



## **Deloitte Legal Newsflash** Greenille Private Client Team

### **Corporate and personal crisis-proof wealth management: The right person in the right place**

During these uncertain times, it is useful to consider the crisis resilience of corporate and personal wealth management. Arrangements that guarantee continuity ensure and facilitate our peace of mind. Peace of mind is crucial when taking decisions, especially in challenging times like the current COVID-19 outbreak.

#### Key positions and key persons

**The management of your business and private wealth** is often based on legal structures and instruments, which are embodied by key positions and key persons.

**A crisis-proof interpretation of these key positions, as well as the ensured succession of key persons**, are important pillars to **guarantee** continuity in the management and preservation of **your wealth**, regardless of the composition of your family wealth, business and/or investment wealth.

What are the existing key positions? Which key positions do we prefer not to see (temporarily or permanently) unmanned?

Are existing procedures practical and adequate enough to appoint successors? Let us identify them:

### **At (overarching) company level**

**Company:** Who can represent the company (with or without the approval of shareholders and/or supervisory board) vis-à-vis third parties? Who takes all decisions relevant to day-to-day business? (General meeting, board of directors, daily management, chairman, managing director, sole director, etc.).

Can directors appoint a new director via co-option at the end of a mandate? Can temporary members be appointed? Who can convene the general meeting?

**Supervisory and Executive Boards:** Who is the sounding board for the boards? Is a board charged with the task of approving board decisions in advance?

**General meeting:** Who can attend as shareholder/replacement at the general meeting?

**In a limited partnership:** Who decides on the investment/investment policy and acts as contact point for asset manager(s) and bank(s)?

**Private foundation:** Who can represent the foundation and take all decisions relevant to day-to-day business?

**Dutch Foundation Administration Office:** Who takes relevant shareholder decisions, such as the appointment of the company board, approval of annual accounts or drastic measures such as large (dis)investments or dismissals?

**Partnership:** Does the partnership end upon the death of a particular partner? Who decides on the investment/investment policy and acts as point of contact for asset manager(s) and bank(s)?

**The family office:** Who is the point of contact for the wealth manager(s) and bank(s)?

### **On a personal level**

**Living will:** Who represents you, corporate and/or private, if you are unable to decide for yourself? What guidelines do you give the representative(s)? Are you also considering a successor representative?

Do you have clear wishes in the field of medical treatment? What are they? Who will speak on your behalf?

**(Testamentary) guardian:** Who is responsible for the care and upbringing of your minor children if they are left orphaned?

**Executor:** Who takes care of the execution of your will and your wishes reflected therein? Who supervises the correct compliance of all legal, fiscal and administrative obligations after your death?

**Third-Party Counsellor:** Who manages the assets you have donated to a minor child?

The same applies to the assets you leave behind for your heirs who, due to age or disability, are not (yet) able to manage them themselves.

## Our approach: a solid safety net and the right successor

It is important to install a **solid safety net and the right succession** in a well-considered manner. Sustainable entrepreneurship is only possible "with the right man in the right place", combined with well-overthought and discussed agreements, in which little or no room is left for assumptions (e.g. "*the eldest son succeeds "the pater familias" as day-to-day manager*").

It is crucial here to determine which **role everyone wants to play in the family, the business and investment wealth**. This can be achieved by listening to everyone's wishes, desires but also concerns regarding the present and the future. This process creates understanding, and consequently peace of mind.

The *Greenille Private Client team* of Deloitte Legal can offer you the necessary support. In addition to identifying the relevant key positions and/or gaps, we help you **fill** these positions and monitor their follow-up. To this end, you undergo a trajectory together with a team of experts (Family & Business Dynamics team within the *Greenille Private Client Team*) in order to set up a **coherent and as sustainable as possible (statutory and/or testamentary) occupation of positions and agreements related to succession**.

We are convinced that sustainability within your wealth management can only be guaranteed if it is embedded in a process in which communication is key and the results are **recorded in the relevant legal documents**. The Advisory team (within the *Greenille Private Client team*) can therefore supplement the above process with a Governance consistency and coherence check for all the governance rules, as well as the reporting of both the smallest operational company and the top level that controls the family structure.

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