# Greenway Capital Advisors, LLC

## WEALTH ADVISORY – 1st Quarter 2011

### Why Are Wealthy Families Creating Private Trust Companies?

Wealthy families tend to seek and embrace structures that provide an opportunity for each generation to discuss and influence the management of family wealth. Unfortunately, it is extremely difficult to accomplish that, if family wealth is held inside of irrevocable trusts. In that instance, a private trust company, serving as trustee of irrevocable trusts, offers a forum for current and future generations to have a voice in the management of the trust assets.

Besides the ability of multiple generations to be involved in the management of family wealth, the following are other reasons why wealthy families are establishing private trust companies:

1. **Elimination of trustee succession issues.** Individuals may die or become incapacitated. Financial institutions can merge or fail. However, a private trust company is perpetual and will be there as long as the family needs it.
2. **Greater willingness to consider retention of heavily concentrated family assets.** A significant portion of the family wealth may be concentrated in assets such as family businesses and real estate. Private trust companies are less risk adverse and better attuned to family assets than corporate trustees and are better able to honor the special place they hold within the context of the family.
3. **Limited personal liability.** Family members and trusted advisors who serve as individual trustees have unlimited personal liability. As a general rule, the members of the board of directors of a private trust company have limited liability, and they are arguably operating within a business standard as opposed to the higher fiduciary standard for trustees.
4. **Enhancement of investment opportunities.** Some family members may not have the minimum capital required to invest in certain assets such as private equity funds or hedge funds. A private trust company can create a common trust fund containing those types of assets, and individual family trust accounts, regardless of their size, can invest in them.
5. **Reduced regulatory oversight.** State banking commissioners have less incentive to subject a private trust company to the same regulatory oversight that a public trust company has because there is no public interest to protect. This distinction is formally recognized in states, which permit private trust companies to seek exemption from certain regulatory provisions that apply to trust companies transacting business with the public. Also, some states such as Wyoming and Nevada permit an unregulated or unlicensed private trust company. An unregulated or unlicensed private trust company can operate without a state charter or license, specific capital requirements and state regulatory oversight.
6. **Ability to select a favorable forum.** Many states that promote private trust companies have enacted favorable tax laws and modern trust laws. Nevada, New Hampshire, South Dakota, Texas, and Wyoming are some of the more popular states where private trust companies are being formed.



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