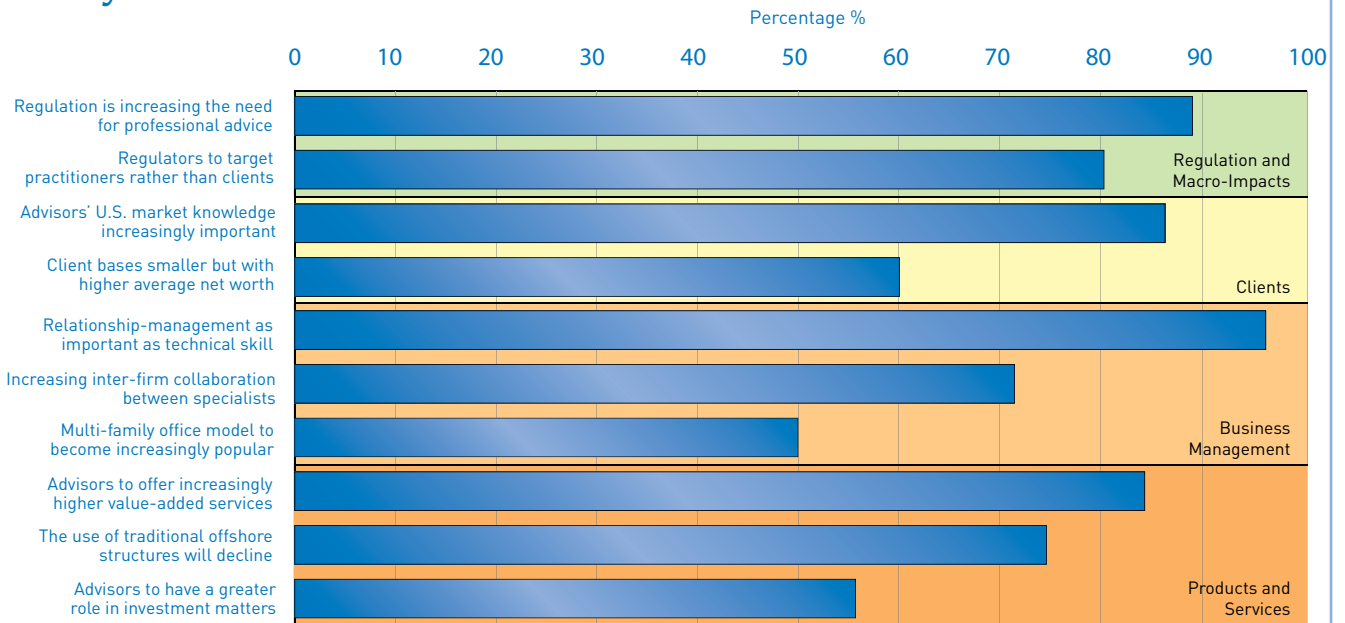


THE FUTURE OF CANADIAN TRUST AND ESTATE PRACTICE

10 Key Predictions



THE FUTURE OF CANADIAN TRUST AND ESTATE PRACTICE

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The Society of Trust and Estate Practitioners (STEP) is a unique professional body providing members with a local, national and international learning and business network focusing on the responsible stewardship of assets today and across generations.

STEP
Society of Trust and
Estate Practitioners 

The Future of Canadian Trust and Estate Practice is the latest in a series of STEP reports considering the outlook for practitioners in different areas around the world. Other STEP reports in the series include *Offshore Evolution* (examining offshore business) and *Trusted Advisor – The Future* (examining UK business). Planning is underway for a similar study looking at Asia, to be published later in 2011. All STEP reports and policy briefings are available to view at www.step.org/publications/reports.aspx

This report is available on the STEP Canada website:
www.step.ca/pressRoom.asp

Introduction

Kim G C Moody, Chair, STEP Canada

In the third of STEP's 'Five Futures' series of reports¹, we take a look at the Canadian market for trust and estate planning services. The picture you will see emerging on the following pages is that Canada appears to be adapting to the forces of change with great flexibility and innovation. If Canada is an accurate barometer of the future of practitioners, this report should be obligatory reading for STEP members globally.

The methodology follows that used in the original 'Offshore Evolution' report, and the 'Trusted Advisor' survey carried out for UK domestic practitioners. The format for Canada was adapted by conducting individual telephone interviews with a group of thought leaders who seeded themes with personal views on the future. STEP Canada members were then asked to validate these themes in an online survey.

Among the 15 themes that emerged, 25 predictions were made under four headings: regulation; clients; business management; and products and services. Each of the predictions is accompanied by a selection of comments made by one or more of the leadership group.

What emerges clearly from these predictions is that members in Canada are at the forefront of change in how practitioners are working. For example, if it is true that regulators will increasingly target the professionals selling advisory services rather than the clients who are buying them, then we can expect a whole new paradigm in advisor-client relationships.

Similarly, the suggestion that relationship-management skills are just as important as technical skills points to a future in which practitioners become more like generalist advisors than tax or legal specialists. In

another example, the demands for increased knowledge may soon extend to assisting clients in investment matters, which is well beyond practitioners' core skill-set today.

Most of the predictions in this study are marked by their unusual flexibility to external forces, but they are often accompanied by a tendency towards innovation as well. For example, the trend towards offering higher value-added services is a natural reaction to smaller client bases with an average higher net worth. Similarly, the expected demise of the traditional offshore structure has its mirror in demands for increased knowledge of the US market.

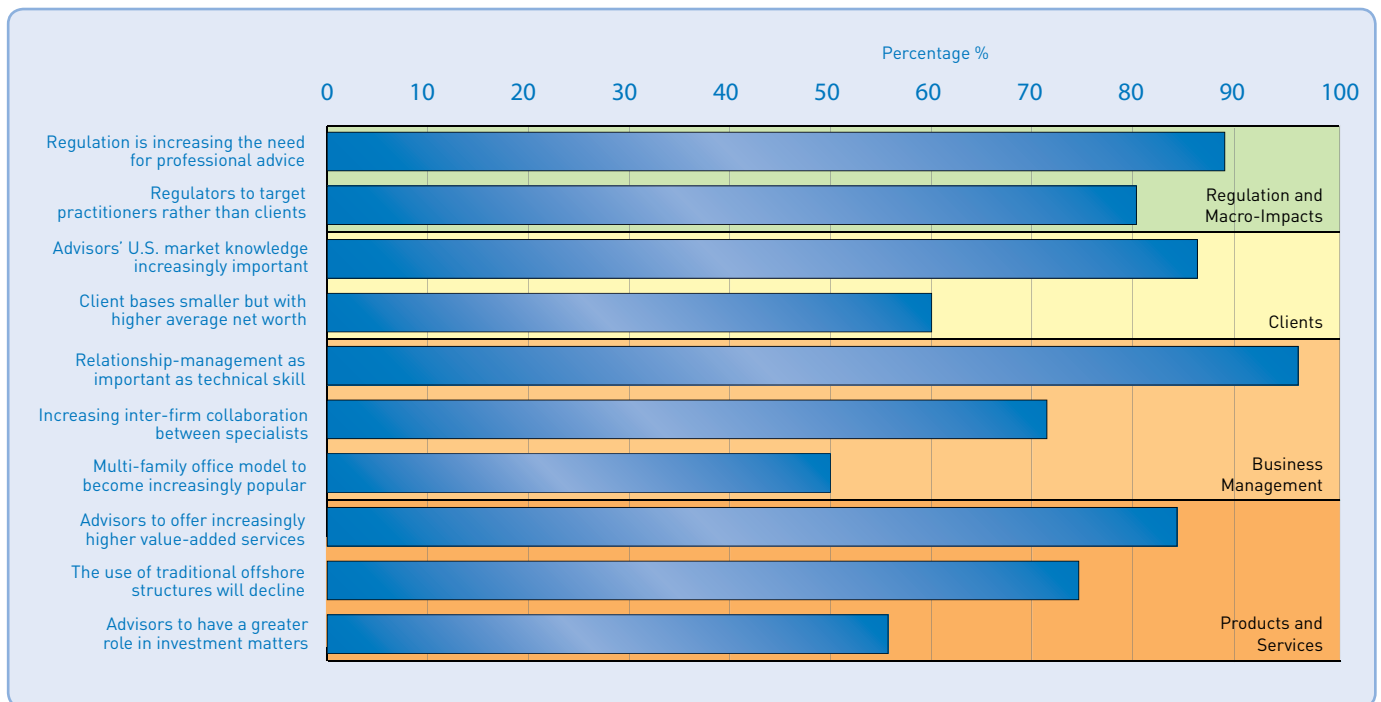
Perhaps the most astonishing finding of all is the increasing collaboration expected between specialist advisors working in separate firms. This is a picture of innovation in which the industry reshapes itself into more nimble units of advice and production for the benefit of clients seeking a one-stop-shop or multi-family office model of private client management.

While some of these predictions may never come to pass, STEP Canada will certainly be ready if they do.

This collaboration between STEP Canada and STEP Worldwide is part of the on-going STEP Worldwide Council 'Five Futures' initiative for the continual development of the Society's knowledge base about members and private client markets around the globe. As the American Society of Association Executives has demonstrated, truly excellent membership organisations are distinguished by the depth of their knowledge about their members' businesses and needs, and the capacity to use that data to deliver what their members want.

Conclusions

10 key predictions: agreed by over 50% of respondents



Regulation and Macro-Impacts

Regulation is predicted to increase across the board, but on a positive note for practitioners, this increase in regulation is thought to be driving a greater need for professional advice. The focus of this increased regulation is predicted to shift from the client buying the services over to the professional selling them. The increasing regulation of offshore structures is making them less attractive vehicles than they have been in the past.

Clients

Our members report that the proportion of cross-provincial and cross-border structures being used is continuing to increase, and that knowledge of the U.S. market is becoming more important to the Canadian advisor. Family relationships were identified as a driver of complexity in new business. The client-bases of our members are trending towards fewer clients with a higher average net-worth and business owners were reported to be a slightly higher proportion of our members' client bases than they have been previously.

Business Management

The most strongly supported prediction in the STEP survey centred on the importance of a practitioner's ability to maintain relationships. There was overwhelming support for the notion that strong relationship-management skills are just as important as technical skills in the private client advisory industry. There was also very strong support for the prediction that practitioners' need for knowledge will be greater in the future than it is already.

Members predict that the demand for a broader range of services will result in the increased use of outsourcing by firms and that we will also see increasing collaboration between specialist advisors working in separate firms.

It was identified that it is becoming increasingly difficult to attract new recruits to the industry and that it is slightly more difficult to source professional trustees than it has been previously.

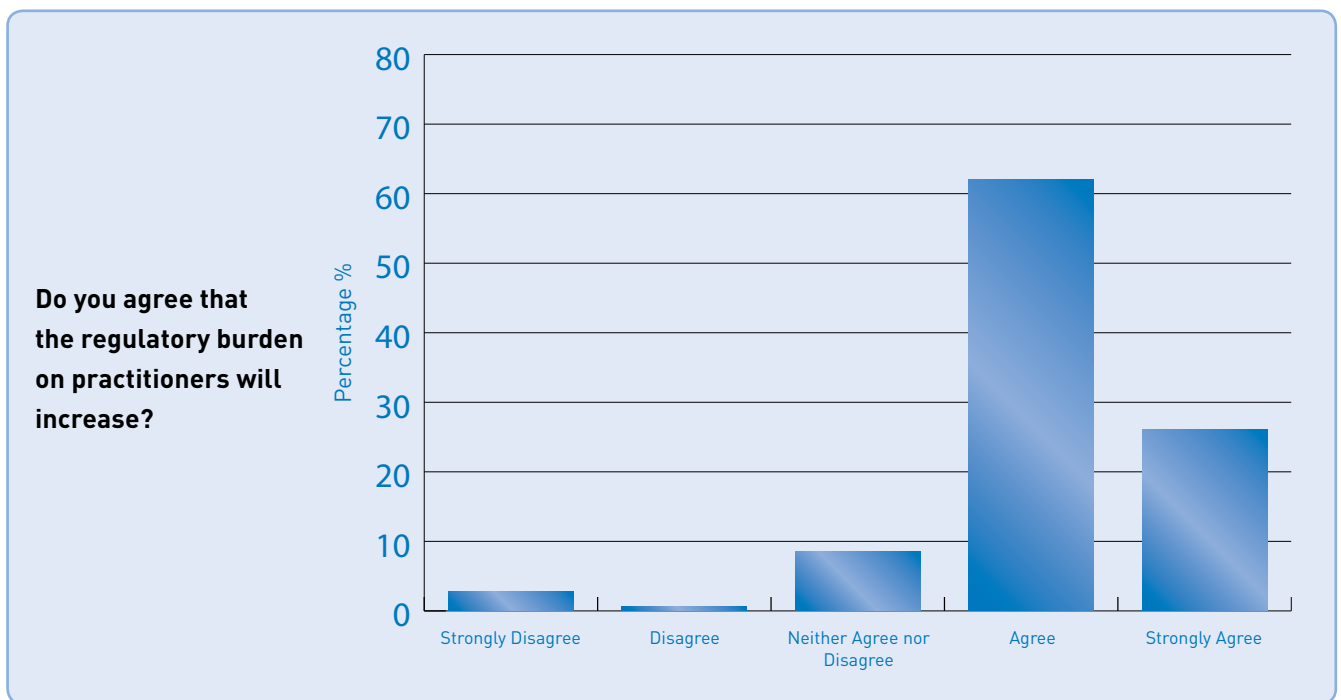
With respect to business models, members agreed that the multi-family office model will become increasingly popular while the demand for 'one-stop-shop' services is predicted to result in increasing numbers of smaller independent firms entering the market. There was support for the prediction that the private client industry will bifurcate between large firms and smaller boutique operators leaving little business for middle-market operators, but very little support for the prediction that those competing on price will increase market share over those offering customized services.

Products and Services

It is predicted that market forces will lead to advisors offering increasingly higher value-added services in the future and that both the size and complexity of structures being used is likely to increase. The use of traditional offshore structures, however, is predicted to decline. Members also agreed that advisors will be expected to have a greater role in assisting with investment matters in the future. The members were largely undecided as to whether they agreed that the proportion of non-trust structures being used will increase relative to trust structures.

Regulation and Macro-Impacts

PREDICTION: There will be more regulation of all aspects of trust and estate practice.

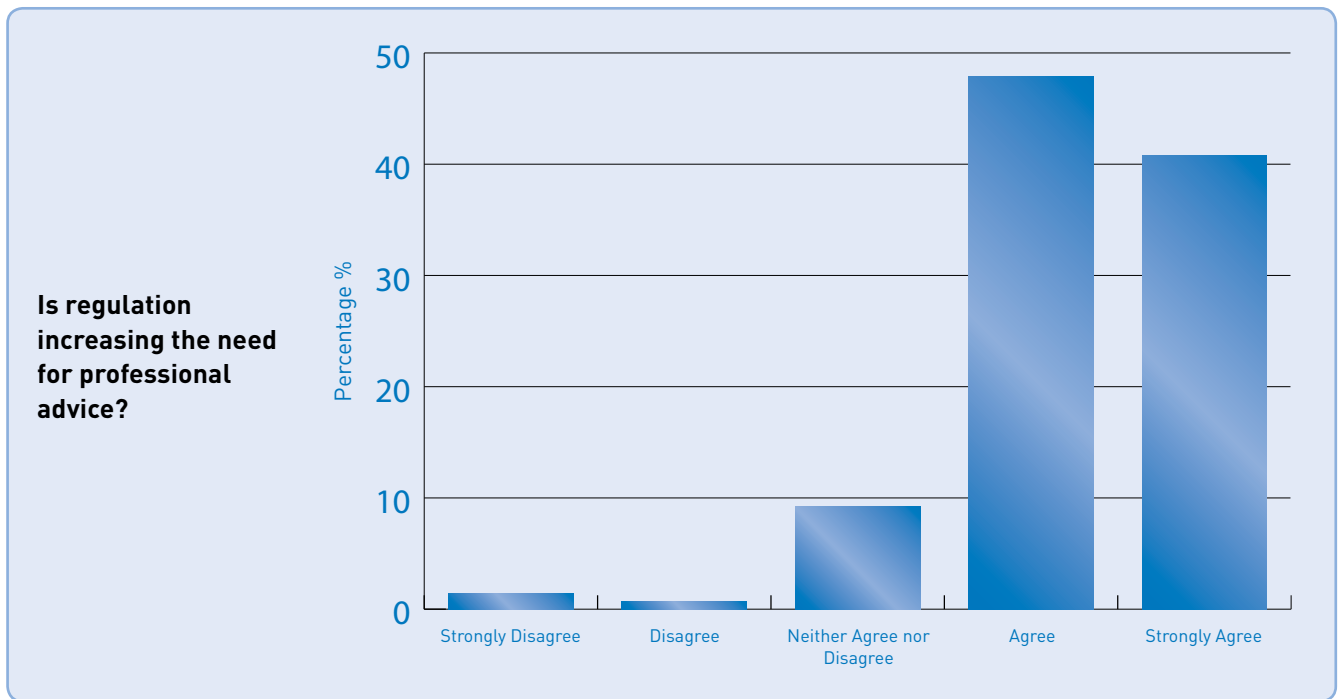


“Domestic legislation has directly impacted my business by constantly changing rules for structures.”

“The greatest barrier to entry to the business is the amount and volume of legislation that requires people to distinguish between relevant and non-relevant stuff.”

“There is no sign that the government will let-up on regulation and legislation for estate laws.”

PREDICTION: Regulation is driving an increased need for professional advice.



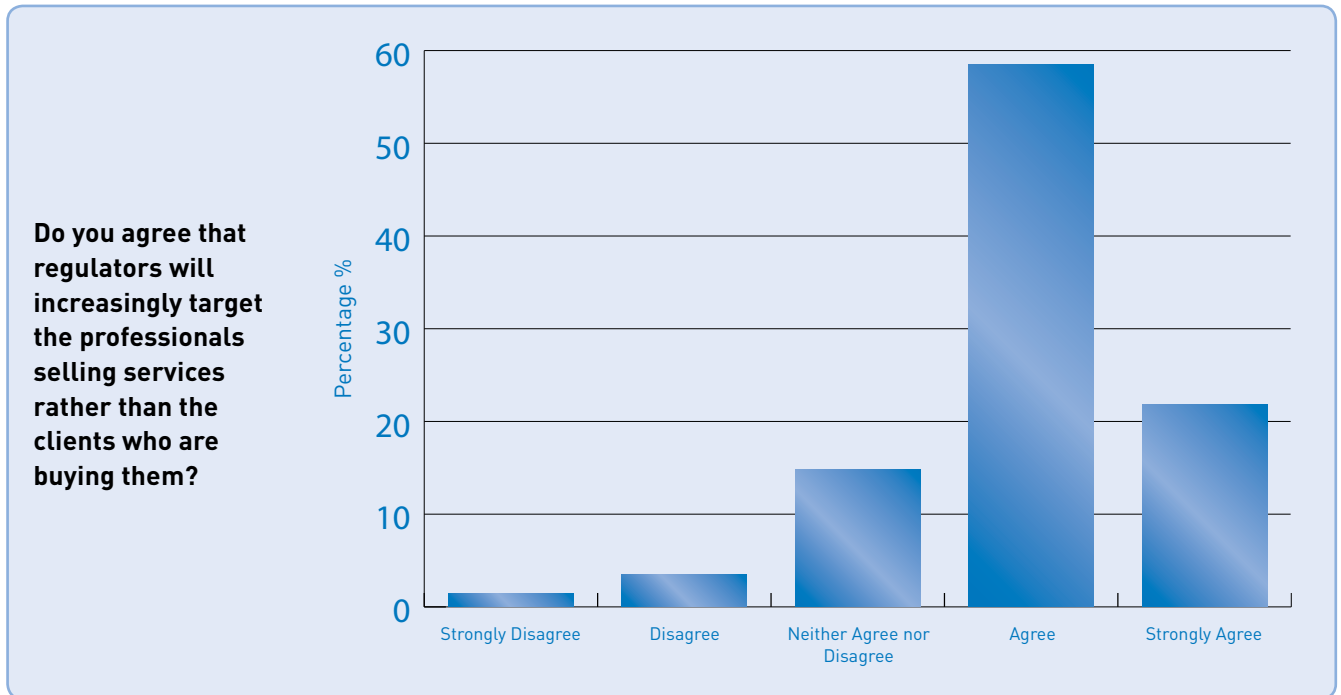
“Planning is increasingly less about avoidance and more about compliance.”

“Tax planners are busy and demand for professional services is high.”

“It is likely that government will clamp down on sales to the masses leaving planning for the rich only.”

“The rules are getting tighter and opportunities to avoid tax are getting smaller. But this is good for practitioners as clients need more and better advice than before.”

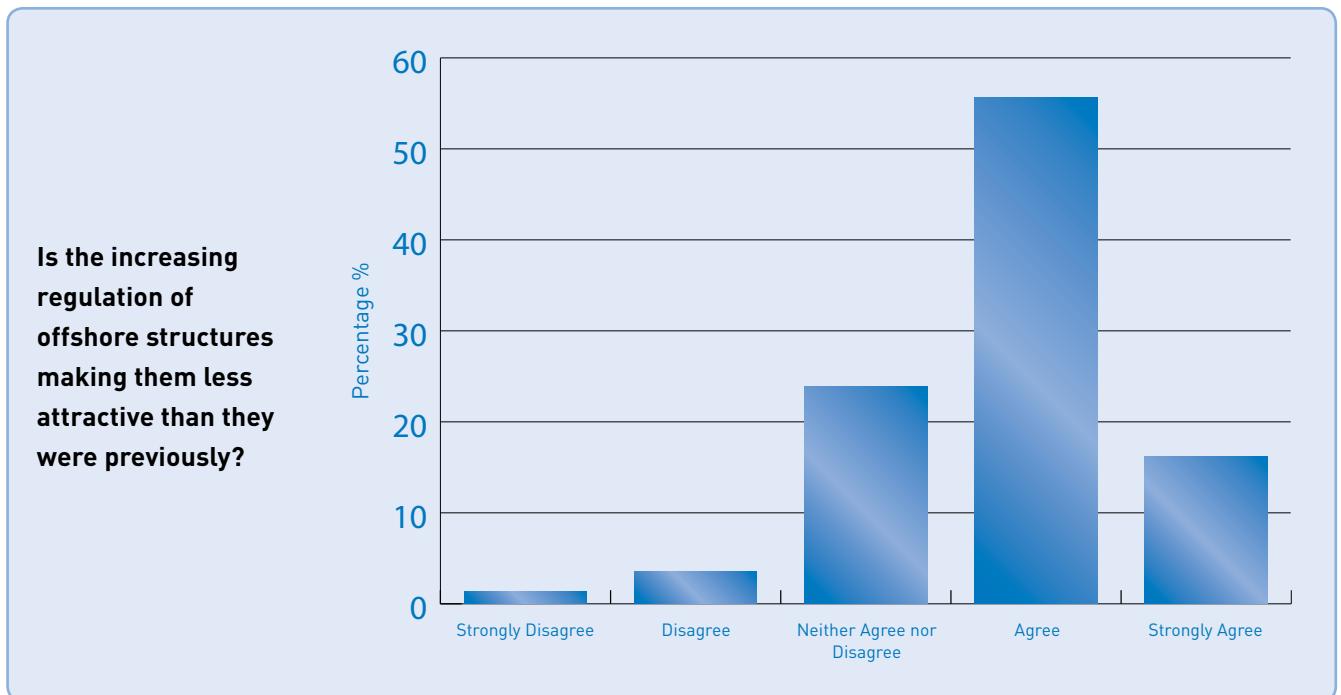
PREDICTION: Regulators will increasingly target the professionals selling services rather than the clients who are buying them.



“The working assumption in our business is that governments will go after lawyers who are aiding and abetting tax evasion. The practitioner needs to be a goalkeeper and force the client to take responsibility for good tax planning and governance.”

“The fact that tax planning is sold not bought colours all estate planning. Regulators will increasingly target the professionals who are selling this stuff rather than the clients who buy it.”

PREDICTION: The increasing regulation of offshore structures is making them less attractive than they were previously.



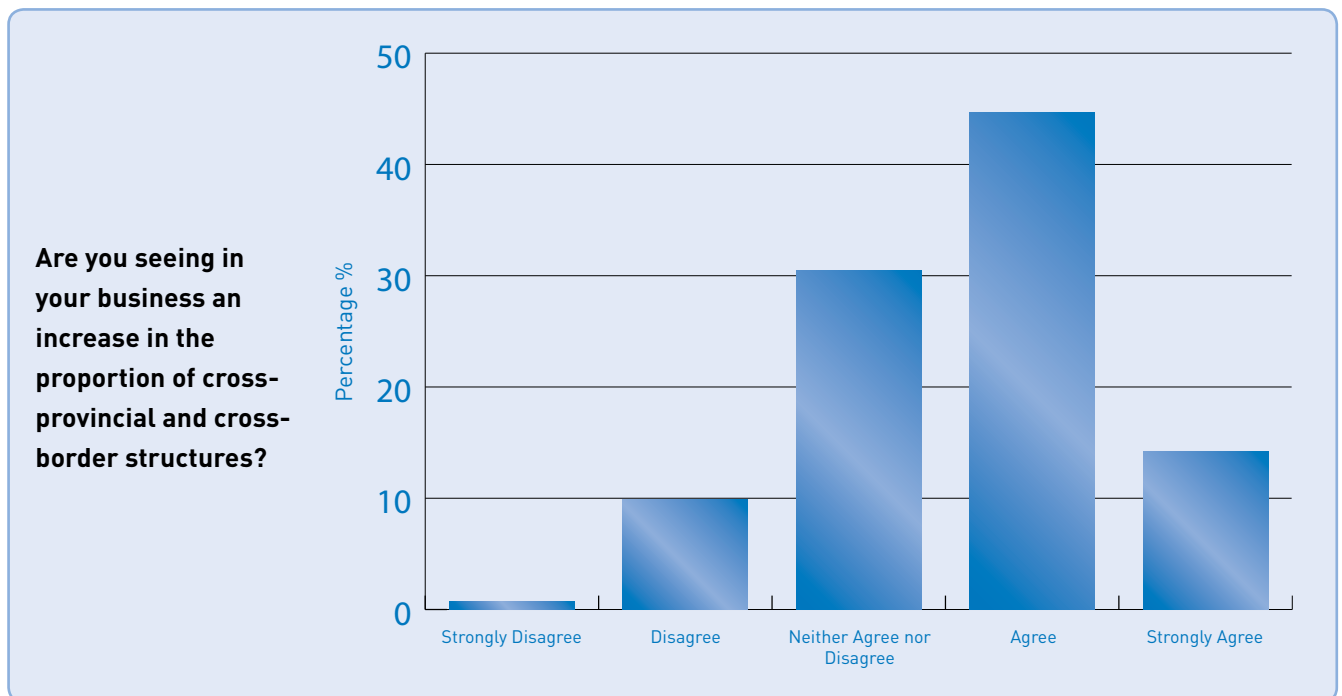
“The Canada Revenue Agency has been a lot more active recently.”

“There is a tension and friction between wealth creation and its disposal. This is felt most strongly inter-province and inter-jurisdiction.”

“Opportunities for the use of foreign trusts will get narrower and narrower.”

Clients

PREDICTION: The proportion of cross-provincial and cross-border structures being used is increasing.

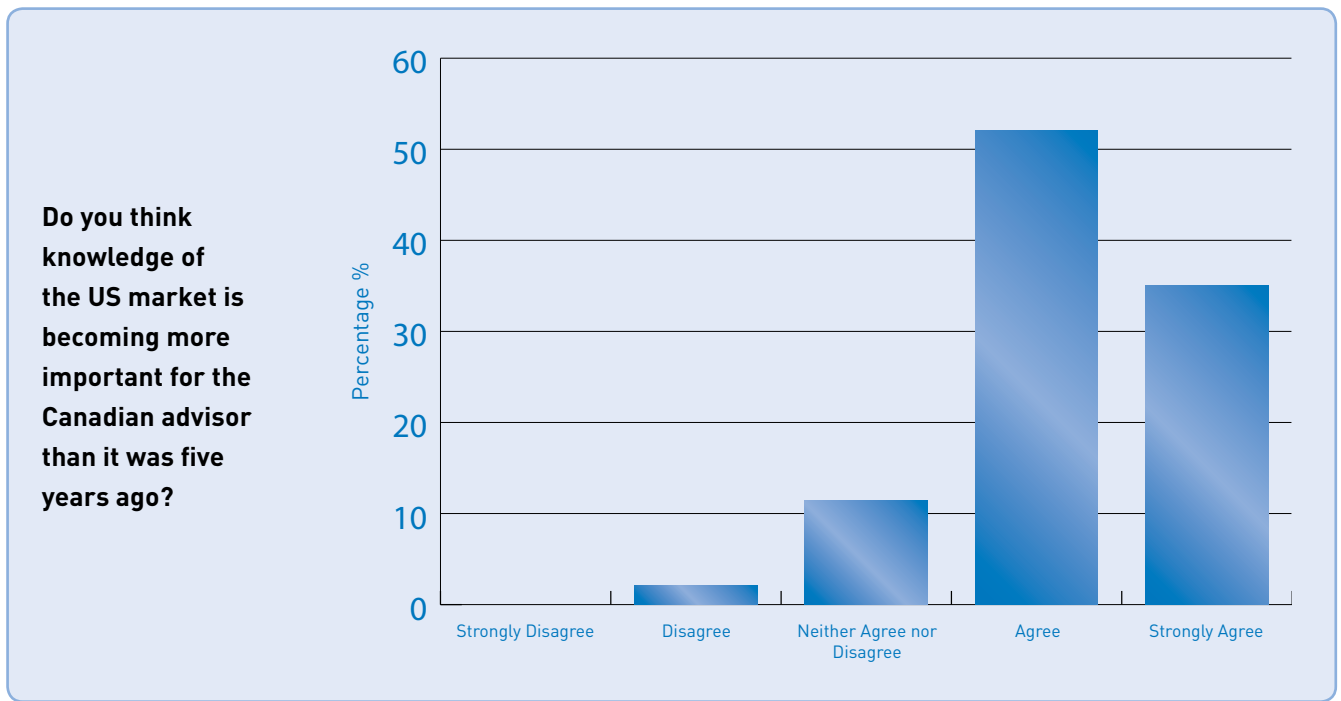


“Canadians own assets outside of Canada, have children and grandchildren outside of Canada; globalization is changing the needs of Canadian clients.”

“We’re currently seeing the fourth wave of Chinese wealth to hit Vancouver and B.C.”

“It is no longer possible to split local from international estate planning; it is essential to have knowledge of both inter provincial and international laws.”

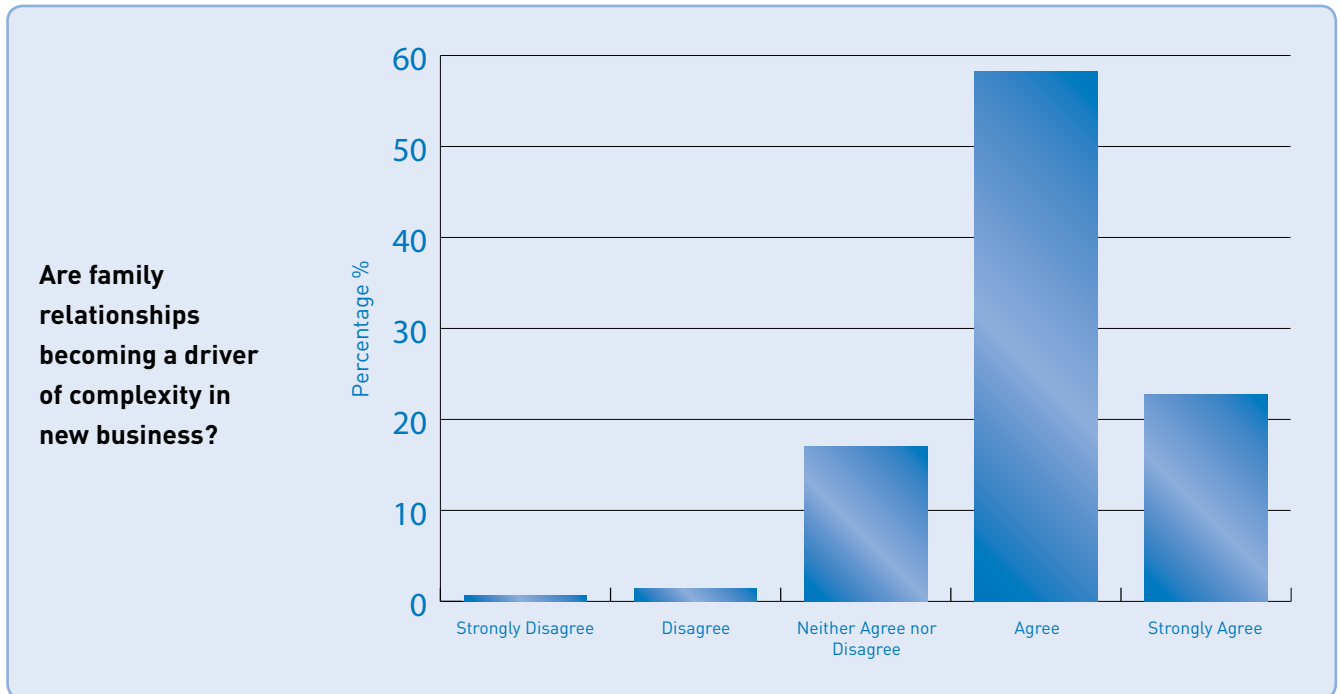
PREDICTION: Knowledge of the U.S. market is becoming more important for the Canadian advisor.



“It is almost impossible to practise without strong U.S. expertise in the practice; almost every family has some kind of interest in the U.S. The knowledge-set required to service estate and tax planning with U.S. beneficiaries is significant.”

“The wider markets that clients now compete in drive their expectations to be more business-like. This expansion is being driven by clients who have grown from being local to being Canadian to being North American.”

PREDICTION: Family relationships are becoming a driver of complexity in new business.

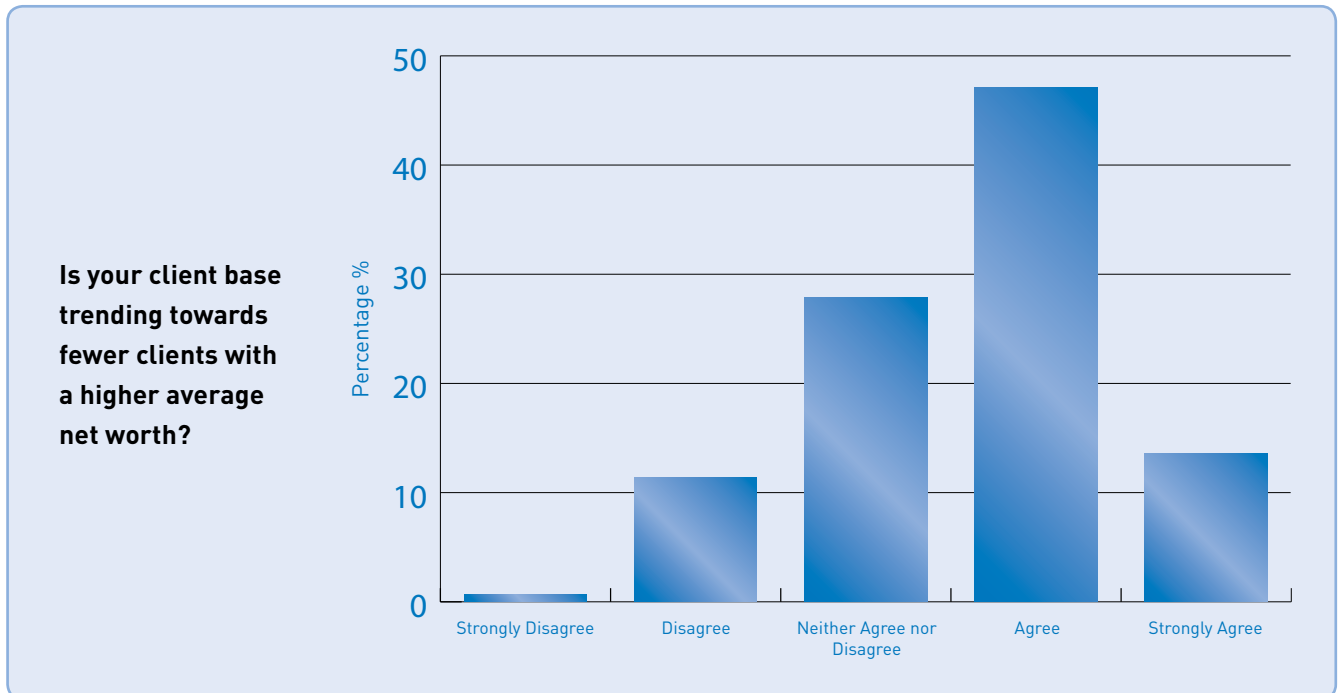


“The growing complexity of people’s affairs is leading to a greater emphasis on asset protection. People in their 70s and 80s used to have a more simple approach, but now need to update their legal structures.”

“Older families are now underserved by the structures they put in place in the past. Plans are starting to come into effect now for this older group and they are not standing up that well.”

“As clients become larger and more globally diverse, they need services that match their own evolution.”

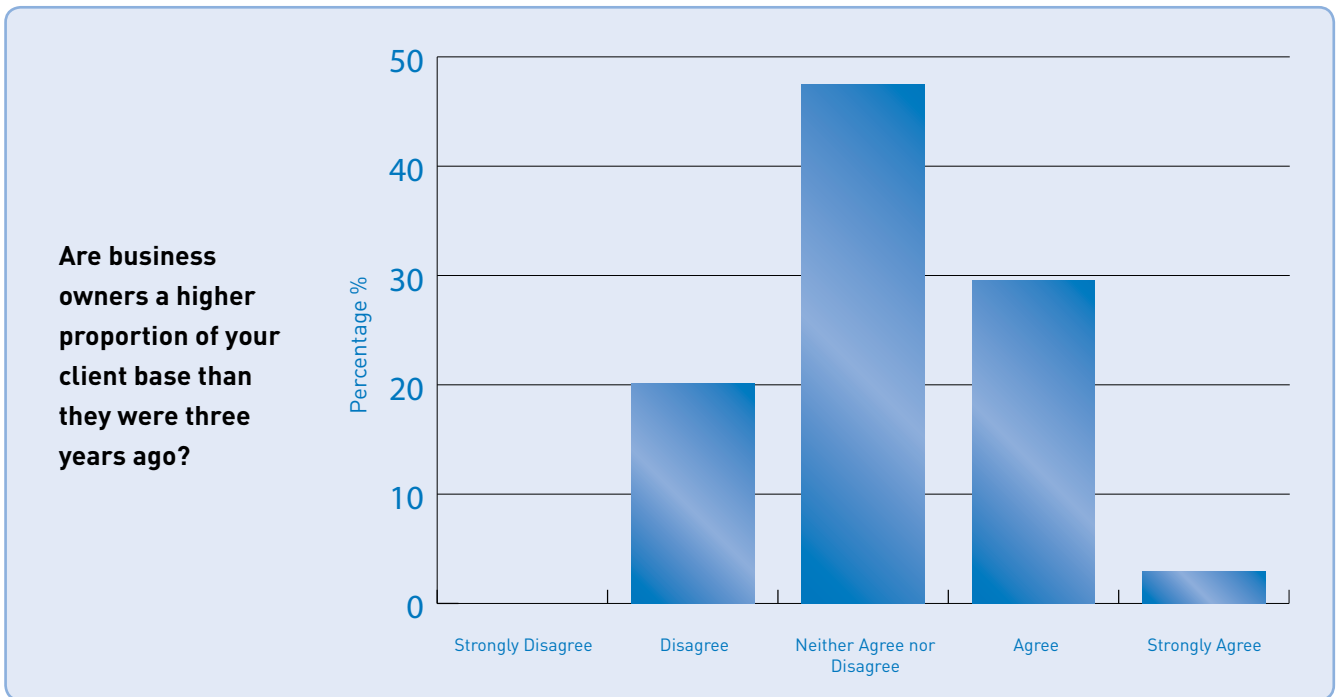
PREDICTION: Members' client bases are trending towards fewer clients with higher average net worth.



“Smaller clients with structures less than C\$1 million are fewer and fewer. There is no money to be made.”

“Client scale is going up. Clients worth C\$1 billion are not uncommon. We can't afford to take the small client who has simple tax issues. The hurdle used to be C\$5 million, then C\$10 million and now it is C\$50 million. I used to talk to little old ladies who needed some simple things. Now I can't afford that anymore.”

PREDICTION: Business owners are becoming a higher proportion of members' client bases.

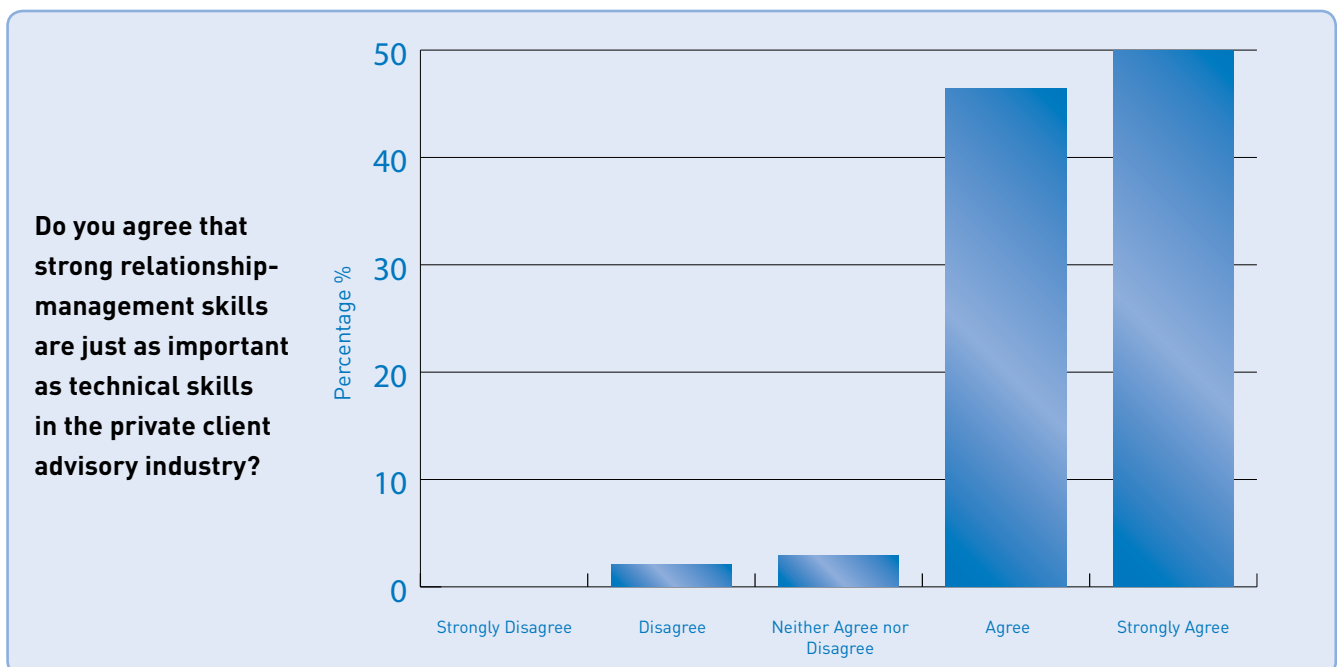


“The clients that I serve seek business advice as much as legal advice.”

“Demand for corporate trusteeship is growing as business-owning families seek protection and succession planning.”

Business Management

PREDICTION: Strong relationship-management skills are just as important as technical skills in the private client advisory industry.

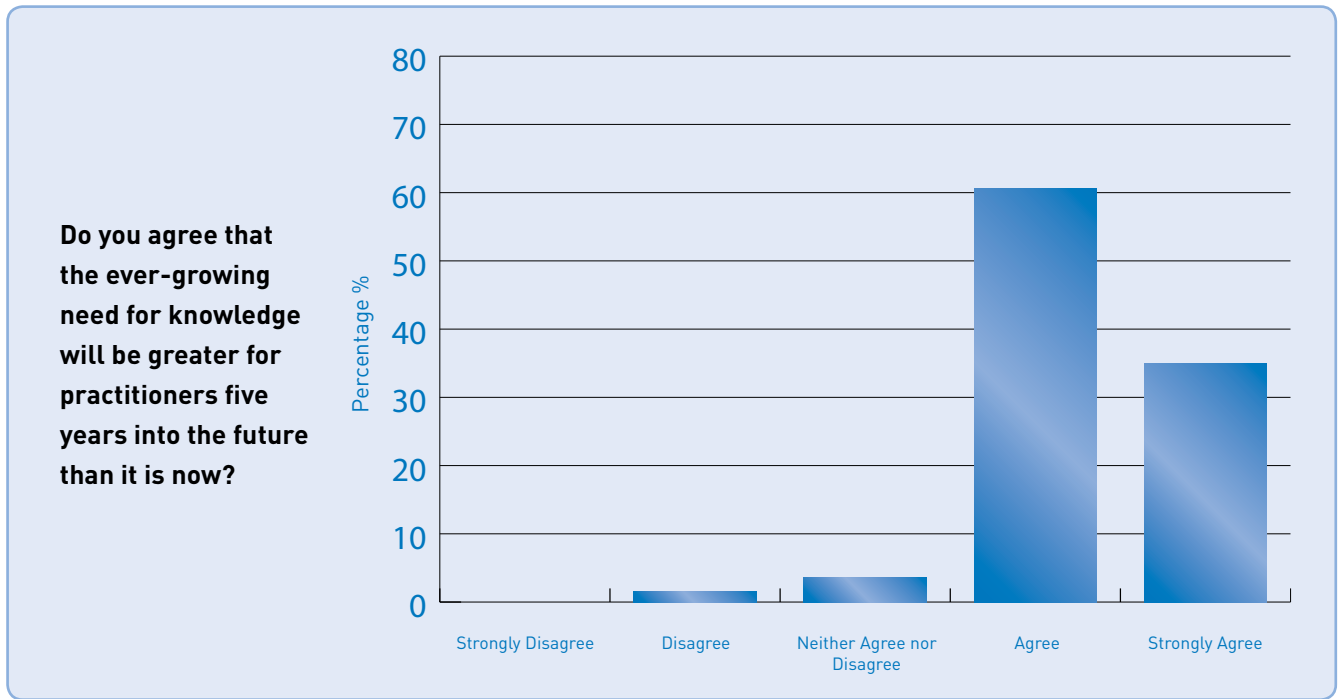


“The advisor who holds the client is the key to the quality of advice. Firms entering this space with this model need advisors with in-depth client relationships.”

“Personal tax and estate planning is all about communication – not about technical skill and legalese.”

“The critical success factor in this business is to provide excellent service and have a strong relationship. It is not just about technical skill.”

PREDICTION: Private client practitioners will require greater levels of knowledge in the future.

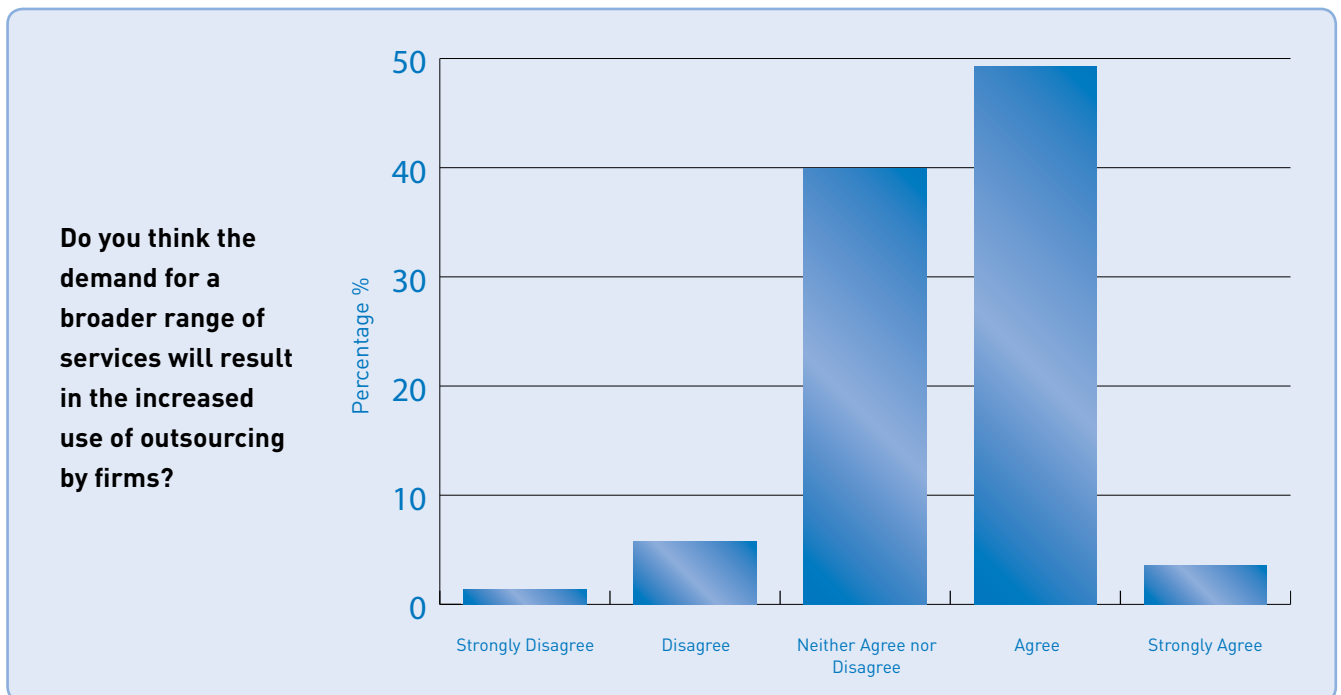


“It is key to maintain learning in a knowledge-based business. The best practitioners have kept up-to-date.”

“A growing theme is the increase in information. This is due to increase in case law and more writing on estate planning law.”

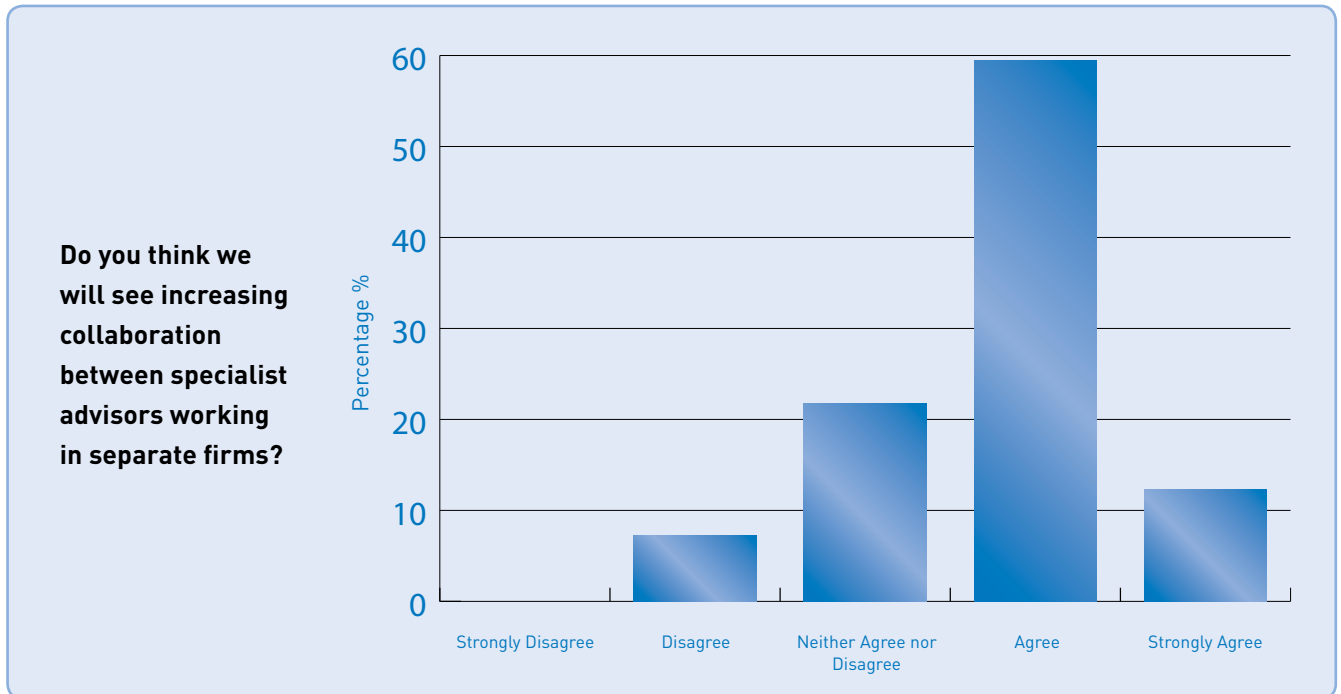
“The ability to boil down complexity into simple digestible bites is the advisory challenge of the future.”

PREDICTION: The demand for a broader range of services will result in the increased use of outsourcing by firms.



“Accountants, investment managers, lawyers, insurance underwriters, financial planners, tax specialists – all need to work together to provide a solution for the modern client.”

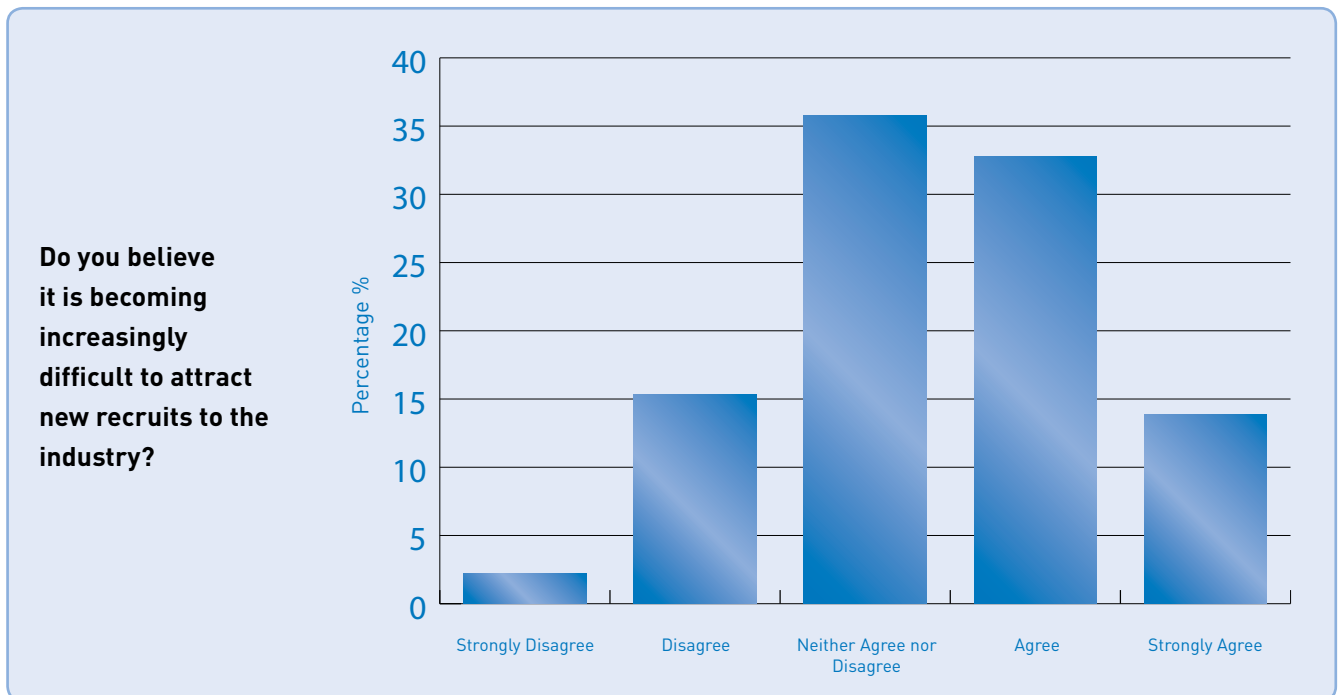
PREDICTION: Collaboration will increase between specialist advisors working in separate firms.



“The client is at the centre of a wheel that involves many different professionals working together.”

“STEP is excellent at nurturing centres of influence for lawyers to tap into; to find out what other people are doing.”

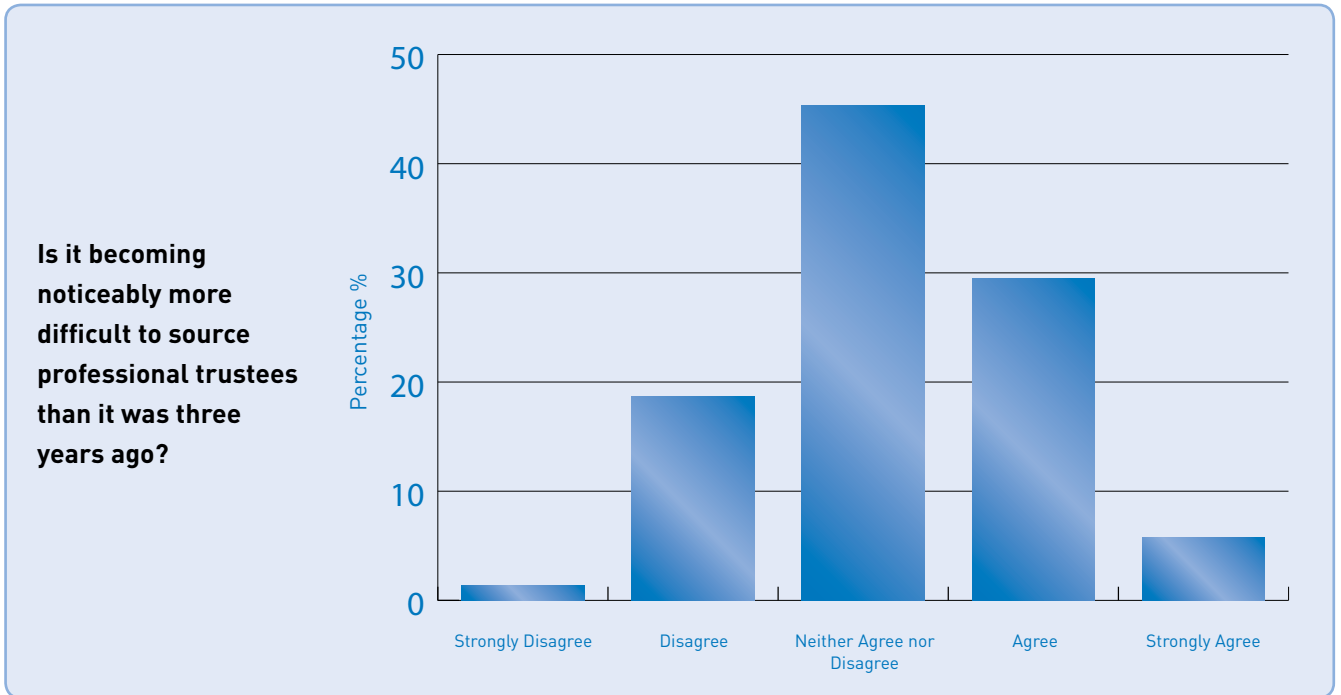
PREDICTION: It is becoming increasingly difficult to attract new recruits to the industry.



“It is very difficult to leverage the junior practitioner in a specialized tax firm. The transfer of knowledge is inherently unscalable. It is hard attracting talent to the industry and won’t get any easier in the future.”

“The problem of low uptake of tax and estate planning as a profession is worrying long term. It takes six years before advisors are comfortable with the knowledge-set required. But on a positive note, more and more tax specialists are women. They seem to have the patience for a long-term investment in the profession.”

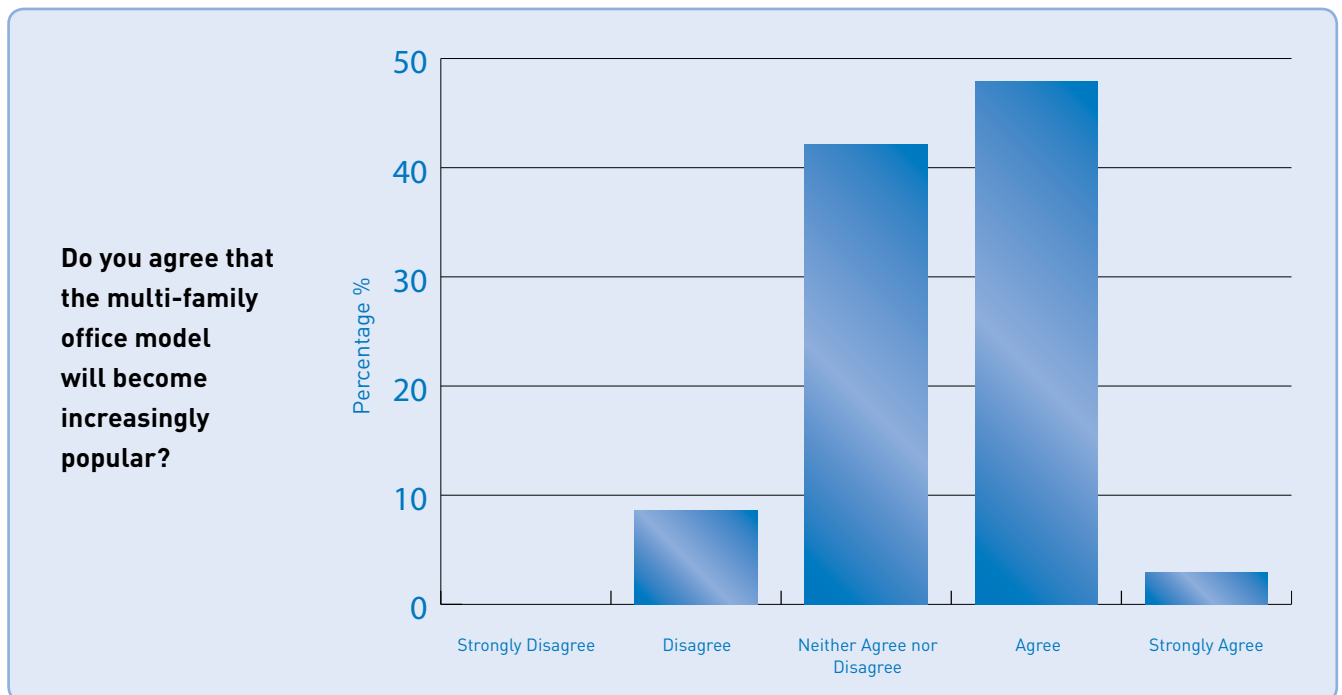
PREDICTION: It is noticeably more difficult to source professional trustees.



“It is difficult to source professional trustees today due to the remaining practitioners moving upstream.”

“One solution is to recruit several people who move into the business as a team.”

PREDICTION: The multi-family office model will become increasingly popular.



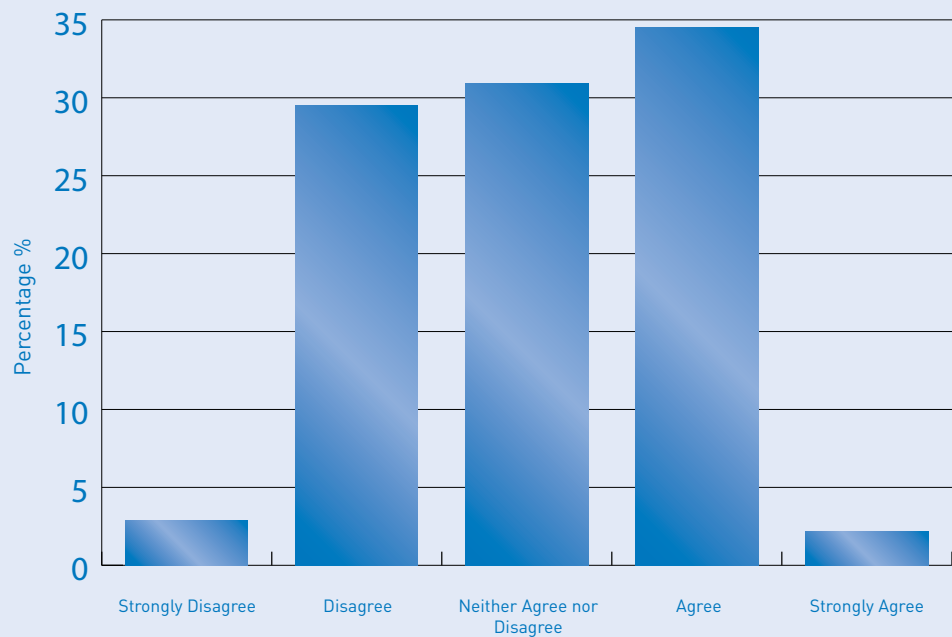
“Multi-family offices are one kind of vehicle where some practitioners seek to manage everything under one roof with only a couple of experts.”

“A big national law firm can replicate the boutique model by having many specialists within the same firm.”

“The multi-family office is the way forward to satisfy the scale issue required with quality of advice.”

PREDICTION: The demand for 'one-stop-shop' services will result in increasing numbers of smaller independent firms entering the market.

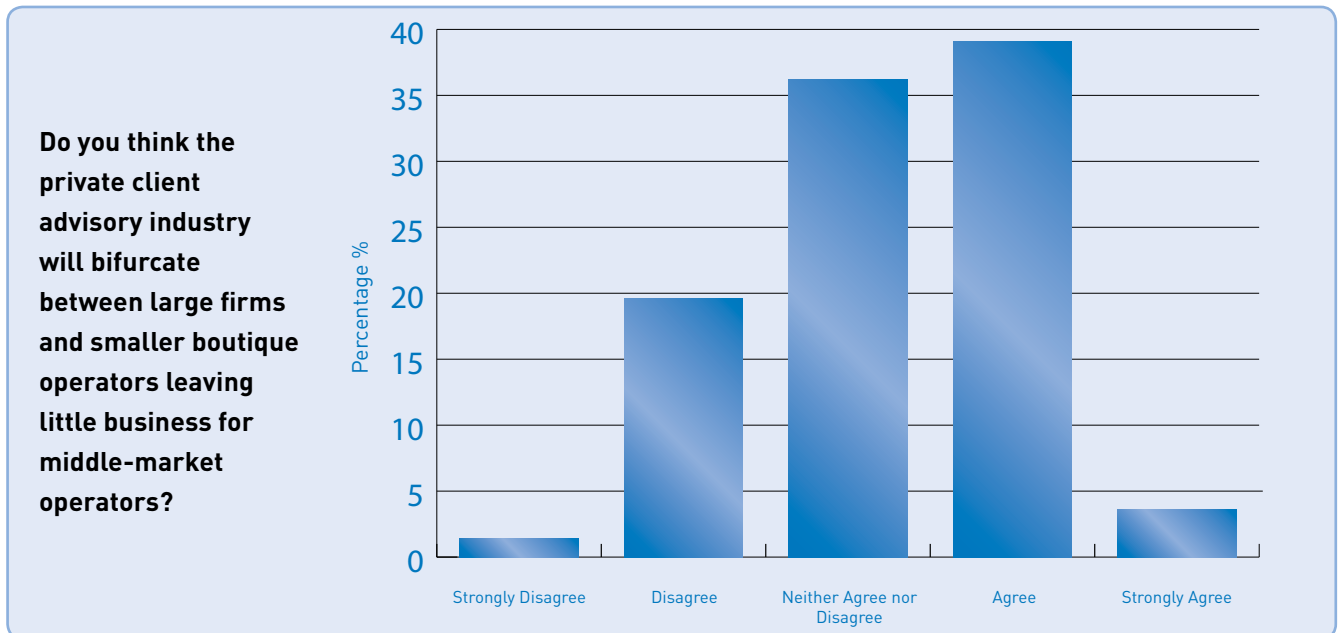
Do you think increasing demand for 'one-stop-shop' services will result in increasing numbers of smaller independent firms entering the market?



"Clients often start with estate planning services at their accountants, but as they grow bigger and more complex, they want their own personal planning to be done by a boutique."

"Boutiques will thrive because entrepreneurs want to speak to entrepreneurs."

PREDICTION: The private client industry will bifurcate between large firms and smaller boutiques, leaving little business for middle-market operators.



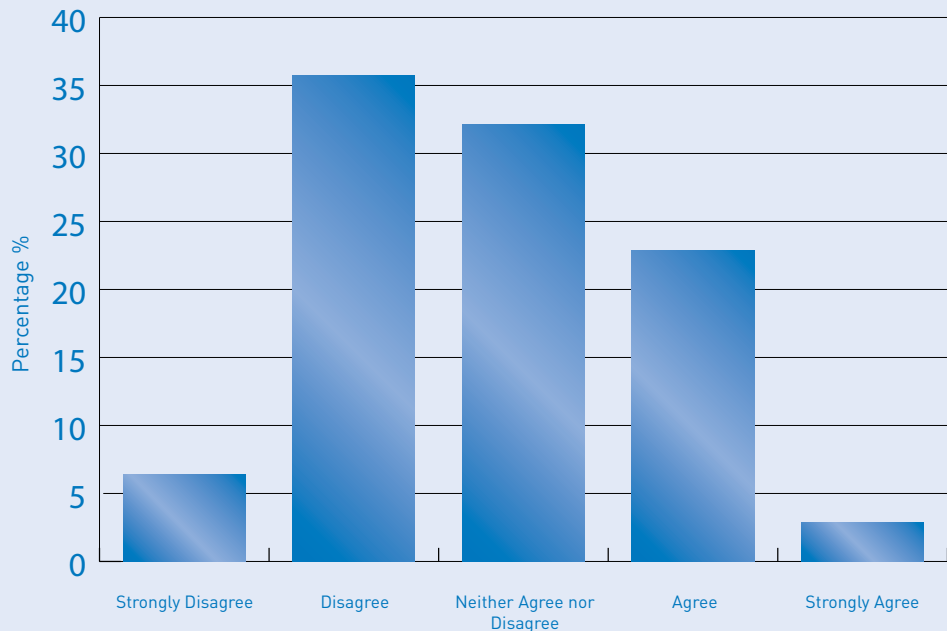
“There is some commoditization of low-end legal services, such as drafting of wills and powers of attorney, but this has not had a significant impact on large corporate firms.”

“There is now a much greater emphasis on law as a business. In the past it was a profession. Now we are actively managed by a professional partner manager.”

“Mid-market structures will be priced out of the market. These clients will either not get serviced or the service they do get will be poor quality.”

PREDICTION: Those competing on price will increase market share over those offering customized services.

Do you think that those competing on price will increase market share over those offering bespoke services?

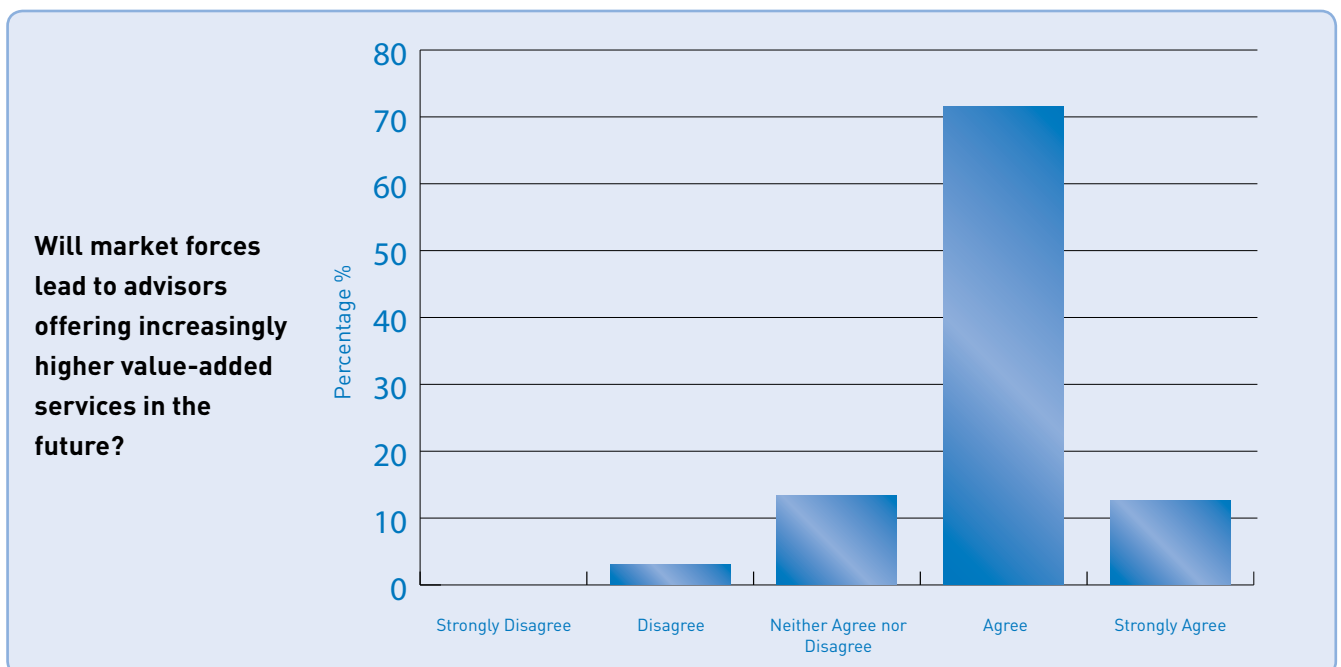


“The growth of firms is a reflection of the changing competitive dynamics. It’s about scaling-up the service and delivering the same quality for less cost. Global organizations are able to scale-up the service set.”

“The risk of picking the wrong strand in trust and planning is very high for practitioners. The time needed to invest in the specialized knowledge is not commensurate with any guarantee of long-term demand. There is no place for dabblers in this business.”

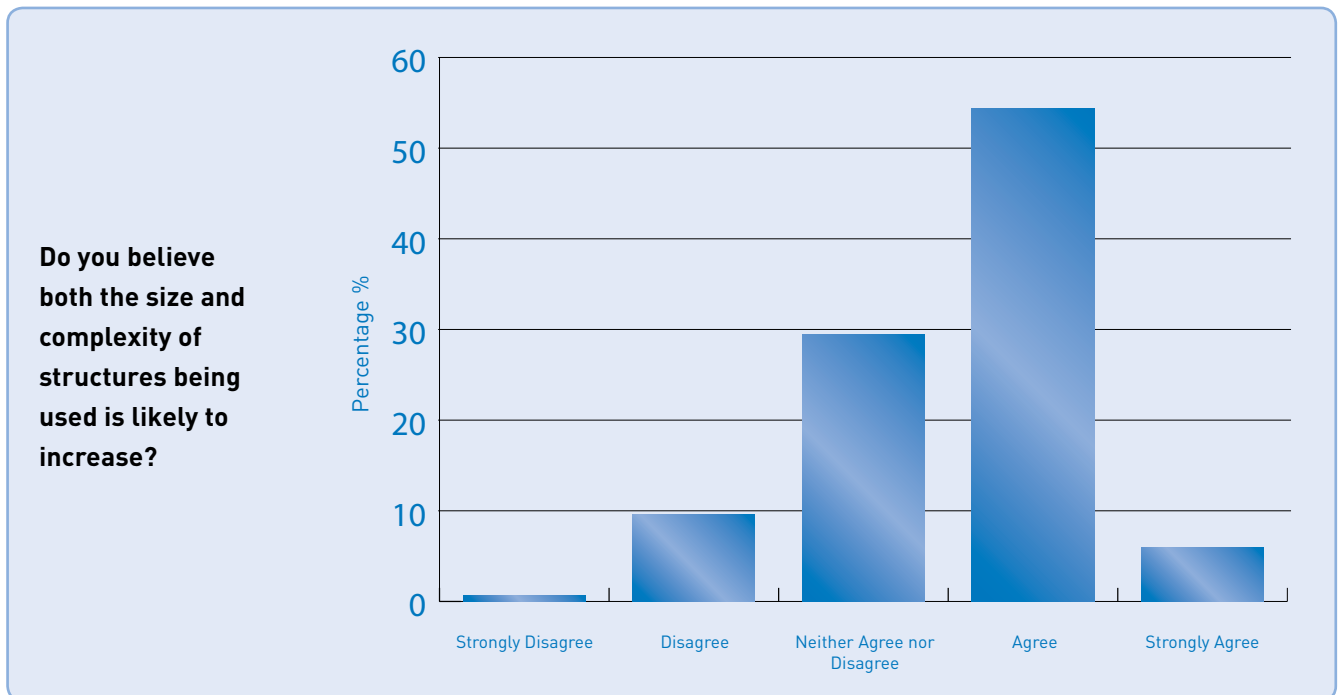
Products and Services

PREDICTION: Market forces will lead to advisors offering increasingly higher value-added services in the future.



“The only people who play now have to do it properly and add genuine value for clients. Small shops used to do aggressive offshore tax planning. Now they have to be very careful and make sure it adds value to the client.”

PREDICTION: Both the size and complexity of structures being used is likely to increase.

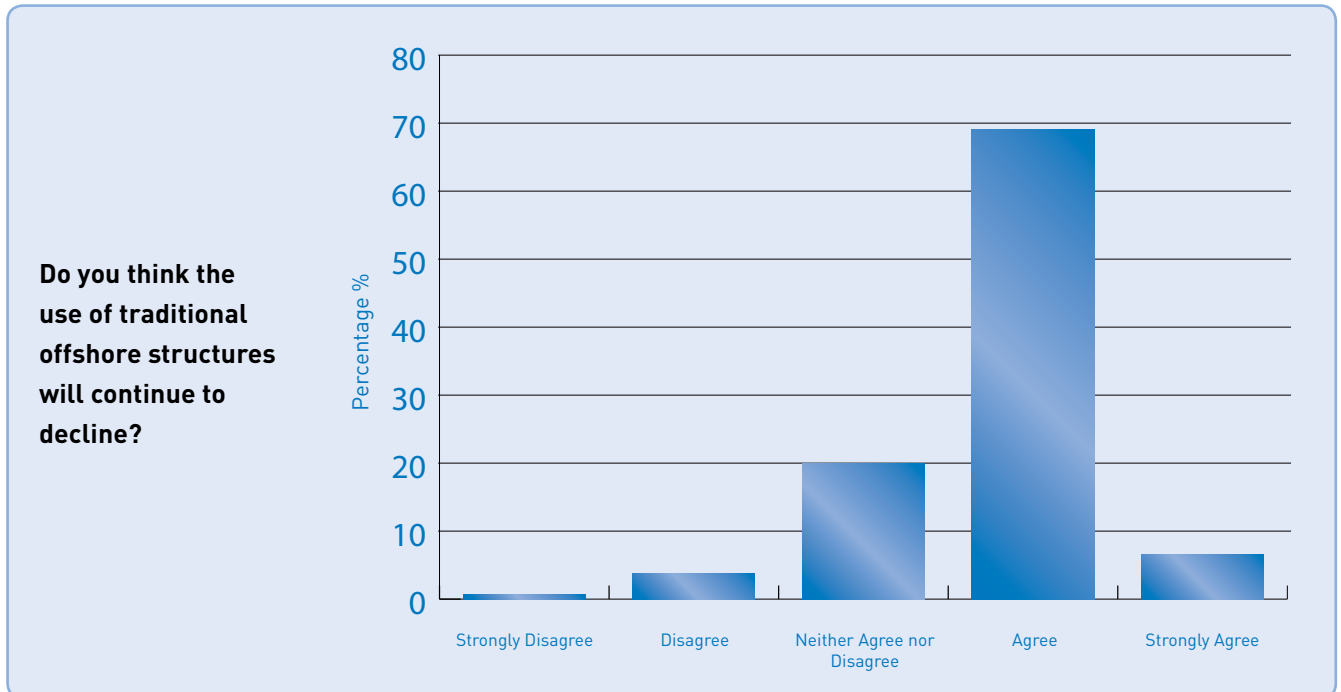


“The profession has become more complex and more risky.”

“The big issue is around relevance and endurance of advice over time. Time erodes the relevance of structures, but advice tends to be transactional at a single point in time. The transaction drives the structure and the advice. The structures endure, but make no economic sense after a time.”

“The availability and speed of information is a big driver of complexity for clients.”

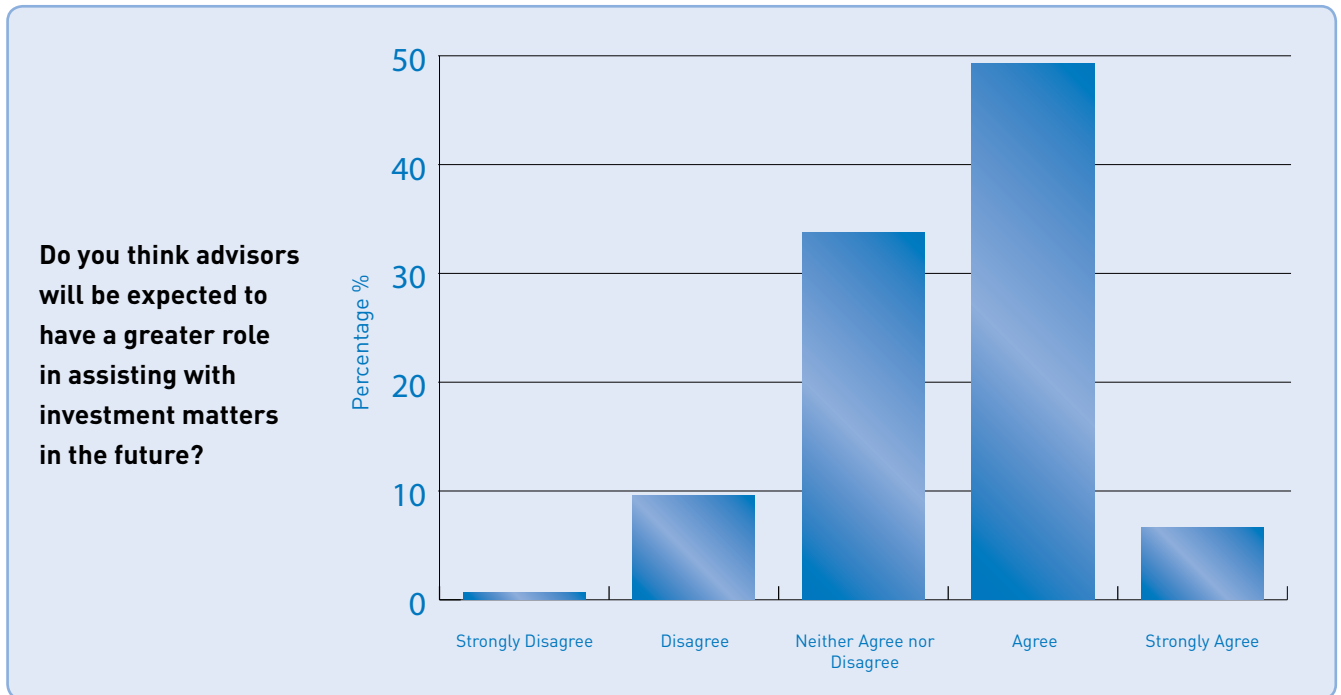
PREDICTION: The use of traditional offshore structures will continue to decline.



“Offshore trusts are dead for Canada. With poor returns and extra cost, offshore has become a dead zone. Offshore trusts are particularly vulnerable to a loss of appropriateness of advice over time.”

“Opportunities for the use of foreign trusts will get narrower and narrower.”

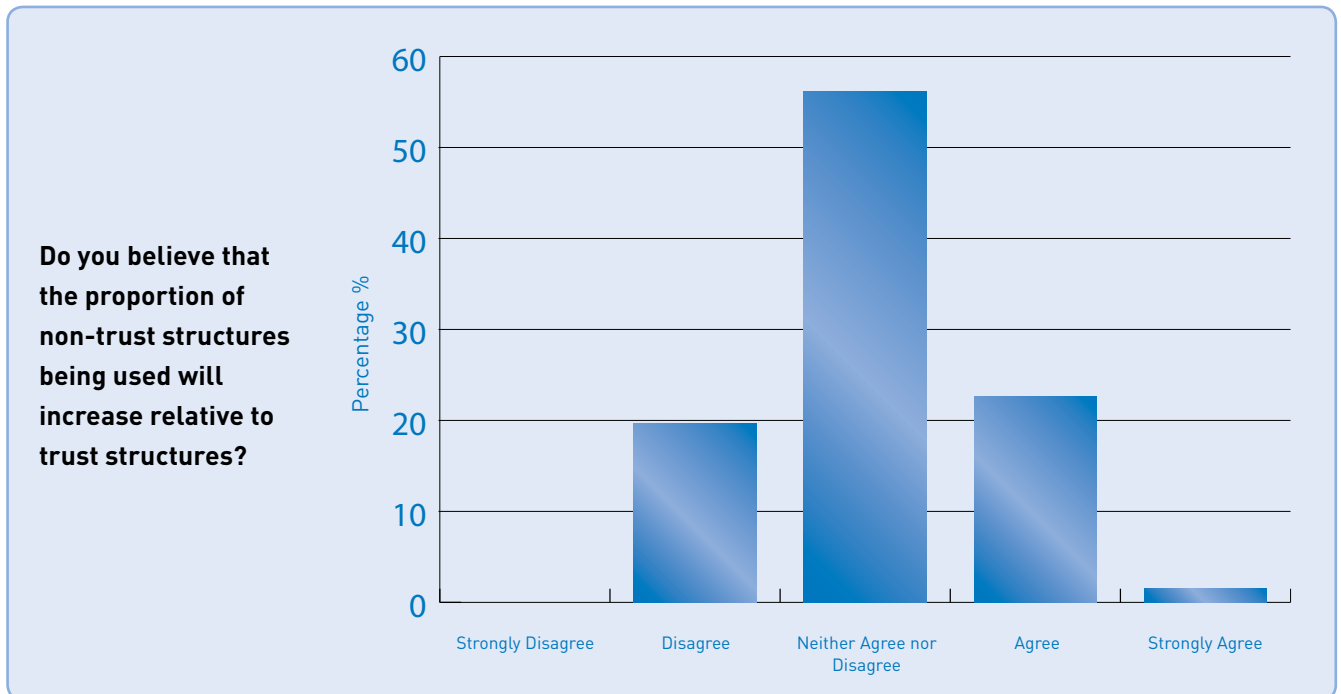
PREDICTION: Advisors will be expected to have a greater role in assisting with investment matters in the future.



“A big trend coming out of the U.S. is for advisors to have a greater role in investment strategy.”

“We’re seeing a need to become more au fait with investments, albeit maintaining total independence from action. We’re being asked to sit on investment committee meetings and manage the manager selection and due diligence process without conflicts.”

PREDICTION: The proportion of non-trust structures being used will increase relative to trust structures.



“Trusts were previously very flexible vehicles in Canada but the Income Tax Act will require greater disclosure of financial assets in a trust, reducing their attractiveness.”

“The original purpose of asset protection is no longer the main reason for trusts.”

Participants

There were eight participants in the leadership group looking at the future for trusts and estates practice in Canada. Their valuable input led to the formation of the survey questions and the quotes that appear in this report. Their energy and creativity is gratefully acknowledged.

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STEP would also like to acknowledge the 150 members from across Canada who participated in the subsequent survey.

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