

Family matters - Philip Van Hilten & Orsolya Gorgenyi

- **Corporate governance re: family holding/foundation/trust?**
80% of participants said: not. But if family governance is in place, that will be the corporate governance if family has majority. No special practice groups in law firms dedicated to this. Private Wealth/Client PGs deal with other aspects.
- **New investors/members learning of family governance system**
Taking investor is big leap for family business. Only 2nd o 3rd generations or investor induces family to implement family governance. Who is the real family head (paper v. reality).
- **Information rights of family members? Overrule/Ignore corporate decisions?**
Importance of DD on egos/personalities☺ to avoid lengthy disputes
- **Management's involvement in (funding of) estate planning/taxes/duties?**
In all countries heavy overlaps despite legal requirements to separate
- **Restrictions on family members? Business free to ignore?**
Qualifications/approval processes – can ignore from corporate law perspective, but will risk getting fired
- **Use of (family) name?**
Tricky issue
- **Number of family appointed board members?**
Difficulty of ensuring alignment of more family appointees in lack of family governance

Family matters- *Philip Van Hilten & Orsolya Gorgenyi*

- Take precautions to avoid families from becoming lazy and spoiled training them and keeping them aware of what it is really about.
- Make sure there is an ongoing family governance creating and updating process encompassing all elements of relevance to the family inclusive their background + culture + philanthropy ;
- The governance should also provide for measures to be taken if a key member of the family is “ out of action” (death, illness, dementia, kidnapp); who takes over control
- The family governance should provide for a “license to kill” in case of a non -family member becoming CEO of family business (+system to enable the “return to power” of a new family member”)
- Timely Planning for succession of head of family; criteria, training, selection process, involvement of trusted outside “ arbitrators”); also plan the funding of the transfer tithe next generation.
- TRAINING THE NEXT GENERATION ; TRAINING and involvement



Technology Governance - *Allan Grauberd & Patricia Gannon*

- 1) Understood that AI applications are quite early and Governance Principles that pre exist AI are to be applied in assessing Board Duties in determining
 1. In what Functions would AI be applied
 2. Proper Delegation to experts in making AI risk assessment
 3. Proper Reporting Structure to ensure the Board has reasonable access to manifestation of AI related risks and ability to implement corrective measures

- 2) EU Act focuses on characterizing different AI applications based on degree of risk with increasing oversight duties and restrictions on use in proportion to risk. Examples of high risk are toys and medical applications. Hiring on the basis of AI is restricted.

- 3) Cybersecurity is better understood and risk guidelines and procedures are more established. It has become increasingly incumbent to obtain cyber related insurance to protect against risk. There are regulatory provisions in place and being developed to systematize reporting of cyber breaches.

- 4) Noted that certain regulatory procedures or standards regarding cloud regulation, cyber and data protection are practical prerequisites for the implementation of AI

- 5) Discussion on the legal profession and our required compliance. No firms had integrated Ai beyond Chat Gpt, but exploring options. Awareness building is key at the moment and all expect to be guided by Bar Associations regarding ethical and professional compliance in time.

ESG - *Daniele Giombini & Dinka Kovačević*

- ESG skills should be implemented more within the MB; few companies have ESG skilled directors potentially companies could hire outside experts for certain ESG matters
- Diversity in MB (gender, age, race, cultural background) allows wider perspective
- To increase diversity in MB you need prior cultural shift
- MB decisions should take into account that ESG should come from inner needs and purpose of the company's business and not separate as purpose for itself; ESG and corporate purpose are intertwined;
- Only few ESG clauses have been developed in venture capital filed and investment agreements;
- ESG compliance mostly would effect investment attractiveness within following industries: fashion, automotive (where value of assets is in the brand); textile and etc.



Executive Compensation *Harvey Cohen & Alexandra M. Martins*

1. Major stockholders control the Board which control the long or short term interest.
 1. Separate remuneration boards – very much linked to the major shareholders boards
 2. How to make these Board work? Benchmark?
2. A lot of phantom/ less phantom (tables disagree). Both agree that is less advantageous from a tax perspective.
France: no phantom – “free shares” – no taxation right away (contractually flexible)
3. Vesting:
 - reverse vesting – trend
 - Stock option agreement with extended tenure
4. Correlation with employee salary. But difficult to pin down how? Best mix – stock or cash – depends on strategy (case-by-case basis). US: pool of options to give to employees – CEO discretion
5. Metrics - metrics chosen can affect time horizon. Inclusion or diversity goals – should they be metrics?
6. Best mix – no consensus. But stock option still the best choice, especially for start-ups.



Shareholder Activism and Role of Stakeholders - *Tom Coulter & Marie-Aude Noury*

- Levels of activism have continued to rise despite economic and political uncertainty. Certain jurisdictions shareholder activism is still less prevalent but more family disputes (particularly closed companies).
- Activists are expanding their toolkit to draw attention to ESG-related issues. A significant amount of campaigns during 2023 saw some sort of M&A demand.
- Activists are using multi-pronged approaches to overwhelm targets, including targeting subsidiaries, negative public campaigns and focusing on governance.
- Key tactics include shareholder engagement, shareholder proposals, voting campaigns / contents.
- To be considered whether there should be increased regulation of the excesses of activism to ensure a level playing field in terms of communication and transparency for companies and activists.



Politics and Business - Daniel Rodriguez & Rosina Muller Bernar

- Balancing the risk vs business opportunity (due diligence procedures from every point of view possible)
- Corruption in some countries complicates the taking of some opportunities and controlling it at a local level important and can have negative consequences.
- Change of laws and impact in long term business plans (nearshoring tariffs).

