The role of the trust in global crises scenarios

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The increased frequency of economic crises, together with a widespread instability of geopolitical and regulatory frameworks, is shedding a light over wealth planning and the recurring importance of strong asset protection structures.

For instance, businesses and families are developing an increased sensitivity towards wealth structuring strategies, which will prove their effectiveness during potentially disastrous global crises scenarios.
On the other side, to face such challenges, professionals are eager to offer their clients the most flexible and innovative tools.

The following major risk factors, for both companies and private clients, should be carefully evaluated when building a tailor made asset protection strategy:

- The impairment or strong devaluation of the assets
- Loss of revenues and credits, leading to a liquidity crisis and the incapability of paying debts at due date and/or incapability of shielding family assets from company's creditors
- Interruption of ordinary operations (due to force majeure or temporary/permanent incapability of the person) leading to a loss of control over the assets
- Lack of recovery or emergency plans to activate in the event of crisis

The greatest obstacle is the implementation of structures, which will equally protect different asset classes (movable goods, real estate, shares, works of art, property rights, etc.), at the same time adapting to often complex entrepreneurial and family fabrics with constantly developing needs.
In such cases, the trust has shown to be the only effective and comprehensive solution. If required, it can for instance represent a pool of resources for an entrepreneur facing an economic crisis, but it can also work as a safe for those private clients and their families, which may incur in strongly destabilising events.

The Trust and its role of segregation

With a trust, a settlor disposes of his assets in a trust fund, relying on a trustee for their management. The trustee becomes the owner of such assets, and he will administer them according to the instructions set out by the settlor (also through letters of wishes), while at the same time being supervised in his operation by a third party, the so-called protector.

The trustee is accountable towards the protector, the settlor or the beneficiaries, thus ensuring transparent management and following the path paved by the wealth planning strategy they agreed on.

Thanks to the segregation of the assets now belonging to the trustee, such assets on one side will be kept separate from his personal wealth, and on the other side they will become insensitive with reference to personal, family, inheritance and fiscal events having an impact on both the trustee and the settlor.

Thus the asset protection goals in the mind of the

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settlor can come into force and they will be able to take different shapes:

I. Family protection

The most valuable objectives of a trust are those concerning the protection of a family and, in particular, of its most vulnerable members (e.g. minors, disabled persons, or those who are not capable of administering their wealth) which would be exposed to great risks in case of unpredictable events.

As an example, without adequate wealth planning, and in an economic crisis framework having a strong impact on those activities generating revenues for the family, the greatest risk is represented by the erosion of family wealth and attacks carried out by possible creditors.

When instead, the family is facing the unexpected early departure of the settlor, simple will dispositions or insurance policies might not be the best solutions to guarantee economic sustainability and independence for the most vulnerable subjects.

On the other side, the settlement of a trust allows, in case of financial difficulties, to segregate assets and insure them against the attacks of family's creditors; thus guaranteeing an emergency fund that will provide for the well-being of the beneficiaries.

Furthermore, trusts are powerful tools to support inheritance goals. They can in fact determine how each beneficiary will be able to enjoy the assets depending on factors such as their age or capacity for example, thus ensuring optimal preservation of the fund and shielding the generational transfer from wealth dispersion and fragmentation.

II. Real Estate protection

When a trust is established for the protection of real estate, the assets cannot be seized. In an economic crisis framework, this factor becomes appealing. to both businesses and private clients, as a trust would allow the separation of personal and company risks from real estate assets, which, as a consequence, wouldn't be seized by personal or company creditors.

III. Guarantee for business continuity

Business continuity can strongly be compromised in different cases:

- An extra-ordinary event which has a strong impact on the business
- An economic crisis
- Unexpected and early death of the entrepreneur

In the first two scenarios, a trust with segregated assets (machines, real estate, or even liquidity) can avoid creditors' claims or attacks on those specific assets, and at the same time, they can become an emergency fund to restart the business once the crisis has passed.

When instead the shock is brought about by the early death of the entrepreneur, the pre-settlement of a trust with generational transfer goals will avoid risky and destabilising transitions. An easy example we can think of is a case in which heirs might be too young and inexperienced to carry on the business, or simply they could not find an agreement over the inheritance.

IV. Control over financial crisis

During a global crisis, the advantage of having at least a portion of financial assets under management in a trust resides in the long term strategic goals that the trust itself has set.

A trust will most likely promote conservative investments strategies, which will guarantee a source of economic stability to its beneficiaries.

Furthermore, with the management in the hands of reputable and experience third party, the benefit will consist in a more rational administration of the assets, thus avoiding for example abrupt disinvestments which might lead to even heavier losses.

V. Guarantees against personal wealth dispersion

Breaking events and economic crises can have an impact on the capability of individuals to carry out normally their professional activities, especially when there is a lack of adequate professional insurance and a strong risk of wealth dispersion due to claims for damages or compensation.

It has been observed that such events tend also to have an impact on family structures, resulting in an increasing number of separations and divorces, which lead to wealth fragmentation.

In both cases, a trust can offer protection and wealth preservation for the settlor, who will be able to handle the separation or the divorce with a more rational approach, thus avoiding a complete loss of its finances.

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Even though trusts are generally established with protective goals, they must not be conceived as a crystallised relationship to benefit from only in crises scenarios.

A trust has the advantage to be an extremely flexible tool, which can adapt to current needs (for instance, it is possible to add assets during the entire life of the trust, and beneficiaries, together with their rights, can be amended according to the necessity of the time).

Furthermore, in an unstable economic, political and regulatory framework, we will need to take into account an increase of global mobility across multiple jurisdictions of both assets and individuals. In these scenarios, trusts and trustees have demonstrated to be able to support families effectively in their relocation plans, optimizing the fiscal impact of such decisions and easing the transfer operations.

Such considerations can be strengthened if we rely on a corporate trustee instead of an individual one; this because the structure behind a corporate trustee allows to face delicate wealth planning and transfer moments with a multidisciplinary and all-comprehensive approach.

The presence of multiple professionals in charge of the administration of the trust is also a guarantee against the risk of management paralysis; a risk that is much more real for individual trustees in cases of unexpected personal events or global crises.

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