

Deal Talk

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LEGACY REIMAGINED: GODREJ FAMILY RESTRUCTURING

INTRODUCTION

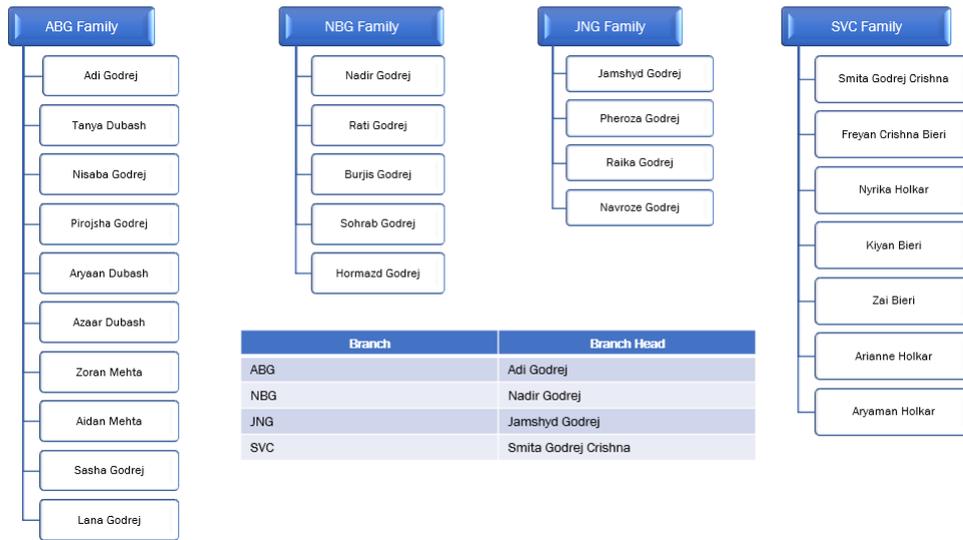
Godrej, a pioneering conglomerate which came into existence during the Swadeshi Movement in 1897, is a household name in India, well known across industries ranging from real estate to consumer goods. The Godrej group has businesses ranging from real estate to consumer goods, each of which has been a pillar of the group's success. However, after a 127 year long run, the Godrej family mutually decided for it to enter into a new era of operations that are divided amongst the Godrej families, in a manner which allows the newer generations to unlock more value from the conglomerate whilst preserving the goodwill and credit of the group. The management and operations of the allocated entities.

The new era has been innovatively structured to ensure a smooth division of the entities / existing businesses in the conglomerate between the existing patriarch Adi Godrej and his cousin Jamshyd Godrej.

REORGANIZATION

For the purposes of the reorganization, four family branches were created, with each branch having a branch head (as set out below). Each member of the four family branches entered into a Family Settlement Agreement ('FSA') dated April 30, 2024, to record the restructuring of the Godrej group. Pheroza Godrej and Rati Godrej also entered into a Brand and Non-Compete Agreement ('BNC') dated April 30, 2024 to set out terms governing the adoption, use, ownership and registration of the 'Godrej' brand. None of the Godrej group companies were party to these agreements.

The family branches and branch heads that have been created for the reorganization are as follows:



For the purposes of the rearrangement as per the FSA, the four family branches have been divided into two groups – (i) ABG – NBG families have been clubbed together ('Adi Group'); and (ii) JNG – SVC families have been clubbed together ('Jamshyd Group').

A brief profile of the companies in the Godrej group that were divided between Adi Group and Jamshyd Group are as below:

S. No.	Name of the Company	Listed / Unlisted	Key Operation
1	Godrej Industries Limited ('GIL')	Listed	Through its downstream affiliates (GCPL, GPL, GAVL, GSGL, IMPL, Astec and Anamudi), GIL's operations range from fast-moving consumer goods, real estate, agri-business, chemicals and financial services.
2	Godrej Consumer Products Limited ('GCPL')	Listed	Affiliate of GIL engaged in the production and sale of fast-moving consumer goods.
3	Godrej Properties Limited ('GPL')	Listed	Subsidiary of GIL and a real-estate company developing residential, commercial and township projects in India.
4	Godrej Agrovet Limited ('GAVL')	Listed	Subsidiary of GIL, which, along with its subsidiaries, is engaged in agri-businesses.
5	Godrej Seeds and Genetics Limited ('GSGL')	Unlisted	Trading of agricultural products.
6	Astec Lifesciences Limited ('Astec')	Listed	Subsidiary of GAVL engaged in sale of fungicides, insecticides, herbicides and intermediates.
7	Innovia Multiventures Private Limited ('Innovia')	Unlisted	Innovia holds 2.68% shareholding in GPL and has no other business operations.
8	Anamudi Real Estates LLP ('Anamudi')	Unlisted	Leasing real estates. Further, Anamudi holds certain investments.
9	RKNE Enterprises	Unlisted	Management, development, acquisition, leasing and investment in immovable properties. Further, it also invests funds of partners in shares / other forms of investment.
10	Godrej & Boyce Manufacturing Company Limited ('G&BMC')	Unlisted	Presence across 15 industries through business units involved in the aerospace, construction, electricals and electronics, tooling, storage solutions sectors, etc.
11	Godrej Holdings Private Limited ('GHPL')	Unlisted	Management of investment portfolios of other companies.
12	Godrej Infotech Limited ('Infotech')	Unlisted	Subsidiary of G&BMC. IT service provider providing business process consulting, infrastructure management, implementation, application support, etc.

Division of group companies between Adi Group and Jamshyd Group (as per the FSA):

The FSA bifurcates the above-mentioned entities between the Adi Group and Jamshyd Group, in such a manner that either family groups are not directly or indirectly involved in the management or control of the operations of entities that have been designated to the other family group.



Management and control of these entities (including their subsidiaries and joint ventures) will be with Adi Group ('Adi Group Entities')

Management and control of these entities (including their subsidiaries and joint ventures) will be with Jamshyd Group ('Jamshyd Group Entities')

As per the FSA, Adi Group Entities will, going forward, be referred to as the 'Godrej Industries Group' and the Jamshyd Group Entities will be referred to as the 'Godrej Enterprises Group'.

PUBLIC M&A CONSIDERATIONS

- To implement the reorganization as per the FSA, both the Adi Group and Jamshyd Group would be required to transfer their shareholding in the respective entities to the other group.
- All the listed Godrej entities fall within the Adi Group Entities (GIL, GCPL, GPL, GAVL and Astec) and the members of the Jamshyd Group were required to transfer shares held by them in the listed Adi Group Entities to Adi Group members.
- However, the SEBI (Substantial Acquisition of Shares and Takeover) Regulations, 2011 ('**Takeover Code**') requires any acquirer to make an open offer to the public shareholders if an acquisition leads to such an acquirer (i) having 25% or more shareholding or voting rights in a listed entity or
- In the current case, the transfer of shares of the listed Adi Group Entities from Jamshyd Group members to the Adi Group members would result in triggering the open offer obligation for Adi Group with respect to each of the listed Adi Group Entities.
- However, Regulation 10 of the Takeover Code provides for some general exemptions to the obligations of an open offer when the acquirer triggers an open offer. As per Regulation 10(1)(a)(ii), any acquisition will be exempted from the obligation of open offer if such acquisition is pursuant to a shareholding pattern filed by the target company (as per listing regulations or the Takeover Code) for not less than three years prior to the proposed acquisition ('**Inter-se Promoter Exemption**').
- Both the Adi Group members and the Jamshyd Group members were disclosed as promoters in the shareholding pattern of GIL, GCPL, GPL and GAVL in the previous three years and therefore, the acquisition by Adi Group members would fall within the exemption under the Takeover Code.
- However, the same was not true for Astec (an indirect subsidiary of GIL) as GAVL (which is the parent entity of Astec) was disclosed as a promoter and neither the Adi Group members nor the Jamshyd Group members were disclosed explicitly as the promoters of Astec over the last three years over Astec.
- This is why on May 2nd, 2024, the Adi Group Members (as acquirers and persons acting in concert) made an open offer to acquire 26% shares from the public shareholders in Astec as per the Takeover Code.

Additionally, upon transfer of the shareholdings held by Jamshyd Group members to Adi Group members in the listed Adi Group Entities, the Jamshyd Group members (along with their Affiliates), currently classified as promoters of GIL, GCPL, GPL and GAVL, are required to reclassify themselves as public shareholders. The process for reclassification of promoter/promoter group members into public shareholders is set out in Regulation 31A of SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015. Reclassification is a stock exchange driven process which includes a board approval and shareholder approval.

ANTITRUST CONSIDERATIONS

- As per Section 6 of the Competition Act, 2002, any person or enterprise which proposed to enter into a or proposes to enter into a combination (where such combination breaches the thresholds as provided in Section 5 of the Competition Act, 2002) shall give a notice to the Competition Commission of India (CCI) for such acquisition.
- Given that the reorganization would breach the notifiability thresholds as per the Competition Act, 2002, both the Adi Group members and Jamshyd Group members (as acquirers for their respective entities) notified the CCI on May 15, 2024.
- The CCI in its order dated June 18, 2024, stated that the combinations notified by the Adi Group and Jamshyd Group were in the nature of an 'internal reorganization' and were not likely to change the market dynamics in a significant manner.
- However, the CCI still undertook an analysis with respect to the linkages that the other investments (outside the Godrej group) made by Adi Group and Jamshyd Group would have with the activities of the Adi Group Entities and the Jamshyd Group Entities.
- The CCI was of the view that the investments of Adi Group within and outside of the Godrej group had: (a) horizontal overlaps with Adi Group Entities in the areas of real estate and development, and (b) vertical linkages considering the upstream activity of home automation items and downstream activities.
- Additionally, the investments of Jamshyd Group within and outside of the Godrej group had: (a) horizontal overlaps in real estate, development and school education services, and (b) vertical linkages considering the upstream activity of manufacture and sale of each of: (i) ready-mix concrete & aggregates and (ii) school education services and development.
- However, CCI was of the view that such overlaps and linkages did not cause any appreciable adverse effect on competition given that these overlaps and linkages could not significantly change the market dynamics in any plausible market that could be delineated.

TAX CONSIDERATIONS

- There have been judicial precedents to state that divestment of property (movable or immovable), by individual members/parties of a family arrangement/settlement to other members of the family who are party to such arrangement or settlement, shall not be considered as 'transfer' under Section 47A of the Income Tax Act, 1961 (For ref. *Kale V. Deputy Director of Consolidation*).
- It is very important to note that 'family arrangements' not constituting 'transfer' under the Income Tax Act, 1961 is only available as long as the divestment is by one family member to another and does not extend to any corporate entities.
- Therefore, given that a 'family arrangement/settlement' should not be considered as 'transfer' under the Income Tax Act, 1961, it is possible to take a view that no capital gains should be applicable on such family arrangement/settlement.

KEY TERMS OF THE BNC

- In addition to the FSA which provides for the mechanics of the arrangement mentioned above, the Adi Group and Jamshyd Group also entered into a BNC which lays down the roadmap and arrangement with respect to the brand 'Godrej' in the coming decade (in order to preserve the brand and ensure continuity).
- The division under the BNC can be divided into three segments:
 - Existing Businesses** – The businesses being undertaken by each Adi Group and Jamshyd Group as on January 01, 2024
 - Exclusive Businesses** – Certain businesses of strategic importance to each Adi Group and Jamshyd Group entity and the Existing Businesses of such entities.
 - Shared Businesses** – A list of businesses provided in the BNC which will be shared by both the family groups. Also includes any businesses not falling under Existing or Exclusive Businesses.
- The indicative list of Exclusive Businesses that Adi Group and Jamshyd Group can undertake is as follows:

FMCG

Food and Beverages

Dairy Products and Services

Space

Aerospace

Defence

Software Solutions

IT/ITES

Machines

Financial Services

Pharmaceuticals

Diagnostics

Sexual Wellness

Agriculture related services

Fertilizers

Chemicals

Oils and Fats

Exclusive Businesses of Adi Group

Furniture

Durables

Heavy Engineering

Locks/Architectural Hardware

EPC Services

Construction Materials

Automation Services

Interior Design Services

Medical Devices

Exclusive Businesses of Jamshyd Group

Energy

Electric Mobility

Vending Machines

Security Products and Solutions

Intra Logistics

Transmission Systems

Both the family groups have agreed to a non-compete protection for their Existing Businesses and Exclusive Business, which would be applicable for a total of 6 years from the effective date of the FSA (**Non-Compete Period**). Post the Non-Compete Period, each family group would be allowed to use the name 'Godrej' or the names of the corporate entities. The non-compete obligations in the BNC are subject to customary exceptions and other pre-agreed limitations.

The trademark 'Godrej' will be equally owned and shared by both Adi Group and the Jamshyd Group. Each of the family groups shall have the exclusive right to adopt, use, own and register 'Godrej' brand directly or indirectly for the Existing Businesses and Exclusive Businesses.

The Adi Group shall have the exclusive right to adopt, use, own and register the name 'Godrej' and brand for development, marketing of real estate projects and real estate services relating to sale and/or purchase, of real estate projects, and the business of licensing and leasing to third parties.

Jamshyd Group shall have the exclusive right to adopt, use, own and register the name 'Godrej' and brand for real estate development business and the leasing / licensing business carried out in respect of any land parcels (including the land in Vikhroli) owned by, or leased as of January 1, 2018, by the Adi Group or its affiliates (**Existing Land Holdings**) and also includes any real estate asset class developed over the Existing Land Holdings by Jamshyd Group, directly or indirectly through their affiliates.

Adi Group shall not be restricted, directly or indirectly, from using 'Godrej' brand when acting as development manager of any land parcel owned by the Jamshyd Group in Vikhroli (pursuant to an agreement between Adi Group and Jamshyd Group and / or their Affiliates).

Both family groups have the non-exclusive right to adopt, use, own and register 'Godrej' name and brand for ancillary real estate activities such as project management and consultancy services for construction projects, construction of hotels, hospitals and schools, master planning and architecture.

For the Shared Businesses, both family groups can undertake these using 'Godrej' brand along with distinguishable group level differentiators. Shared Business would include any business not falling under Existing Business and Exclusive Business and having been agreed as a shared space for a hospital, etc.

The Jamshyd Group would use 'Godrej Enterprises Group' or such other tagline including variations for its business and the Adi Group would use 'Godrej Industries Limited' or such other tagline including variations for its business. None of the family groups can make any modifications to the shared tagline.

CONCLUSION

Given the unique family dynamics and demographics in India, such settlements are not uncommon. The country has witnessed several high-profile family settlements, such as those of the Ambani and Haldiram families, which have set precedents for managing intricate family businesses and wealth. The deal makers, highlighting the complexities and nuances involved in negotiating family agreements.

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