eight, without respecting her separate identity.
19. John Duncan and Anita Sarafa, "Achieve the Promise—and Limit the Risk—of Multi-Participant Trusts," *ACTEC Law Journal,* Vol. 36, Number 4 (Spring 2011); John Duncan, "Master and Commander: Every Complicated Trust Structure Needs One," *Trusts & Estates* (December 2003) at p. 38.
20. In *Difficult Conversations* (2010) by Douglas Stone, Bruce Patton, Sheila Heen and Roger Fisher, the authors from the Harvard Negotiation Project refer to the parties to a difficult conversation as each having a different "story" and then recommend that the parties pause to imagine and consider the "third story" that would represent the perspective (mindset) of a hypothetical disinterested third person reviewing their conversation.
21. For an in-depth discussion of sustainability for wealthy families and an assessment method, *see* Fredda Herz Brown and Fran Lotery, *The Family Wealth Sustainability Toolkit: The Manual* (2012) (Brown and Lotery).
22. The trustee's role in such a trust should have followed the role of the generative trustee or trustee as mentor, as explained in the various commentaries of James E. Hughes, Patricia Angus and John Warnick. For example, James E. Hughes Jr., Susan E. Massenzio and Keith Whitaker, *The Cycle of the Gift* (2013).
23. Ellen Perry, *A Wealth of Possibilities,* at pp. 103-105 (2012); Brown and Lotery, *supra* note 21 at p. 29.
24. Cognitive Barriers, *supra* note 2 at pp. 7-8; Tali Sharot, *The Optimism Bias: A Tour of the Irrationally Positive Brain* (2012).
25. Erik Helzer and Thomas Gilovich, "Whatever is Willed Will Be: A Temporal Asymmetry in Attributions to Will," *Personality and Social Psychology Bulletin,* 38, at pp. 1235-1246 (2012). As paraphrased by John Duncan in a conversation with the authors, "In other words, we believe we can see where we will be, based on where we never were."
26. Daniel Kahneman, *Thinking Fast and Slow,* Part 2 (2012); Cognitive Barriers, *supra* note 2 at pp. 7-8.
27. Cognitive Barriers, *supra* note 2; Paul Shoemaker, "Scenario Planning: A Tool for Strategic Thinking," *Sloan Management Review,* at p. 38 (1995).
28. Lindgren, *supra* note 9 at pp. 111-117.
29. Fortunately, at least one experienced lawyer has already taken the initiative to use scenario planning to test the thinking behind estate and succession planning. *See* Matthew Erskine, "The Scenario Planning Option for Clients' Estates," *Wall Street Journal* (Feb. 1, 2011). In "Risk Assessment Should Include Estate Plans," *Family Business Magazine* (March/April 2012), Erskine recounts an experience in which scenario planning enabled him to prevent the discovery of an old buy-sell agreement from derailing a new equity financing for a family-owned business. Moreover, the Family Office Exchange (FOX), in its risk management studies, described scenario planning as a practical way for families to address risk with concrete relevance to their specific context; the more recent study summarizes some results of one family's focus on certain specific future transitions in the family and family office using scenario planning. FOX, "Building A Financial Enterprise Plan to Deal With Future Uncertainty," at p. 11 (2012) and "Managing Threats and Opportunities through Effective Risk Planning," at p. 13 (2009). Scenario planning has also been recommended as a method for family offices to plan for the future influence of external forces, such as demographic trends (personnel shortages) and technology developments (outsourcing). Elizabeth Mathieu, "Thinking Outside the Family Office: A Case for Adding a New Dimension to Planning for the Future," *Journal of Wealth Management* (2008) (detailed summary of four scenarios).

SPOT LIGHT

Get the Point?

"Samois, La Berge, Matin" ($25\frac{5}{8}$ in. by 32 in.) by Paul Signac, sold for $3,042,371 at Christie's recent Impressionist and Modern Art Sale in London on Feb. 6, 2013. Signac, working alongside Georges Seurat, is most famous for helping to develop the pointilist technique, which entails using a multitutde of colored "points" to create an image.