

Hotel Business Models

Background info for INZ re AEWV regime



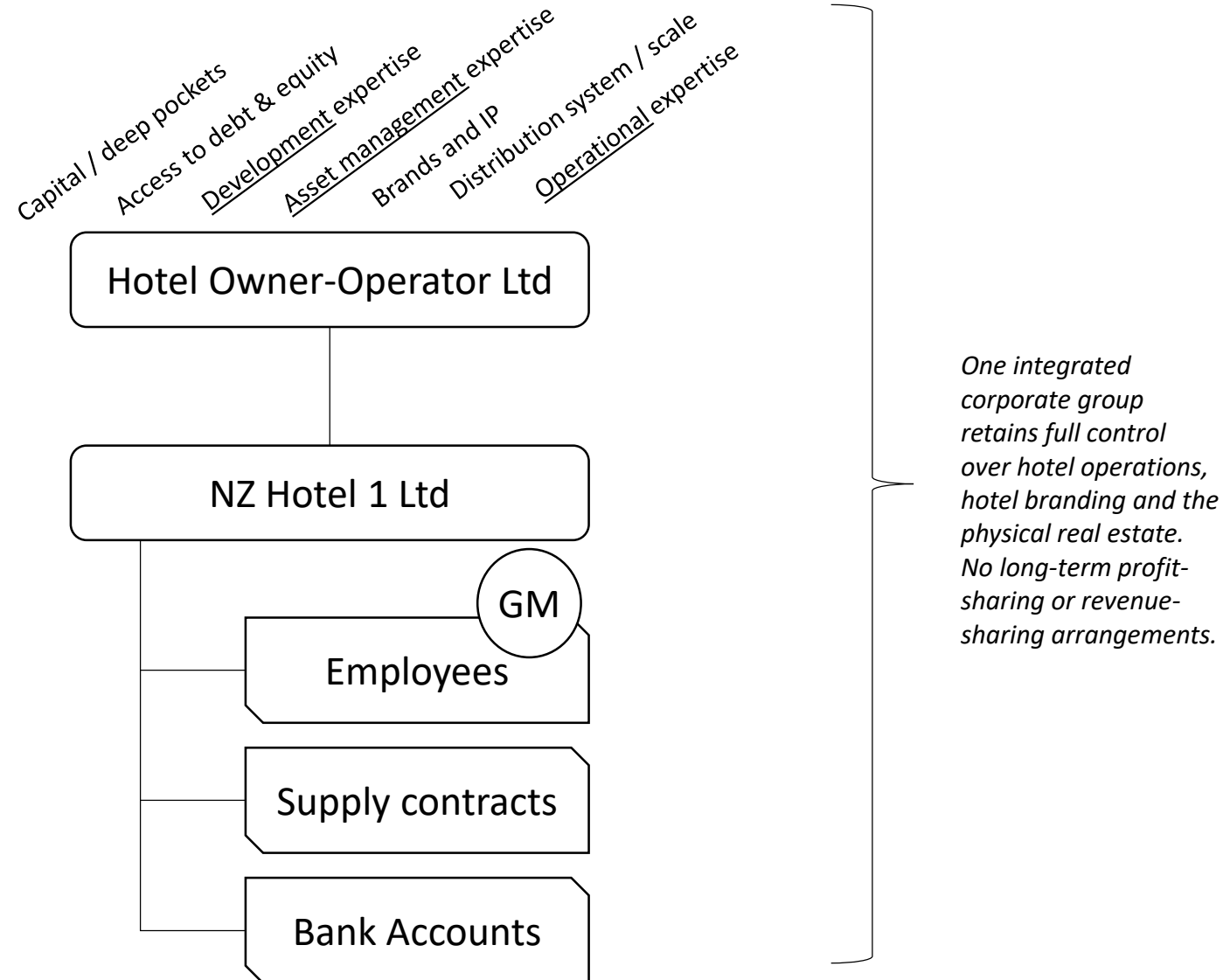
Hotel business models

- Basic models:
 - Independent/owner operated
 - Franchised
 - Managed
 - Leased (*Note: leased land/building from passive owner – doesn't change analysis for this purpose*)
 - Strata Title (*Note: leased land/building from multiple unit owners – doesn't change analysis for this purpose*)
 - Brand-owned (*Note: same characteristics as owner-operated for this purpose*)
- Assume “separate entity for each hotel” in *most* cases:
 - Hotel buildings are “designed as hotels” and cannot easily be converted to other uses.
 - Hotels need employees to earn revenue, so it makes sense for employment to “attach to the location” through having employees engaged by the relevant entity for that location. (Similarly, other contracts, liquor licenses, etc. will usually be structured in the same way).
- Terminology – “above-property” and “hotel level” employees
- INZ's concern/issues: – Who makes the employment decisions? Which entity enters into the employment contract? Who should be accredited?

Independent/owner operated

- Hotel business owner owns the physical real estate and operates the hotel business.
- Even if one hotel owner has multiple hotels each operated under separate subsidiaries, the “triangular relationships” provisions seem likely to contemplate this:
 - *“parent or umbrella companies who place their migrant employees with a third party such as a subsidiary company or branch that is a separate legal entity.”*

Independent / Owner-Operator Hotels



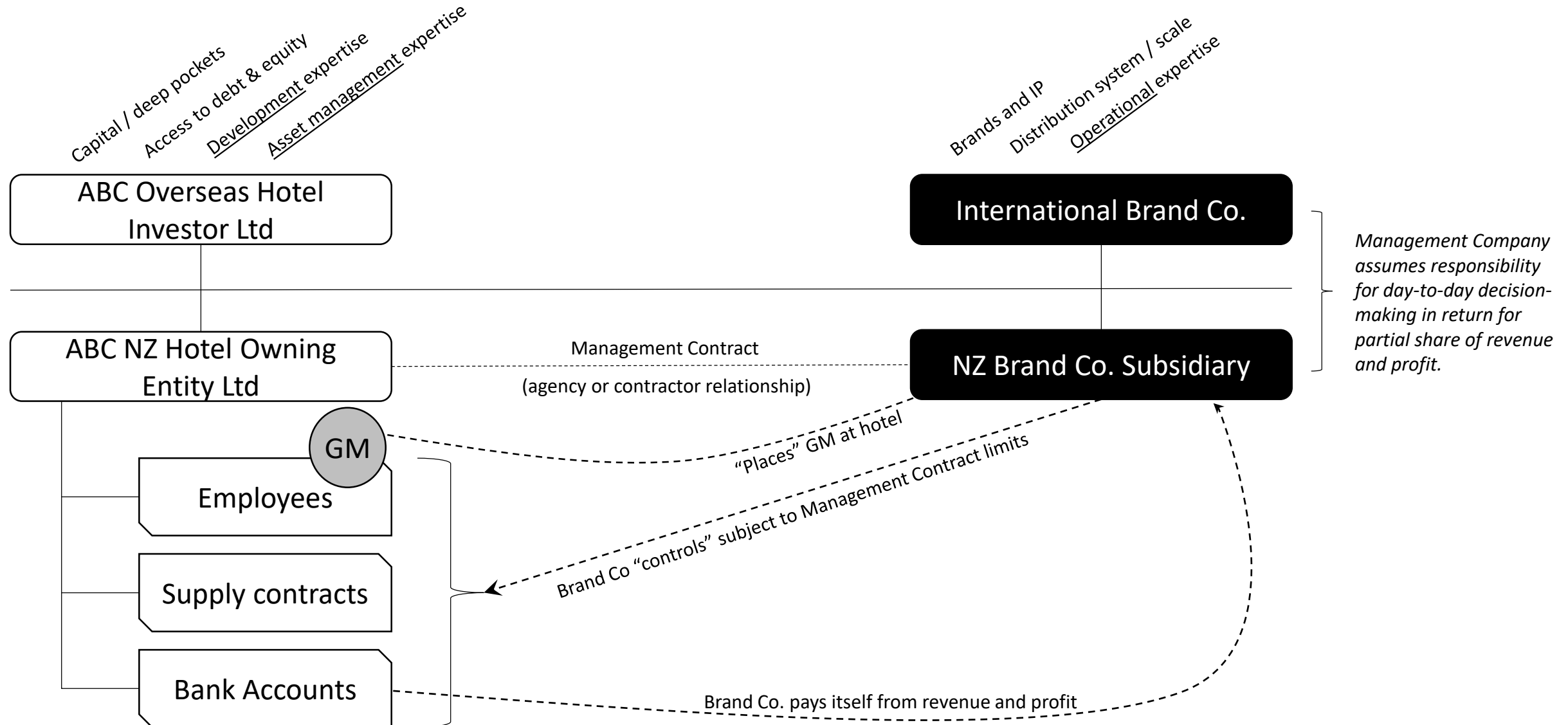
Managed

- This is the most problematic category for the existing “triangular relationships” definition, yet it is a business model commonly used in large hotels, especially those with international brands (Marriott, Hilton, Hyatt, Accor, IHG).
- Hotel business owner effectively outsources day-to-day decision-making to an operator/brand company (such as Hyatt), subject to certain checks and balances on that decision-making as set out in the management contract. Hotel business owner may have no hotel operations experience/capability in New Zealand.
- **Example:** Park Hyatt Auckland. Hyatt does not own the underlying physical real estate, does not invest or borrow, does not share in capital gains, does not take on business risk. However, Hyatt is responsible for making employment decisions at the hotel in accordance with NZ law.

Managed (cont.)

- Under the managed business model, hotel business owner is acting as “asset manager only” and leaving day-to-day decision-making to the service provider (Hyatt in the case of the Park Hyatt, Auckland).
- Hyatt directs decision-making through the hotel-specific entity owned by hotel business owner (not Hyatt). Hyatt does this under agency relationship or in accordance with contractual authority under the management agreement.
- The actual underlying hotel owner may not have any “operations expertise” at all. Again, it has contracted out to a hotel management company to provide that operations expertise.

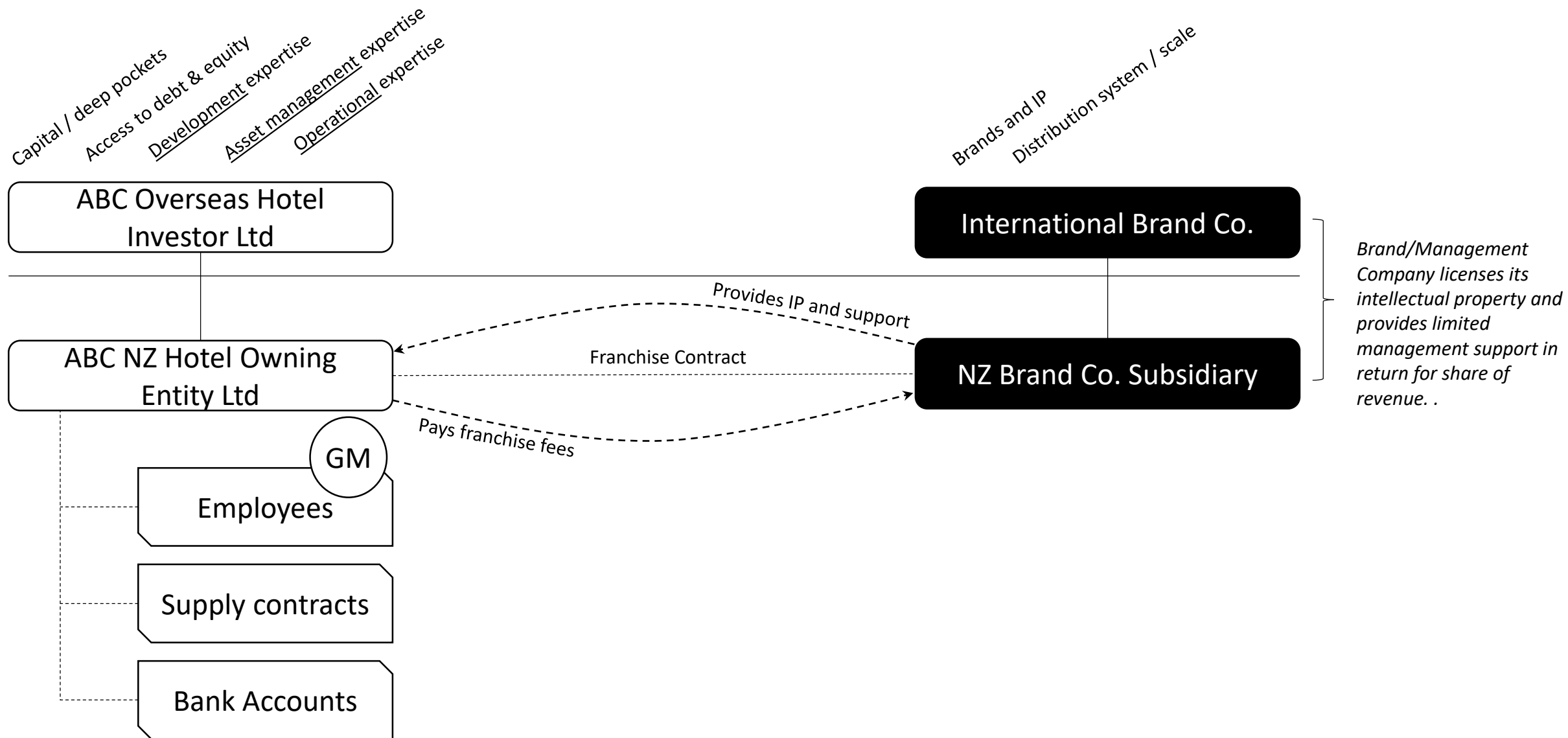
Management Agreements



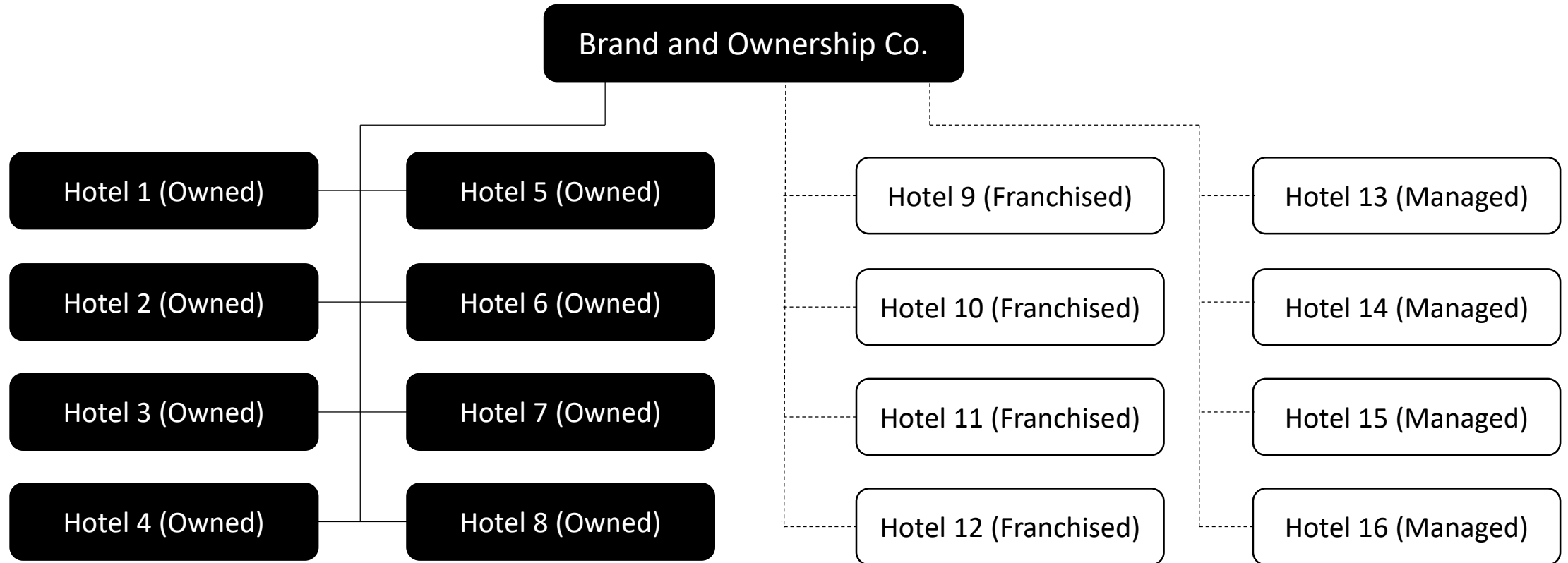
Franchised

- Hotel business owner operates the hotel, but in accordance with brand standards and other contractual obligations as set out in the franchise agreement. Brand standards can include many recruitment and training related operating procedures.
- Franchisor (brand company) may also offer access to certain “above property” support (such as HR)
 - **Question:** If franchisor offers HR support that includes processing/placing visa labour, does hotel business owner also need to be accredited or will triangular relationships regime apply? Note: franchisee is not a subsidiary or branch of franchisor.
 - **Comment:** Franchisor/brand company typically has greater expertise in HR-related matters, hence offering those services as part of the franchise package.

Franchise Agreements

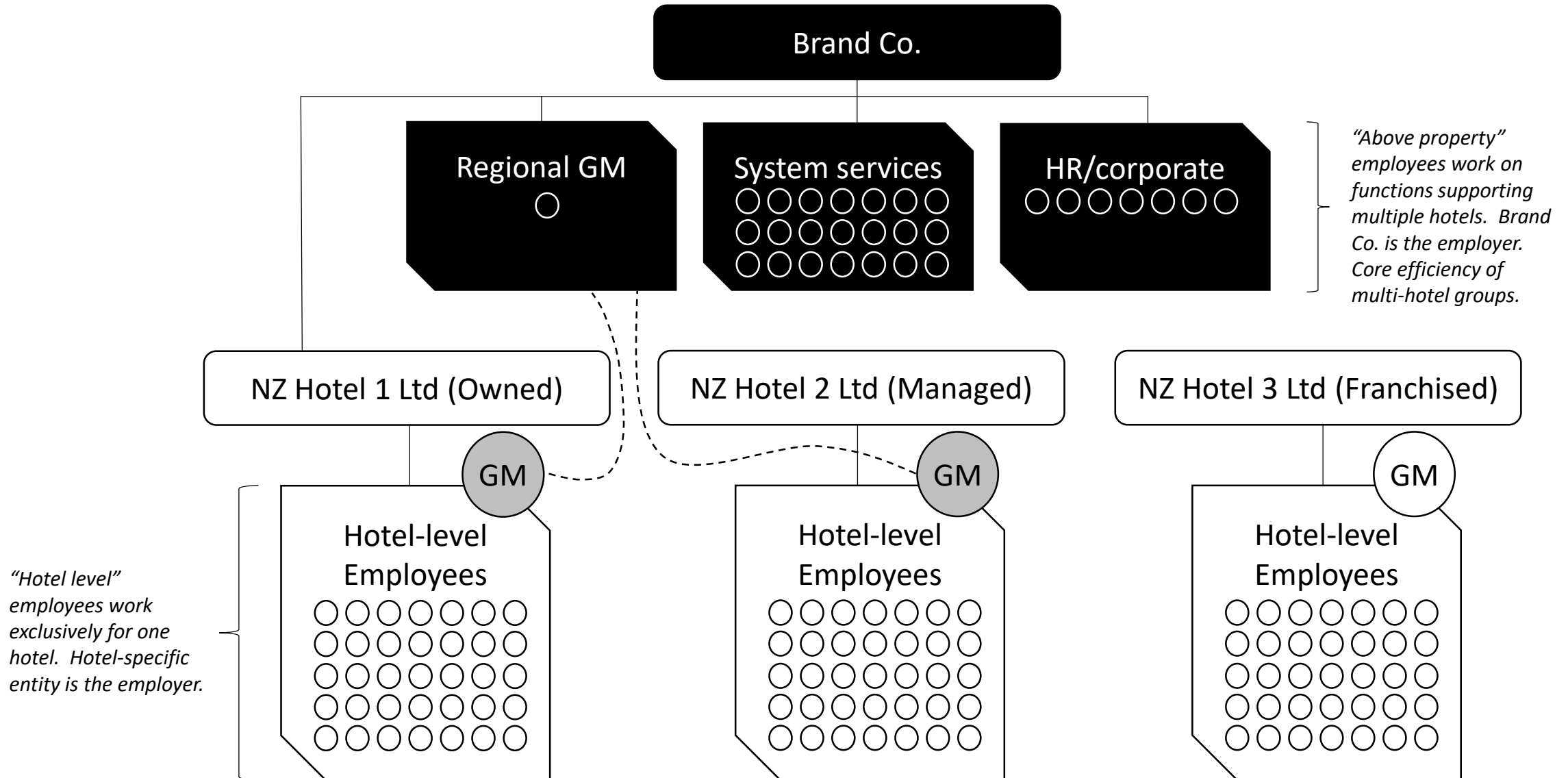


Hotel “groups” include different business models



Note: International brand companies unlikely to own any properties in NZ – will be mix of managed and franchised. Domestic/regional brands will be mix of owned, managed and franchised hotels.

“Above-property” and “Hotel-level” employees



Key questions/issues

- **Owner-operated:** If “above property” accredited organisation places staff with subsidiary, does triangular relationships regime applies (answer appears to be “yes”).
- **Managed:** If “above property” accredited organisation places staff with a *managed property*, does triangular relationships regime apply? (Note – not a subsidiary, not a franchisee and not a labour hire agreement. Note 2 – asset owner may have minimal hotel operational expertise).
- **Franchised:** If “above property” accredited organisation assists franchisee to place staff at a *franchised property*, does triangular relationships regime apply? (Note – not a subsidiary and not a labour hire agreement).
- **All aspects:** Has regime been drafted in a way that does not disadvantage overseas headquartered multinational management companies? These are (generally) extremely well-regarded employers.



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