LEGACY PLANNING WITH DIGITAL ASSETS

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The advent of digital age has given rise to an exciting new asset class, including digital coins and blockchains, such as Bitcoin, Ethereum, meme coins, non-fungible tokens (NFTs). According to the CNBC Millionaire Survey, 47% of the 750 surveyed millennial millionaires have at least 25% of their wealth in cryptocurrencies, while more than a-third has at least half their wealth there. One could question if this is a cause or effect, but the undeniable fact is that it has become an asset class that cannot be overlooked. According to a survey by Goldman Sachs, nearly half of the 150 family office respondents want to add digital currencies to their stable of investments, as higher inflation, historically low interest rates for sustained period are driving those managing wealth to Alternatives as a hedge. Further, as a large portion of these ultra-rich may have made their fortunes due to the technological boom, so they would be more inclined to invest within this space. Some have likened the implications of blockchain technology to be as significant as that of the internet.

47%

Of millennial millionaires have at least 25% of their wealth in cryptocurrencies

> One-third

Of millennial millionaires have at least half of their wealth in cryptocurrencies

Nearly half

Of 150 family office respondents want to add digital currencies in their investments

Imagine if one had stashed millions in a secret offshore vault with its existence, location, amount and only key known to oneself. In case of unforeseen circumstances rendering one incapacitated or death, these funds would sit undiscovered, much like in the case of bearer shares. As cryptocurrency is such a new development, many people might have yet to give much thought to its inclusion in estate planning. Yet it is a really important consideration, some might even argue that it is more crucial than traditional asset classes due to:

Decentralisation

Its very nature as part of an alternate financial ecosystem free from traditional financial institutions and regulatory structures mean that one cannot rely on these same systems to regain access and ownership.

Substantial volatility in market value

Timely appropriate course of action can be taken to ensure value is preserved/grown. If one is looking for conservative returns with controlled drawdowns vs bitcoin's frequent 70-85% drawdown, then active management in necessary.

No personal linkage

No personal linkage to the asset that demonstrates ownership to allow it to be controlled by a successor after the settlor's demise.

Electronically stored keys

If the keys are stored in an electronic device, unless heirs know what they are looking for, they may not know the value of what they are looking at, even if they are holding it. They may even activate a self-destruct mechanism, potentially losing the assets forever after numerous attempts of the password or pin.

However, some of the obstacles faced today by estate practitioners are:

Technical accessibility

Security measures restricting access, two-factor authentication (2FA)

Legal ramifications

Lack of clarity surrounding property rights in digital assets

Lack of planning

Not given due consideration by deceased or lack of experience from practitioners to include language permitting fiduciaries to access, retain and manage the asset

One has to note that, without the private key, having a court order is impotent. Therefore, the overarching priority is still protecting the accessibility of the password.

A Quick Glance

Private Keys

A set of private keys is necessary to unlock access to the currency, and this can be represented as a human readable 12 to 24-word recovery phrase. Anyone who gets their hands on this set of words will be able to access and spend the funds anywhere. The longer the recovery phrase, the harder it is to guess, but it also increases the risk of forgetting or being able to access. One cannot stress more that there is simply no way to retrieve access without the private key. Even if the hardware crashes or is lost, as long as one has the master key, access to the assets can be regained on another computer.

Recommendations

- Generate your own private key. Never let someone do it on your behalf and do not share it with anybody.
- Generate your private key on a device that is up to encryption security standards and has sufficient entropy (unpredictable inputs that provide greater confidence of randomness).
- Write the recovery phrase legibly by pen on paper (susceptible to smearing, water/fire damage etc.), or via metal storage backup tools available on the market.
- Keep it in a secure place.

A Quick Glance

Storage Options

Cryptocurrencies are stored in a digital wallet that is either web-based or hardware-based.

Hot storage
Online wallets

- Convenient but less secure as the private keys are stored on cloud storage which is always connected to the internet, thus making it susceptible to hacking

Cold storage
Offline wallets not accessible via the Internet, physical storage device

- Keep in a secure location, though this has also given rise to "wrench attacks", which is literally when criminals know that you are the owner of a handsome stash of cryptocurrencies and go to your physical location to coerce you with a wrench to reveal the private key. This could have resulted from a customer data leak or simply avoid boasting on online forums.

So, what can one do to ensure his/her digital assets will be smoothly transferred to the intended beneficiaries?

Disclosure of crypto assets to estate planners, so that a secure method of transfer of private key can be devised to pass onto beneficiaries.

'Deadman' switch

Triggers switch

Should the owner become incapacitated or dead (upon failure to check into an app regularly)

Inform designated recipients on how to access the private keys. Requires that the owner checks in regularly.

Multi-signature arrangement on devices in different locations - equivalent to a joint signing authority whereby responsibility for the possession is divided such that the control is not concentrated in one person's hands. An application could be that the trustee, lawyer, beneficiary must sign off individually to validate a transfer or spending.

> **Two copies of asset records stored in different locations**, to be frequently updated at the same time.

> **3-2-1 backup approach**
>
> **3** copies of private keys (1 on the hardware wallet device, 2 backup copies)
>
> **2** types of media (e.g., encrypted USB hard drive + cryptosteel)
>
> **1** at an off-site location, for disaster recovery and is made known to heirs

Ensuring the asset's security is absolutely vital yet can be mind-boggling for the less technically savvy investor who simply wishes to gain access to cryptocurrency for diversification. Therein lies a solution which is gaining traction: transferring your crypto assets into a trust structure which can then be placed under banks' global custody.

Advantages:

- Enable other parties to know the existence of the digital assets which can be included in will
- Bypass the complicated set-up process to trade cryptocurrencies
- Have a consolidated asset view and enable investors to have cryptocurrency as an integral component of asset allocation
- Faster execution and competitive institutional pricing
- Crypto lending – borrowers pay interest instead of yielding zero in custody
- Maximize security with the custodial arrangement

Demand for advice will only rocket, as the younger generation is increasingly entwined with digital technologies. Due to the decentralized nature of digital assets, the regulatory landscape remains fluid as governments are still trying to catch up with its fast evolution, therefore it's imperative to take your asset security into your own hands and work with trusted providers to keep abreast of latest development in this arena.

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