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Family business disputes and the fall of legacies

Disputes relating to the management of businesses are a common occurrence in the corporate world, particularly in family-run enterprises. Oftentimes, family business disputes arise after the stepping down, retirement or passing of a business' founders who had held sole discretion over decision-making within the organisation, or as a result of a takeover by others aimed at sidelining the founding members.

The consequent handing over of the company reins to second or third generation family members sometimes coincides with personal conflicts between the members and/or professional advisors due to their varying perspectives on the family and the enterprise's best interests. When these conflicts rise to the surface, they can significantly and negatively impact the business's operations and marketplace reputation.

Family business are known to adapt and evolve according to family members and their values. Given the shorter chain of command it is increasingly important to ensure that that the family members foster a culture of collaboration rather than competition. Not all family members may be suited to a position of leadership, once identified those new leaders should be mentored over time to ensure that they and other family members are able to navigate the business in a cohesive and united manner.

Family enterprises can take several measures to mitigate the risk of family business disputes and navigate the dispute resolution process by focusing on the governance model, starting with its founding members and board of directors.

Firstly, family businesses can set a formal family constitution document outlining the rights and responsibilities of its stakeholders while supporting the company's vision and strategy, as well as a clear succession plan defining by whom the business will be managed over time. They can also maintain an agreed upon conflict resolution mechanism that ensures minimal operational disruption during disputes, and comprises of its views on appointing intermediaries or dealing with courts and legal authorities thereafter.

Moreover, family-run entities can maintain two separate boards of directors representing family members and corporate members, such that each party's views and interests are equally balanced, and the entity's leadership is well suited to address both family and professional conflicts. These boards can adopt a business-wide culture of transparency across all phases of its business cycle, which guarantees that none of its members are extended unfair advantages and ensures regular access to updated and systematic data for relevant parties.

Lastly, it is critical for family enterprises to formalise and communicate viable exit options to their senior family managing members, with detailed processes and procedures in case of executive departure or share liquidation, including valuation methods and appointment of qualified independent practitioners.

Adopting formal mechanisms to govern family enterprises and proactive approaches to these business disputes are critical steps towards continuity planning and will help family-led businesses maintain their positions as major economic drivers across the Middle East.

Deloitte's Middle East Disputes team has unique experience helping the region's leading family businesses managing sensitive family disputes. We have worked with organisations and their lawyers in judicial and alternative dispute resolution forums across the Middle East and internationally. We provide objective, robust and independent insight and advice to help clients in the avoidance and resolution of disputes. Our team combines a wide breadth and depth of experience across numerous forensic disciplines, as well as familiarity with formal dispute resolution processes, preparation of robust written arguments and the provision of expert testimony.

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