



Family Businesses - Corporate Governance beyond Compliance

Family-owned and run businesses face unique challenges. On the one hand, they have the strong influence of family identity and legacy, embedded in well-defined traditions and values. On the other hand, the mixture of family and business issues, such as old childhood stories and relationships dynamics between different family members, can have negative effects both for the company and the family itself. This is a delicate balance that deserves to be analyzed in depth, case by case.

When they work harmoniously, families are able to develop and perpetuate successful ventures, as we have seen in several Brazilian and foreign cases, groups such as the Itaú Unibanco, Baumgart, Rodobens, Walmart, Volkswagen, Tata and Heineken. For that, the alignment and effective commitment of those involved in relevant matters of corporate governance of the family business are necessary, which go beyond the simple compliance with rules and laws. The family, shareholders and senior management need to be truly aware of their respective roles and engagement with the development, perpetuity, and financial health of the company's business, each one acting with loyalty and support within their spheres.

The influences of families on companies are often subtle. Corporate governance and succession planning in companies of this nature involves a careful and in-depth study of the characteristics of the family and its members, with a diagnosis of the current situation and the identification of future expectations, definition of roles and balances of powers, as well as rules relating to the company's equity issues, such as dividends, investment, sale of equity interest and liquidity.

With this in mind, we are beginning a series of articles in which we will address the main aspects involved in the corporate structure and corporate governance of family businesses.

In our first article, we dealt with the role of the family holding and its importance in structuring the governance of these companies.



Érika Aguiar Carvalho Fleck • Gyedre Carneiro de Oliveira • Marcella de Souza e Castro Fontana



Family Businesses

Family Holdings

As already mentioned, family businesses have their own characteristics that distinguish them from other types of business. In these companies, the roles of family, management and ownership are easily confused, which makes their structuring, development, and administration more complex and challenging.

Careful and detailed planning of the governance and succession structures of family businesses, especially designed considering the particularities and profile of the family and its businesses, play an important role in the prosperity and perpetuity of the family group, both from a business and personal point of view.

In this structuring, equity holdings end up playing an important role and, not by chance, are one of the most common alternatives in planning such as this one, playing, together with an effective governance structure, an important role in distinguishing between the various spheres of activity of the company's family (family, management and ownership) and in reducing family's tensions.

Many believe that the creation of family or equity holdings is only justified in the structure of large business groups. However, this thinking is often due to lack of knowledge about its dynamics, advantages and disadvantages and, once these doubts are clarified, many entrepreneurs, regardless of their size, end up choosing to join the holding structure, seeing in it an orderly and safe way to promote the growth, maturation and perpetuity of the family business, in addition to encouraging greater business diversification and involvement of family members who show interest and ability to operate in the business.

With the concentration of investments in a single vehicle, these holdings bring important advantages to the family business group, such as:

- the family's block action in relation to operating companies controlled by it or even in relation to common equity contribute to the consolidation of power and concentration of the point of contact in relation to other partners and businesses.
- the concentration of family members in a holding also brings greater efficiency and standardization of the decision-making process within the family nucleus, according to its own dynamics. It also provides greater privacy in decision-making and in the resolution of any divergences and conflicts between family members, minimizing the adverse effects of such divergences and conflicts in the relationship with other partners and in the group's business.
- the family's holding company distinguished from the operating companies also allows for greater flexibility in defining rules for exercising the right to vote, participation in the administration and the transfer of participation in the businesses that best suit the family dynamics, without harming the relationship or the agreements signed with any partners who are not part of the family.
- greater organizational efficiency in managing different businesses controlled by the same family group.

Notwithstanding these advantages, the ownership structure or family holding may bring some fiscal inefficiencies, which must be evaluated on a case-by-case basis and balanced against the most relevant advantages for each particular family.

Article originally published in "Portal Legislação & Mercado" from "Capital Aberto", on 06/09/21

Érika Aguiar Carvalho Fleck • Gyedre Carneiro de Oliveira • Marcella de Souza e Castro Fontana