



# S Corps, C Corps, and B Corps, oh my!

## Corporate structure matters

By **Eric Friedenwald-Fishman** | Metropolitan Group Creative Director/President

**I remember being a young entrepreneur,** and having the first meeting with my lawyer and business partners to start a brand-new company. I could not help thinking how incredibly boring and unimportant choosing the corporate form (S Corp vs. C Corp) seemed. Other than arcane tax considerations, why did it matter?

But I was wrong—and not because of the important tax or shareholder liability distinctions between the forms. I was wrong because there is an intrinsic challenge to equity, sustainability, and long-term success built into the existing forms. Our basic structure for corporations is myopic; it focuses on maximizing profits to shareholders. Whether we are protesting the power and greed of corporations or defending them as drivers of the economy, we share the same basic expectation that a corporation's job is to maximize profits to shareholders. This basic expectation is damaging to people, communities, the economy, and ultimately to the companies themselves.

We live in a society where business is an oversized force. It impacts virtually every aspect of our lives. Just think of the time we spend at work, in commercial environments, and consuming media, and of the influence business has on

policies that impact our healthcare, education, food, and other basic choices. Corporations are a powerful force—sometimes they are a force for good (innovation, economic growth, quality of life, etc.), but sometimes they contribute to social decline (greater economic disparity, economic instability, environmental degradation, etc.). Increasingly, I've become convinced that the core corporate form exacerbates the issues that vex our society and that the responsibility of directors to maximize return for shareholders excludes many other considerations that are critical both to long-term success of businesses and to a more equitable, sustainable, and vibrant society.

If the sole responsibility of a company is to maximize shareholder returns, companies will keep the consideration of employee, environmental, and community needs at bare minimum to meet the financial returns of the company. This creates serious challenges and consequences. Just last month, data from the Federal Reserve Bank of St. Louis showed that the labor force's share of income was at an all-time low<sup>1</sup> while corporate profits were high (since

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2009, wages have gained 1 percent of national income growth, and corporate profits received 88 percent). Choices that clearly did not consider the needs of communities, retirees, workers, and home owners led to the sub-prime mortgage boom, led to the packaging of predatory loans as investments, and helped spark the financial meltdown of 2008-09. The issue here is not that business is bad or that profits are bad or that capitalism is bad. The issue is that the form with which we have organized corporate structures—and that structure's impact on our society—is out of balance.

There is a better way. There's an opportunity to make a paradigm shift that harnesses the incredible power of companies to benefit society and the economy. It's called a Benefit Corporation (often referred to as a B Corp). For those unfamiliar, it requires three key elements: purpose (create a material positive impact to society), accountability (consider nonfinancial interests in decision making), and a fair return to all shareholders with transparency (open disclosure of social performance using third-party standards). In other words, B Corporations are legally chartered both to consider and to benefit diverse stakeholders (shareholders, employees, the environment, and so on) and are held accountable for doing so. This shift in the corporate form has the potential to drive tangible positive impacts—including increased health and prosperity of the workforce and their families, improved air and water quality, community stability, and ultimately stronger companies that can compete for the long-term.

And thanks to the social entrepreneurship of the nonprofit B-Lab<sup>2</sup> and numerous visionary business leaders, this shift is happening. Twenty states have already passed public benefit corporation legislation, while more than 800

businesses have voluntarily been certified as operating in accordance with these core principles. This is a terrific start, but it is just the tip of the iceberg. To truly transform the playing field to one where the core corporate form harnesses the power business for the good, we must pass public benefit corporation laws in all 50 states. We must move from hundreds of companies to thousands becoming certified as a B Corp. And we must shift our normative expectations for companies to operate and to make business choices based upon fair returns for all stakeholders.

This change is not going to take place without the championship of additional social entrepreneurs and community leaders. Here are some ways to help make it happen:

**Vote with your dollars.** Where you can, use the goods and services of existing B Corps to send a signal that responsibility matters. (Full disclosure: my company is a certified B Corp, so read this as a plug for the other 799).

**Become a B Corp.** If you are a private sector company, get voluntarily certified as a B Corp. Yes, it takes energy and effort, but the more companies that become B Corps and can advocate for higher corporate expectations from a position of strength, the more we will be able to ensure that additional states adopt legislation and the more we can shift the normative expectations for business.

**Ask your vendors to become B Corps.** Ask about it. If your vendors are not B Corps, encourage them to explore it. Let them know it is important to you.

**And most importantly, support policy change.** Advocate for establishing the public benefit corporate form in your state by demanding it of

your governor and your legislators. Make the case that this will cost your state nothing but that the option can deliver substantial benefits to your state's people, environment, and economy.

As they say at B Lab, "B the change." Together, we can establish a 21st century corporate form that provides returns to society for granting its charter while creating strong stable and responsible businesses. It may seem like a boring corporate law detail, but in this instance the devil and the angels are in the details.

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Links:

<sup>1</sup> Labor force:

[http://www.huffingtonpost.com/2011/12/01/labor-forces-share-of-income\\_n\\_1124189.html](http://www.huffingtonpost.com/2011/12/01/labor-forces-share-of-income_n_1124189.html)

<sup>2</sup> B-Lab:

<http://www.bcorporation.net/publicpolicy>

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