

# XLNC

GLOBAL PROFESSIONAL  
EXCELLENCE



29 October 2020

## XLNC Autumn Conference Online

Issue No. 06 | Autumn 2020 | © XLNC AG

# MAGAZINE

# Editorial

## Dear XLNC Member,

COVID-19 is still around, influencing and shaping our lives. Many countries currently face an upsurge in infection rates, and nobody can predict how the pandemic will develop during the coming months.

Most people have become more or less used to the measures to fight the pandemic, such as wearing face masks, keeping social distance, and reducing face-to-face contacts and large gatherings.

People have gained experience in working remotely; many XLNC member firms have had to restructure their organisations to provide technically well-equipped home-office workspaces, and to manage, motivate, and engage their employees and remote teams. It may have been challenging to achieve the company's goals in the home office and to develop systems in order to measure the success of remote workers.

In this unprecedented time, it is especially important to keep in contact with like-minded

professionals, who face similar challenges, to exchange ideas, experiences, and knowledge. No wonder the demand for XLNC webinars was high. Travelling globally was not possible for months and is only just possible between a few countries, usually with strict quarantine measures. XLNC conferences needed to be postponed and we do not know when the next ones will take place.

Read in this issue about the XLNC online events, as well as some other Focus Group updates.

XLNC members share the latest news from their companies and professionals from member firms have contributed articles from their various fields of expertise:

Jeremy Lederman (Harold Benjamin, London, UK) provides a view from the UK Legal Sector, Irma Auda (Melanita & Partners, Jakarta, Indonesia) reports on "Doing Business in Indonesia" and Dr María Laura Rozental (Bercún Law Firm, Buenos Aires, Argentina) informs on "Foreign Companies in Argentina" and possible forms of actions. Lise van

den Heuvel (Vestius Attorneys at Law, Amsterdam, the Netherlands) provides on "Privacy Update", while Sonal Shah (Gerald Edelman Chartered Accountants, London, UK) shares her experiences in "Why Building Resilience is More Important than Ever". James Berrio Hoyos (B Law & Tax, Madrid, Spain) talks about "Real Estate Investments in Spain" and Natalie Jones (Azure Group, Sydney, Australia) writes about "Expanding Globally During COVID-19: Risky Business or Perfect Timing?". Vinay Khosla (Bateman MacKay, Burlington, ON, Canada) provides an update on the "Canada Emergency Wage Subsidy: Substantial Enhancements, Changes... and Complexity!"

Last, but not least, we welcome the new member firms that have joined XLNC since the spring 2020 issue of this Magazine.

We wish you an enjoyable read!

Stay healthy, safe, and positive.

Kind regards,

**Your XLNC Team**

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## Disclaimer

The information provided in this XLNC magazine came from reliable sources and was prepared from data assumed to be correct; however, prior to making it the basis of a decision, it must be double checked. Ratings and assessments reflect the personal opinion of the respective author only. We neither accept liability for, nor are we able to guarantee, the content. This publication is for XLNC internal use only and intended solely and exclusively for XLNC members.

# Diary

- **29 October 2020:**  
XLNC Autumn  
Conference Online  
16:00 pm CET
- **12 November 2020:**  
XLNC Tax  
Focus Group Webinar  
09:00 am CET
- **10 December 2020:**  
XLNC Legal Focus Group  
Meeting Online  
15:00 pm CET
- **27 January 2021:**  
XLNC NA Regional Call  
13:00 pm EST | 10:00 am PDT
- **24 February 2021:**  
XLNC NA Regional Call  
13:00 pm EST | 10:00 am PDT
- **24 March 2021:**  
XLNC NA Regional Call  
13:00 pm EST | 10:00 am PDT
- **28 April 2021:**  
XLNC NA Regional Call  
13:00 pm EST | 10:00 am PDT

# XLNC Autumn Conference Online

**Date:** Thursday, 29 October 2020  
**Time:** 16:00 pm CET  
(Central European Time)  
**Chair:** Richard Kleiner  
**Guest Speaker:** Ross Fishman

We very much miss our conferences and are sad that we will not be able to meet in person this year. However, we have prepared an "XLNC Autumn Conference Online" and hope to see many of you there.

For this event, we have keynote speaker Ross Fishman, who is one of the world's foremost experts on marketing for law and accounting firms. Of Counsel magazine said, "Many people consider Ross to be the nation's foremost expert on law firm marketing." A former litigator, big-firm marketing director, and marketing partner, Ross is a renowned expert in professional firm strategy and branding. A Fellow of the College of Law Practice Management and Lawdragon 100 Leading Consultant, he was the



**Richard Kleiner**



**Ross Fishman**

first marketer to be inducted into the Legal Marketing Association's Hall of Fame. Ross also created the strategic plan for AAM, the Association of Accounting Marketing.

Ross will talk about "Developing a Killer Strategy: We're Different! So Why Doesn't Anyone Know It?" Professional firms with strong brands can charge higher fees because the marketplace perceives that they are worth more. A marketing programme should execute a dynamic strategy but, sadly, too many firms seem to proclaim an identical bland and undifferentiated message: "We're highly skilled and service-oriented lawyers/accountants." Today, when we can't be in-person with people, a firm's brand and reputation matter more than ever in helping prospects decide which firm or professional to hire.

During this fun, fast-paced, and visually stunning session, Ross will

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show you how to develop your own unique strategy, blasting through dozens of differentiated messages and real-life examples of the best (and worst) law, accounting, and automotive marketing. You will leave energised, educated, and entertained, with a clear understanding of how to differentiate your firm or practice, and how to sell this strategy to your firm.

Issues addressed will include:

- How to differentiate a general, skilled, full-service firm;

- The number one thing clients are buying today, and how to offer it to them;
- The top ten differentiators firms use, and how to select the right one for you;
- How to dominate an industry;
- How to get started.

This webinar is FREE and open to all XLNC members. Please click on the button shown to register.

We use Zoom for our meetings. Meeting and login details will be emailed to you once you register.

**REGISTER NOW**

If you are unable to register, it might mean that we do not have you in our database. Please email Anita Szoeki (szoeki@xlnc.org) so that we can add you to the invitee list.

# It's Now or Never: Making the Most Out of Your XLNC Membership

**Date:** Thursday, 08 October 2020  
**Speaker:** Michael Reiss von Filski



**Michael Reiss von Filski**

Welcome to the new way of doing business – a world nobody could have imagined at the beginning of 2020. For professional service firms, new challenges arise and, in order to continue serving clients better, being a member of an international association like XLNC is very helpful. But how? What about the personal contact, the meetings, the conferences? How can members make the best out of their membership given the current situation and its limitations?

During a webinar on 08 October, XLNC Board member, Michael Reiss von Filski, explored and summarised a broad array of opportunities, e.g., how to leverage the possibilities

offered by XLNC, how to benefit from the membership, and how to carve out additional competitive advantages. The following aspects were covered with practical examples:

- Opportunities for existing clients, client retention, and comprehensive client services;
- Chances for partners, colleagues, juniors, and staff (best practices);

- Broadening awareness, skills, know-how, and horizons;
- Attracting new clients and developing business opportunities;
- Getting ready for the new normal.

Although only established in 2018, XLNC already has a global footprint, with more than 80 member firms who have 2,800+ full-time employees and 145 offices in 39 countries.

XLNC members have already built up their reputation within their local markets but should realise that it is important to do so once again within XLNC. Staying connected and visible is the best strategy with regards

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to making the most of the XLNC membership. Members were also reminded that XLNC is not simply a toy for Managing Partners or Senior Partners. **All XLNC members** are invited to connect, to contribute, to

share their expertise, to learn from one another – whether in focus groups, on social media, in webinars, or in publications. There are no additional charges for any of these tools. Why not use them proactively?

XLNC members who missed the webinar but would like to watch the recording may email Anita Szoeki (szoeki@xlnc.org) for the link.

## ▶ XLNC LEGAL FOCUS GROUP

# New Legal Practice Groups Established

### ■ By Enrique Brat

It goes without saying, but these are difficult times – even for lawyers who might usually profit from the misery and despair of other people and businesses.

It has been a while since the Legal Focus Group of XLNC met, due to the COVID-19 crisis. Many members may have been confronted with a decline in turnover and in activity from their clients. But let's not mention COVID-19 again: let's keep a positive attitude towards the future. Never waste a good crisis!

In our Autumn Conference in Venice last year, the Chairpersons of the Legal Focus Group prepared a short presentation for their members. Its business plan was discussed again and the LinkedIn (private) Group for the Legal Focus Group was set up.

All the members present were asked to post in this LinkedIn Group on a regular basis. Members who are not in this LinkedIn Group should let XLNC Head



**Enrique Brat**

Office know, so that an invitation can be sent to join this group.

Franz Rechtsanwälte, from Düsseldorf, Germany, gave a short presentation and clarified the idea of setting up Practice Groups within the Legal Focus Group. This idea was unanimously accepted by the members. The following Practice Groups are now set up:

- Corporate Law/Cross-Border M&A;
- Commercial Law;
- Employment Law; and
- Litigation.

Udo Fragstein (Franz Rechtsanwälte) was appointed as Chairperson of the Commercial Law Practice

Group, Christian Franz (Franz Rechtsanwälte) as Chairperson of the Corporate Law/Cross-Border M&A Practice Group, Michael Skaarup (Eltea Avocats) and Michiel van Haelst (Vestius) as Chairpersons of the Employment Law Practice Group, and Céline Dilman (Eltea Avocats) as Chairperson of the Litigation Practice Group.

The members expressed their desire to pay each other a visit and everybody was cordially invited to

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each firm. We are convinced that the firms will start doing so once it is allowed and possible to travel again.

We are glad to learn that since the last Autumn Conference, members of the Legal Focus Group have referred some work to each

other and have worked together on cases and with success.

Let's keep our spirits up and keep faith in XLNC! If you wish to join our Focus Group and/or any of the Practice Groups, please let me know. We are going to schedule

an online **Focus Group meeting on 10 December at 15:00 pm CET** – if you wish to present on a topic you consider of interest for this meeting, just let me know. Hope to see you soon and stay healthy.

## XLNC MARKETING & BUSINESS DEVELOPMENT FOCUS GROUP

# Updates from our Focus Group

### ■ By Lauren Kelly

Back in May, when we were all reacting and adapting to the coronavirus and its impact on our firms, we held our first Marketing & Business Development Focus Group webinar.

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 Global Chairperson of  
 the Marketing & Business  
 Development Focus Group  
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All those that attended openly discussed their challenges and how they were continuing to engage in marketing and business development, despite the difficult and uncertain circumstances.

During the session, we focused on internal communications and how members were keeping connected to their employees, external communications and how members were staying in touch with clients, and business development initiatives firms were undertaking.

Digital seemed to be the hot topic, with many firms beginning to think about ways in which they can improve this area of their marketing. Many had plans to improve their website and its SEO as well as undertake Google Ad/PPC campaigns.

Back in September, guest speaker Dave Lorenzo then spoke at our second Marketing & Business Development Focus Group webinar. The discussion was focused around strategies to make



**Lauren Kelly**

our firms more resilient and to capitalise on opportunities that the coronavirus has presented.

### What next?

It would be great to get input from XLNC members on topics you would like to see discussed next time. Whether advice on a social media strategy, better ways to engage your team or how to win new international clients, we'd love to hear from you. We would also like to encourage more case studies, so if anyone would like to present at a future Focus Group on a Marketing or Business Development initiative they are undertaking, whether to showcase the initiative or ask for advice, please get in touch.

## XLNC REAL ESTATE &amp; PROPERTY FOCUS GROUP

# Legal and Tax Regulations Related to Real Estate in Spain

## By Victor de Castro Esteller

The Real Estate Focus Group organised a webinar on 07 July, chaired by Victor de Castro Esteller. During the long absence of face-to-face meetings, this was a great opportunity to stay connected with our XLNC fellows and to energise the Focus Group.

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The webinar was focused on legal and tax issues related to real estate in Spain. It was prepared by two Spanish firms: PLANARTUS, a founding member of XLNC, and B Law & Tax, a firm located in Madrid that has recently joined XLNC.

First of all, Cristina Caballero, Partner of the Legal Department at PLANARTUS, explained the legal requirements that are mandatory for foreign investors to acquire real estate in Spain. After that, Víctor de Castro Esteller, Partner of the tax department at PLANARTUS, described the special regime for rental housing companies; it makes the investment really attractive due to the fact that the effective tax rate on rental income is reduced to 3.75%.

Inmaculada Pineda, Partner at B Law & Tax, continued to talk about the taxation on real estate investment trusts (called "SOCIMI" in Spanish regulation) and the requirements to apply



**Victor  
de Castro Esteller**

0% in Corporate Income (CIT), for instance. Finally, the panellists gave their opinions about the prospects after COVID-19 in real estate in Spain; this part of the webinar was really enriching with the contributions of all attendees.

The presentations are available for download in the internal area of the XLNC Deal-Sharing Platform.

We encourage all XLNC members to participate in our webinars to keep in touch with like-minded professionals. Your knowledge and expertise can be useful for the others. So, please, share it!

## Have you got news to share...

...with other XLNC members? A new partner perhaps? Or new offices? Or even new service offerings? The deadline for inclusion in the next issue of the XLNC Magazine is 26 March 2021.

## XLNC TAX FOCUS GROUP

# Tax “Must-Know” Matters

■ **By Graham Busch  
and Dr Benjamin Cortez**

In these turbulent times, the issue of taxation has become critical in overcoming the economic impact the COVID-19 pandemic has had on the global economies. To this background, the Tax Focus Group (TFG) has added the COVID-19 tax legislation to its core subjects.

On 17 June 2020, the TFG held a first, highly successful, webinar, attended by nearly 40 people. This great attendance resulted in a very constructive and engaged discussion amongst the attendees.

The first part covered the taxation of High-Net-Worth Individuals (HNWI). Members from France, China, Spain, the USA, and the UK presented on their countries' domestic tax laws and provisions focused on HNWIs. The presentations and subsequent discussions gave a



**Graham Busch**

very good overview of the tax benefits some countries offer. In light of the COVID-19 pandemic, members discussed the potential impact of the increased need for countries to generate taxes to finance the benefit programmes issued in the recent months. The TFG will also add the taxation of HNWIs as one of the core subjects that it will focus on in the future.

In the second part of the webinar, a discussion panel was formed discussing the post-COVID-19 tax environment. Members from the UK, Germany, Australia, and Italy discussed a variety of topics. One



**Dr Benjamin  
Cortez**

key topic was the anticipated tax changes that may result once the “new normal” begins. It was a consistent understanding that a tax increase is to be expected. The focus of these increases may, however, focus on high-income individuals and corporations. The issue of a wealth tax was also discussed. In addition, the impact of the pandemic on transfer pricing was analysed. The panel discussion was lively and filled with many great insights.

The overall success of the first webinar was thanks to the great attendance and the effort by members presenting on HNWI and participating in the panel discussion, as well as the engagement by all participating in the webinar.

With the ongoing pandemic preventing us from gathering in person, the TFG will be holding a second webinar on 12 November 2020. The agenda is currently being drafted and will include various current topics that XLNC members deal with on an ongoing basis. We will cover a varied field of interesting international tax topics on recent developments in cross-border taxation around the world. Many of these will contain “must-know” matters that could be of great value to you, your colleagues, and clients.

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We invite members to attend and to contribute to the upcoming webinar. We are looking forward to a successful second webinar.

Regardless of whether you will present or not, if you would like to **register for the meeting**, click on the button on the right:

In case of questions feel free to contact us. We look forward to seeing you next month.

## REGISTER NOW

Tax "Must-Know" Matters

Date: Thursday, 12 November 2020

Time: 09:00 am CET (Central European Time)

Duration: approximately one hour

Chairs: Graham Busch and Dr Benjamin Cortez

# Stephanie Liu Re-elected as a Board Director of AustCham Shanghai

XLNC member firm

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**Stephanie Liu**, Managing Partner of the Azure Group China, was re-elected as a Board Director of AustCham Shanghai – the largest Australian Chamber of Commerce in greater China.

This is Stephanie's second mandate with AustCham Shanghai. During her two-year tenure as a board member, she has worked hard to improve the internal management systems of the Chamber. Her advocacy for the usage of digital



**Stephanie Liu**

technologies enabled members to work efficiently when COVID-19 hit.

AustCham Shanghai represents hundreds of businesses and

## Follow us on social media!

Have you visited XLNC's social media sites? Go to LinkedIn, **Facebook**, **twitter** and **Instagram** and get connected – an easy way to share information and stay abreast of latest developments.



individuals in each sector from manufacturing, healthcare, education, financial services, and advocacy to business services. It acts as a bridge between Australian and Chinese organisations and has been successful in linking Australian organisations with Chinese counterparts and potential business partners, through membership services, events, and delegations.

Stephanie is also the Lead China Partner of Azure Group, a professional accounting and advisory firm that has offices in both Sydney and Shanghai. The Azure Group office in China specialises in providing sophisticated cross-border market entry support, accounting services, tax compliance and planning, HR solutions, and advisory services to international business

and high-net-worth individuals, not only from Australia but globally. As one of the founding members of XLNC and the only representative office of XLNC in mainland China, they have assisted many multinational corporations develop successful businesses in China.

# Bateman MacKay LLP Named “Best of the Best”

Bateman MacKay LLP and its Partners are proud to announce that the firm has been named to INSIDE Public Accounting’s 2020 Best of the Best in Canada. This distinction is earned by delivering top-notch client service, sought-after benefits, and professional development opportunities across the Firm. INSIDE Public Accounting (IPA) is a leader in practice management resources for the public accounting profession, including annual national practice management benchmarking reports, firm-wide culture assessments, and training. Their annual Survey and Analysis of Firms, which analysed

more than 540 firms across North America, was conducted in May with the Best of the Best results announced in August.

Firms are ranked on more than 50 metrics and 2020 Best of the Best firms produce superior financial results while planning for long-term, sustainable growth. Bateman MacKay LLP Managing Partner John Doma comments: “This recognition is significant because it is a result of a holistic analysis of our Firm and examines everything from how we treat our team members and how we work with our clients to what technology we use and our plans for the future.”

Michael Platt, principal of the Platt Group and publisher of the accounting trade publication, INSIDE Public Accounting adds: “Best of the Best firms represent the top performers of their peer group, which is an exceptional accomplishment in the competitive world of public accounting. They excel by leaning in to help clients, being proactive, and seeking solutions – not just selling services.”



**John Doma**

We accept this recognition with gratitude and humility as we continue to service all of our stakeholders to help them Grow, Preserve and Succeed.



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# New Partners Appointed at Gerald Edelman

A decade after Joanna Loizidou joined the business as a trainee, and three years after Sonal Shah joined the business to lead the International Tax Department, London-based accountants and business advisers, Gerald Edelman, proudly announce their achievements to Partnership.



**Sonal Shah**



**Joanna Loizidou**

Joanna Loizidou joined Gerald Edelman 11 years ago, straight out of university, as part of its graduate recruitment programme. Joanna leads Gerald Edelman's Business Services Department, where she manages a diverse portfolio of clients, from larger property companies to SMEs and owner managed businesses. Joanna supports her clients with all services, from compliance support to business strategy.

Commenting on her promotion, Joanna said:

"This is an extremely proud moment in my career. When I joined Gerald Edelman 11 years ago, I never imagined I would become a Partner. Yet, I have been supported and empowered to carve out my own career path.

I have seen the business evolve over the last ten years, not only in the services we deliver, which are now focused on strategic advice rather than compliance, but in the culture. The culture is so different today; we have a team focus and it is an exciting environment to work in.

I am delighted to join the Partnership and look forward to leading the business through the

next stage of its development."

Sonal Shah joined Gerald Edelman in 2017 to build and lead the International Tax Department, where she works with a mixed portfolio of corporate and private clients. Representing large multinationals, SMEs, and individuals moving to or from the UK, Sonal has extensive knowledge of UK and overseas tax markets, providing advice on international tax structuring, planning, strategy, and reporting, with a particular interest and expertise in property structuring.

Aside from offering practical solutions to complex tax issues, Sonal most enjoys investing in relationships, which she firmly believes is critical to successfully fulfilling the needs of her clients.

Commenting on her promotion, Sonal said:

"I am thrilled to be welcomed into the Partnership. The support and mentoring I have received in the three years of being at the firm has not only crystallised my passion for people, but it has offered me an empowering mix of freedom and opportunity to develop my career.

I am incredibly proud of what the International Tax Department has achieved in a short time, which is testament to an outstanding team. Nothing is achieved alone, and I am grateful to be amongst colleagues who support and inspire me to be the best version of myself.

Whilst I am amazed at our journey this far, I look forward to what lies ahead. Not only am I keen to strengthen my team further, I am committed to driving change and transformation in the business. This is a special time for Gerald Edelman and I'm genuinely

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excited to contribute to what will no doubt be a bright future.”

Richard Kleiner, Chief Executive Officer, commented:

“We are delighted and proud to welcome Joanna and Sonal into our Partnership. Not only their expertise but their leadership qualities make them an excellent

fit for the firm, and I know they are going to be integral to the future development of the business.

Their promotions are well-deserved and a testament to their hard work and dedication. I am looking forward to working alongside these exceptional professionals and wish them all the best for their futures at Gerald Edelman.”

Gerald Edelman is now a 17-partner firm and is in position 51 in Accountancy Age’s Top 100 accountants. The business is on its way to establishing itself as a mid-tier firm and has ambitious growth plans for the next three years. The new promotions demonstrate the firm’s commitment to its future growth strategy.

# Updates from XLNC Member Firm MAZ

■ **By Dr Mashal Al Zarooni**

## UAE

I did not want to miss the opportunity to keep you briefly informed on the latest happenings from our region and our company.

On 15 September, the United Arab Emirates (UAE) and Israel signed the “Abraham Accords”, to normalise relations between the two countries.

The Agreement was initially agreed on 13 August. Direct relations will allow new business possibilities. Flights can now go directly from the Hebrew country to the Emirates.

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The historic opening of ties between the two nations is promised to bring booming trade, tourism, and security ties, as per Israel's prime minister, Benjamin Netanyahu.

We at MAZ have taken the initiative by conducting a virtual meeting with our XLNC fellows from Shimony CPA in Israel in order to share some thoughts and ideas of how we can cooperate in the future.

## Dubai

We were selected to manage a chain of restaurants in Dubai. Since we have run the chain very successfully by maintaining the quality of service and improving

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**Dr Mashal Al Zarooni**

their daily operations for the past six months, our contract has been renewed for further six months.

## Abu Dhabi

We have recently relocated our offices within Abu Dhabi to a new location in Al Bateen Area, which is the commercial hub in Abu Dhabi. Due to the current situation, most of our staff are working remotely, which means meeting clients and team colleagues virtually. For our MAZ team, this works very well, and we believe virtual meetings, home office, digitisation, and new technologies in general, will play a significant part in our practice in the future as well.

## VAT

The government had postponed the VAT filing period for the first time for two months for the first quarter of 2020, which gave flexibility to the

economy to meet the deadlines with the current situation of COVID-19.

## Economy

The UAE economy in general, and the Dubai economy in particular, have been affected by the pandemic; however, Dubai quickly started to recover by opening the airports and welcoming visitors and residents. Emirates Airlines started to fly to Europe, Africa, and the Middle East, although it will take them until the end of 2021 to return back to their normal operations. The pharmaceutical, food and beverages industries, as well as online shopping, have been doing very well during the pandemic. They had invested in IT infrastructure to cope with the online demand and their sales have increased in the range of 20–50%.

## MAZ

We are a boutique XLNC member firm providing financial advisory, auditing, and tax consultancy. Just contact me, if you wish to receive further information on the above mentioned brief overview, or if I and my team can be of any further assistance.

# The Verdict Is In



**Gerard P. Fox**

### ■ By Gerard P. Fox

Top trial lawyer and founding firm partner, Gerard Fox, recently launched a new podcast, The Verdict Is In, a series of weekly episodes discussing what is driving innovation and excellence in the legal industry.

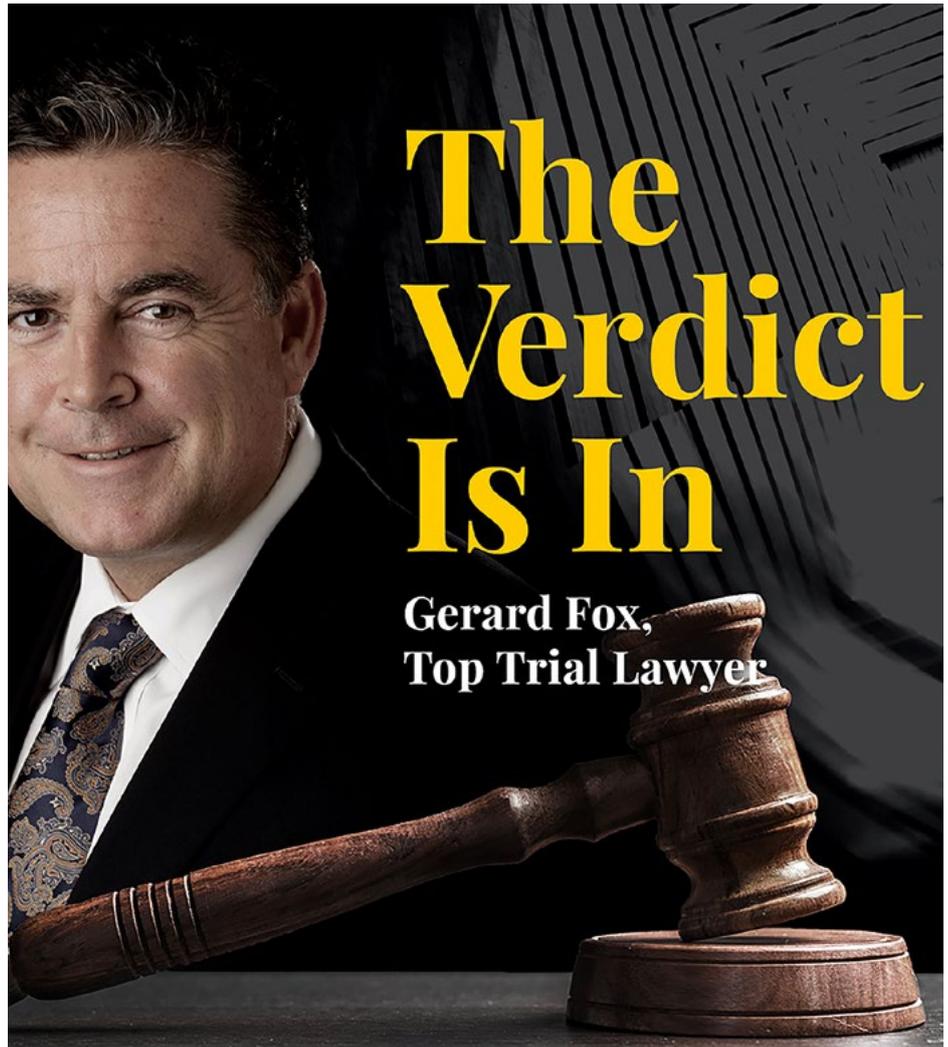
Mr Fox hosts the podcast, covering a range of legal topics and introducing listeners to prominent lawyers and industry experts, and insightful discussions about the tools, services, and practices they are implementing to promote excellence and client

satisfaction. The Verdict Is In aims to educate the public, as well as CEOs and General Counsel, on the process and considerations involved in identifying the most appropriate lawyer for the client's goals; specifically, one who will adhere to a budget and add value to the client's life or business.

Guests include lawyers in a variety of practice areas – intellectual property, music, corporate, divorce, trust and estates, tax, sports, labour, criminal defence, bankruptcy, and real estate – in addition to famous clients that Mr Fox's firm, Gerard Fox Law, P.C., has represented.

Since launching the podcast, 12 episodes have aired:

1. How to Enforce Your Music Copyrights, with Gerry Fox and Lauren Greene;
2. The Truth About the Law;
3. Family Law;
4. Intellectual Property Insurance: How to Purchase This Insurance and When;
5. So You Need to File for Bankruptcy;
6. The Poet Lawyer: Maja Lukic;
7. The Inside Look at Our Taylor Swift Lawsuit for Lyrics Infringement;
8. Do You Need a Top Criminal Lawyer?;
9. Do You Need an Aggressive Immigration Lawyer?;
10. Do You Need a Background or Records Search, Done Well, for Low Cost?;
11. How Should Your Company Prepare for a Government Investigation?; and



#### 12. What You Must Know About Arbitration.

The first episode, "How to Enforce Your Music Copyrights," provides a step-by-step discussion of how to register your copyrights and the steps in a copyright lawsuit that can be taken, cost effectively. Mr Fox interviews Lauren Greene, an established entertainment and intellectual property lawyer, who provides insight from her extensive experience in music copyright.

In episode 2, "The Truth About the Law," Mr Fox focuses on lawyer inefficiencies, and discusses how even General Counsel can and should demand more value from their lawyers at less cost.

In episode 3, "Family Law," Mr Fox interviews top family law attorney, Isaiah Vallejo-Juste, who explains the entire divorce process from start to finish, and, where children are involved, factors to consider to ensure smooth post-divorce adjustments within the family, both financially and emotionally.

Episode 4, "Intellectual Property Insurance: How to Purchase this Insurance and When", caters to large and small corporations obtaining intellectual property insurance. Mr Fox interviews Chuck Baxter, a registered patent attorney who underwrites applications for defensive and offensive insurance for patent, trademark, copyright, and other intellectual property matters. Fox and Baxter discuss the

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benefits of intellectual property insurance (namely, cost reduction from avoiding litigation of claims and the added protection of your company's intellectual assets), how to secure this type of insurance, and the right time to use it.

In episode 5, "So You Need to File for Bankruptcy," top bankruptcy lawyer Jeff Pomerantz of Pachulski, Stang Zeihl & Jones, discusses how to file bankruptcy and the various types of filings and proceedings.

Episode 6, "The Poet Lawyer: Maja Lukic" highlights the importance of lawyers balancing their mostly left-brain dominant practice of law with creative, right-brain endeavours like poetry. Ms Lukic shares what brought poetry writing into her life, her worldly upbringing, and how this softer, creative side offsets her fierce litigator persona in court. Ms Lukic seeks to use her passion for poetry and legal skills to reach her community of Brooklyn, New York.

In episode 7, "The Inside Look at Our Taylor Swift Lawsuit for Lyrics Infringement," songwriter Sean Hall shares his career path, the inspiration behind the lyrics at issue, and their subsequent licensed use by popular girl band 3LW. Top lawyers and T-Swift fans Marina Bogorad and Lauren Greene explain the legal basis for the case, why this lawsuit

in particular is important for all songwriters, and the need for a "tip of the cap" among artists when using other artists' original works.

In episode 8, "Do You Need a Top Criminal Lawyer?" criminal defense lawyer Seth Zuckerman provides an overview of the grand jury and indictment process and the role of jury instructions. Additionally, Mr Zuckerman explains the circumstances in which you should consider calling a criminal defense lawyer, regales us with tales of his cases, and gives liberty-defining advice.

In episode 9, "Do You Need an Aggressive Immigration Lawyer?" we are joined by Ral Obioha, one of the most decorated immigration lawyers in the country. Ral takes you through the immigration process, touching on some of the most important new rules that affect an immigration application, DREAMers, and a country open to those in need.

Listen up, consultants, accountants, CEOs, and lawyers. In episode 10, "Do You Need a Background or Records Search, Done Well, for Low Cost?" we are joined by Julie Dixon of the Fox Group, one of the world's premier records search and retrieval companies that specialises in background screening to mitigate clients' risk of financial loss.

The Fox Group designed a system that uses FBI-like techniques to uncover information that other companies cannot (and at a fraction of the cost), with formats ranging from simple public records research to regulatory agency verification, employment and education verification, and media. And when you use the Fox Group, you are supporting the economy of New Orleans.

In episode 11, "How Should Your Company Prepare for a Government

Investigation?" we are joined by attorney and regulatory compliance expert A.J. Bosco, who speaks to companies that are targeted by the US Government for regulatory compliance. Mr Bosco advises companies to implement a policy that prepares its employees for unexpected audits and examinations by the FBI, SEC, or other governmental agencies. Mr Bosco discusses what to say when under review and how to avoid improper disclosure of company information without an attorney present.

Episode 12, "What You Must Know About Arbitration," takes a deeper dive into arbitration – specifically, how to make an arbitration clause enforceable and fair under today's changing law, and various strategic points for those entering into, or drafting a contract containing an arbitration clause. Additionally, Mr Fox addresses several common misconceptions about arbitration.

Tune in next week to hear Allan Rooney discuss his international law practice and the differences in international legal systems. Whether you are an international client hiring US lawyers or a US company hiring foreign lawyers, Rooney will explain how to avoid unaffordable bills when dealing with litigation or transactions.

The Verdict Is In is available to download from the following streaming platforms: [🔗 Apple Podcasts](#), [🔗 Spotify](#), [🔗 Stitcher](#) and [🔗 Tune In](#). The podcast was also recently added to [🔗 C-Suite](#), a network of professional organisations whose members provide content tailored to the evolving needs of business executives with titles of vice president and above from companies with annual revenues of USD 5 million or greater.

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# XLNC Member Firm MFB Partners Awarded in the Field of Restructuring

On 05 June 2020, the awards ceremony of the well-established Le Fonti Awards® took place in the Le Fonti TV studios. From courtrooms to television studios, this evening was an homage to the leading legal profession of Italy.

Le Fonti TV is a streaming television based in Milan and specialised in financial, economic, and legal information. With more than 700 hours of live streaming per month and 24/7 programming, Le Fonti TV is today a reference in financial, economic, and legal information and boasts a loyal community of over one million viewers in over 125 countries. They conduct an annual survey of top Italian law firms, and independently identify top Italian law firms.

Le Fonti awarded top Italian Law Firms for the tenth consecutive year

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**MFB Partners receives its award**

in ten different categories. XLNC member firm MFB Partners has been awarded as Professional Studio of the Year in the field of Restructuring.

MFB Partners has been chosen and awarded among many participating top law firms by an independent jury composed of experts in academic, financial, business, and legal fields.

The motivation for the award was: "For the remarkable specialisation in the business crisis management sector with which for over 25 years the members have committed themselves to providing detailed legal advice and an innovative approach. In particular for having demonstrated professionalism, rigour and accuracy in all legal matters through high skills in restructuring field."

The news has been greeted with satisfaction by the partners. Partner Andrea Migliarini says:

"An unexpected award, whose motivation is particularly gratifying for us, as in addition to the search for most suitable technical solutions for the specific case, we always try to be sensitive also to the human aspects of business crisis and to the drama that the entrepreneur often experiences. Today, after the lockdown has worsened the situation of many companies, this has imposed further attention on our clients, also by frequently resorting to online counselling, with the goal of not make them miss our presence."

Partner Dr Barbara Fasoli Braccini said, upon receiving the award:

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“Since its foundation, MFB partners has experienced continuous growth and has become a more and more important player among Italy’s law firms. This award puts us in a

class with the very best law firms in the field of restructuring in Italy. It is a great tribute to all who work here and contribute every day. We will continue our efforts to

further strengthen our position and deliver excellent client services.”

You can view the Awards ceremony at [🔗 youtube](#).

# Michael Derin Successfully Navigated One of Their Clients to Become a Key Health-Tech Player

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A recent article written by CFO Australia magazine highlights the rapid response Michael Derin had as acting CFO for Clinic to Cloud (C2C) to help the business not only navigate what has been the world’s toughest period in business, but also thrive.



**Michael Derin**

projects to success. He works across Azure Group’s international, technology, corporate advisory, and CFO operations. His technical and commercial acumen, as well as his dynamic leadership style, has seen him influence positive outcomes through strategic decision making for his clients and his firm. Derin currently holds board positions with C2C and the not-for-profit Ocean Agency, along with being the director and secretary for several international subsidiaries in Australia.

Derin has been instrumental in working with C2C’s CEO to enable the business to pivot quickly and

implement its well-strategised business plan that has future proofed its market position and become a critically key important player in the healthcare industry, along with securing a funding raise by Morgan’s, [www.afr.com](http://www.afr.com).

Azure Group’s significant technical expertise and presence in both Australia and Asia allows them to add value to the growing demands of growth business, both on a domestic and international scale.



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Derin says that C2C is one of very few companies in Australia that is outperforming its own expectations and proving to be defensive during COVID-19.

Credentials:

CFO Australia Magazine

Author: George Hazim, Journalist

Link: [cfomagazine.com.au](http://cfomagazine.com.au)

Derin has over 25 years’ experience as a qualified chartered accountant and corporate advisor across Asia-Pacific, with a track record of leading multi-million-dollar

# Dealing with Uncertainty During the Coronavirus Pandemic: HS & Partners LLP's Approach

In March 2020, the world changed, and a global lockdown ensued. Many businesses were forced to shut down, employees were laid off, schools closed; the economy came to a near halt.

Thankfully, CPA firms were deemed to be "essential services" and we could keep the doors open and our staff employed. But we too had to pivot quickly in how we conducted our day-to-day operations and adapt to the changing needs of both our staff and our client base. For several years, we have been set up to work remotely, if need be, with cloud-based computing and secure home connectivity. To help keep our staff safe, we allowed everyone to work from home. We immediately notified our clients that



**Sonia Vaknin**

all meetings would be conducted through Zoom or conference calls. Our administrative staff rotated a daily schedule to ensure that someone was in the office to receive couriers and process files. Our team really appreciated the flexibility, and we did not skip a beat as business continued, albeit remotely. Given that it was also tax season, and "busy season" overall, the productivity of our staff working from home was excellent. Supervisors and their staff interfaced daily through screen-sharing platforms and were able to manage workflow and training remotely. Obviously, it was not an ideal situation, as we all see the value of in-person collaboration and interaction. In some cases, exclusively remote leadership and training of juniors suffered. But under the circumstances, our team exceeded expectations.

At HS & Partners LLP, we are known for providing clients with strategic, family-oriented advisory services,

from a business, legal, tax and financial perspective. In light of the magnitude of changes people and businesses were now facing, we quickly became the "COVID-measures expert", disseminating information as it became available and helping clients navigate complexities. We published numerous articles to our database of clients and contacts, providing ongoing and timely updates on all government measures and subsidies, as they were being released. For many clients, we became a daily resource for analysis and support.

Many of our clients reached out to us for help with re-financing, cash flow management, lease negotiations, and advice surrounding pivoting their business during these unprecedented times. Our Partners spent much of their time doing business consulting and providing sophisticated advisory services to clients who desperately needed our help and our expertise (and in many cases, just a show of support). Interestingly, many Canadian CPA firms were laying people off, reducing partner draws, and cutting back in various ways. To a large degree, such firms were mostly focused on compliance work rather than value-added advisory services. In contrast, we expanded

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our consulting platform to help clients navigate these challenging times. We also consider our staff to be an investment, not an expense, and thus we invested in keeping everyone on our team employed.

As restrictions began to lift in June, we started bringing our staff back to the office, rotating teams, and alternating days. We ensured there was no congestion in the office with

too many people overlapping, and appropriate physical distancing was attained between offices and cubicles. One of our clients is a major pharmaceutical supply company in Canada, and they were generous to send us several boxes of PPE to help keep our office sanitised and our staff safe.

Overall, this experience has helped make our team tighter and more

appreciative of the flexibility we were able to offer, and our ongoing client efforts further solidified our business relationships. The coming months will certainly be challenging as government subsidies begin to wind down and more businesses will feel the impact of trying to stay afloat. Our HS & Partners team will continue to be the strong voice of support and expertise during these extraordinary times.

# A View from the UK Legal Sector – September 2020

## ■ By Jeremy Lederman

As with other jurisdictions, COVID-19 has had considerable effects on the UK and its legal sector. After the initial lockdown and adapting to “the new normal”, or at least the normal for now, I thought it would be useful to share some views from the legal sector. This is based on our experiences and those of our clients and contacts, and feedback from other law firms and those who work with them.

A key point to make is that there is no one picture; different sectors have been affected in varying ways.

For many of our clients, it has been business as usual, or they are recovering: for example some developers, house builders, payment services providers, and those who deal with consumer goods. A smaller number of other city-centre retail and hospitality clients have been quieter or found it harder.

Some law firms have ceased business or are in trouble. Others, that are



**Jeremy Lederman**

well run and have clients that have felt less impact, have done far better than the negative scenarios predicted by finance directors in March. We are pleased to say that to date we have felt fortunate in that respect.

Some features of the UK are:

1. The first quarter of 2020 was one of great growth and activity for many businesses. This was due to pent up demand due to the uncertainty of Brexit, which suspended or slowed decision making up until the end of 2019. We and our clients were very busy indeed with transactions from the end of 2019. That also created a pipeline of work going forward.

2. In the UK, residential real estate, a key part of the UK economy, was stimulated by the above and also by a government-introduced holiday for stamp duty land tax paid on the acquisitions of property. The market is very active.

3. Like other jurisdictions as a result of COVID-19, the UK Government introduced steps to:

- Retain employees.
- Provide loans to business.
- Suspend legal action to put companies into insolvency.
- Suspend landlords taking possession of property for non-payment of rent.

At the time of writing, some of the above measures seem likely to come to an end in the coming weeks and, as regards stamp duty land tax, in March.

Some commentators say it is too early to predict the future.

In our view, the next six months is going to be a key time.

It has been interesting to see how institutions, people and the world have adapted to COVID-19. For example:

- Lawyers and clients have found ways to carry on business and execute documents, working around restrictions and formalities.
- The Courts work online, including full large trials. The Court expects parties and their lawyers to co-operate and provide trial bundles, as well as other documents, in a convenient, easy-to-use electronic format.
- In England, a law has been introduced to temporarily allow the execution of wills to be witnessed by Zoom or the equivalent.
- Mediation has continued online: successfully, in our experience.

From our point of view, although a couple of sectors have seen a drop in activity, most of the firm's work has been steady and some areas increased, particularly finance, litigation, and private client.

Some examples of the kind of work we have been doing this year are:

- The acquisition of a site in Hampshire with a development value of GBP 100 million with 300 residential units.
- The acquisition of a London development site for GBP 42 million.
- A refinancing of a portfolio of 40 properties.
- A number of financings for between GBP 20 and GBP 30 million each.
- Sale of an insurance brokerage for GBP 17 million.



- The sale of a number of hotels at various values.
- The sale of an iconic UK spring water producer following a videoconference bidding process.
- Fighting claims as regards IT projects for software suppliers and for customers.
- Successfully resisting attempts to place into insolvency a chain of 50 leisure outlets.
- Disputes over sale and purchase agreements of shares or assets of companies.
- Acting on behalf of or against companies controlled by insolvency officer holders and dealing with claims.
- Advice on the legal effects of COVID-19, such as frustration, force majeure clauses, non-performance, cancellation, and business interruption insurance.
- Advising on situations post Brexit: for example, data protection.
- Successfully urgently overturning local government and police decisions to prevent a site inspection for due diligence based on their misunderstanding of COVID-19 laws.
- Recovering portfolios of debts.
- Acting for the estate of an artist and setting up a trust to hold his works.
- Countering identity fraud arising from the death of a client and attempted sale of his property.
- Being appointed by the Court to act as independent administrator of estates of dead persons.

For most of our clients, it is business as usual, because of their position in the market, or because they take a long-term view. For example, our housebuilder clients buy land 10 years ahead. Whilst it is uncertain what will happen next, we remain positive going forward.

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# Doing Business in Indonesia

■ By **Irma Auda**

## Limited Liability of a Foreign Investment Company

Generally, Indonesian laws allow non-Indonesian entities/citizens to carry out business in Indonesia by direct investment into an

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establishment or by acquiring shares in an Indonesian legal entity called a limited liability company of Foreign Investment Company (PT PMA).

Foreign investors should first check the list of businesses called the investment negative list, to find out whether certain intended businesses are closed for investment, or open with certain restrictions; otherwise, all others are open for investment.

The amount of investment in a PT PMA is required at minimum of IDR 10 billion, with at least IDR 2.5 billion paid up capital.

There should be at least two founders/shareholders in a PT PMA.

## Representative Office

Instead of a PT PMA, foreign companies can have an operating representative



**Irma Auda**

office in the field of construction or oil and gas by setting up:

- a foreign construction representative office (BUJKA) where the offshore head office is a construction company; or
- an oil and gas representative office (KPPA MIGAS) where the offshore head office is an oil and gas company.

Non-operating offices can also be set up, which are:

- a foreign representative office (kantor perwakilan perusahaan)

asing/KPPA) which functions as an investment coordinator; or

- a foreign trade representative office/KP3A, which functions as a marketing office of the head office products.

## Business License

To start the business operation, the company should first be registered at the Coordinating Board of Capital Investment/BKPM through an Online Single Submission (OSS)

system to obtain a business identity number, and thereafter to obtain a business license related to the field of business in which it will engage.

## Foreign Employees

Foreign citizens can be appointed as director or commissioner of a PT PMA, or as head of a foreign representative office. PT PMA may also employ foreign citizens for certain permitted positions: usually those which need expertise. Indonesian employees should

be nominated as co-workers of such foreign employees, who should share and transfer their knowledge/expertise.

## Investment Facilities

Various incentives and facilities will be granted to PT PMAs which are eligible, including income tax reduction, exemption from import duty, exemption from or suspension of value added tax, acceleration of depreciation or amortisation, and reduction in Land and Building Tax.

# Foreign Companies in Argentina: Forms of Actions

## ■ By Dra María Laura Rozental

Our law firm has participated innumerable times in the registration of foreign companies so that they can act in Argentina and, for example, acquire shares.

The Argentinian principle of sovereignty justifies the control of the actions of foreign companies in our territory; the requirement of registration in the local commercial registers is an effective mechanism for such purposes.

## Registration

When a company founded abroad acts in Argentina with an active participation in the economic life of our country, it must be subject to Argentina laws, thus requiring reasons of public order linked to the exercise of state sovereignty. They are imposed by the control and publicity of the commercial activity



**Dra María Laura Rozental**

carried out in our territory, with a view to guaranteeing certainty and morality in commercial relations.

Investments in Argentina are usually channelled through corporate vehicles with limited liability or through trusts, the main characteristics of which are indicated below.

## Forms of Action

A foreign company is governed as to its existence and form by the law of the place of its constitution and can act in

Argentina in the following ways:

- Incorporate to a company in Argentina or acquire shares in a local company, for which you must register in the Public Registry of Commerce (RPC) under the terms of Article 123 of the General Society Law (LSC) and prove that it has been established under the laws of your respective country and register your statute and documentation relating to their representatives.
- Regularly carry out commercial acts in the country, establish a branch, seat, or any type of permanent representation, for which you must register under the terms of Article 118 of the LSC, and prove to the RPC the existence of the company in the place of Constitution; to establish a domicile in Argentina; and justify the decision of the company to create the representation

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in Argentina, naming the person in whose charge the representation will remain.

- Carry out isolated acts (that is, not habitual) or be part of trials, for which no requirement must be fulfilled or must not be registered in any registry.

It is necessary to emphasise that, in the case of foreign off-shore companies that are registered in the area of the Autonomous City of Buenos Aires, they must comply

with some additional requirements set by the RPC that is in charge, in said jurisdiction, of the General Inspection of Justice (IGJ).

The type of legal entity you choose to establish in Argentina will largely depend on the type of business you plan to run, and the internal structure of your business. Before starting a business in Argentina, we suggest talking to local experts who can advise you not only on the types of legal entities but also on a market entry strategy to ensure business success.

diligence on the target company in order to be able to identify its main contingencies and risks.

For our law firm, due diligence is an extensive process that covers many aspects of a business – from financial statements and accounting records, to key staff members and contracts. The aspects of a company covered by due diligence usually fall within five broad areas: finances, commercial performance, legal compliance, operations, and environmental impact. The aim of due diligence is to check the valuation of assets and liabilities, assess the risks within a business, and identify areas for further investigation. This process enables an investor or purchaser to make informed investment decisions. It will also be necessary to study whether by the corporate purpose, the company whose shares are intended to be acquired, is regulated by some control body. As we mentioned above, it is important to talk to local experts who can advise about legal issues and strategies to ensure business success.

## Acquisition of Shares and Due Diligence

In the event that a foreign company thinks about acquiring shares of a local company, it is important to consider different aspects for the correct implementation of the transaction. The first of these is the preparation and carrying out of an adequate due

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# Privacy Update

## Ground-Breaking Court of Appeal Judgment – Privacy Shield Invalid

### ■ By Lise van den Heuvel

The European Court of Appeal passed a ground-breaking judgment this summer on the exchange of personal data between the EU and the USA.

The General Data Protection Regulation (GDPR) provides that personal data may not simply be transferred to persons or organisations located outside the European Economic

Area (known as “third countries”). That is permitted only if those third countries offer the level of protection guaranteed under the GDPR. The GDPR provides that data may be transferred to third countries on the basis of:

- adequacy decisions;
- appropriate safeguards; and
- standard contracts.

The Safe Harbour Framework, which sets out agreements between the EU and the USA on the exchange of personal data, was addressed in one of our earlier newsletters. Organisations that joined that Framework were considered safe processors of European personal data. Austrian privacy activist Schrems successfully argued at the time that the USA did not offer an adequate level of protection that allows the transfer of personal



data from the EU to the USA. On 06 October 2015, the European Court of Justice consequently invalidated the Safe Harbour Framework under which personal data was exchanged between the EU and the USA at the time.

The Safe Harbour Framework was replaced by the EU-US Privacy Shield, which was intended to better protect the personal data of European citizens in the USA. The Privacy Shield would allow the US government to access only strictly necessary data. The European Court of Justice recently ruled in the Schrems II judgment that the



**Lise  
van den Heuvel**

Privacy Shield also insufficiently guaranteed the protection of personal data exchanged with the US, because the US government was able to access more data than agreed within Europe. US legislature allows intelligence and security services to use data of EU citizens, which goes beyond the agreement to access only “strictly necessary” data.

So what does this judgment mean? Now that the Privacy Shield has been invalidated, personal data of European citizens may no longer be exchanged with the USA under that framework. But the European Court of Justice does still allow the use of standard contracts. They may serve as a valid ground for the transfer of personal data of European citizens to third countries, including the USA. But, in that case,

an equivalent level of protection must also be guaranteed in practice. The European Data Protection Board (EDPB) is currently investigating the practical consequences of the judgment and the follow-up steps, if any, to be taken. The EDPB will most likely publish guidelines in the near future for additional measures that organisations may include in standard contracts.

## High Fines for Use of Fingerprints

The Dutch Data Protection Authority has imposed a fine of EUR 725,000 on a company that processed fingerprints of its employees. The fingerprints were used for time and attendance tracking. After investigating the case, the Data Protection Authority found that no exception applied on which the company could rely.

Like other biometric data, fingerprints are classified as “special personal data”. Such data may be used only if a statutory exception  
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applies. The possible exceptions referred to in the law for the use of personal data include express permission given by the data subjects and the need to use biometric data for authentication or security purposes. But the company in question could not rely on either of those exceptions.

The question of whether fingerprints may be used for access control, for instance, depends on the required level of security of the building/ room or the information systems.

Fingerprints may be used, for instance, to give access to nuclear power plants, but not, for instance, in the case of POS systems, because good alternatives are available.

Express consent could also not be relied on as a valid ground for an exception in the case in question, because it involved a dependent relationship between an employer and its employees, which means that those employees were not free to withhold their permission.

This fine demonstrates that the use of employees' fingerprints is unlikely to be allowed. Such use is permissible only if the security of very important buildings of computer systems so requires and no equivalent alternatives are available.

For further information or advice on this subject, please contact Lise van den Heuvel.

# Why Building Resilience is More Important than Ever

■ By Sonal Shah

I once read that we spend a significant portion of our time dwelling on mistakes, regrets and improvements, rather than deservedly relishing our successes. This certainly feels true from a career perspective. Whether it's a project, deal, or promotion, celebrations pass fast and it's usually only a matter of time before we pursue the next target.

In a world overshadowed by a global pandemic, we are again being asked to slow down what already feels like a snail's pace. As we approach the end of the year (still utterly unbelievable) it seems we have to accept a slower pace as our reality for the foreseeable future. Despite the shock, the lack of travel and everything associated with it – whether it's between countries or meeting rooms – has in many instances gifted us with more time and a rare opportunity to assess where we are and take stock of our accomplishments to date.



**Sonal Shah**

I would like to share my journey and my four top tips on harnessing resilience – a trait that has followed me through my journey and will be increasingly important as we navigate what feels like a constant state of uncertainty.

## Open Mind, Open Doors

Like many, I rather blindly chose my university degree. A sheltered upbringing in Kenya, and a society and culture with a narrow definition of success, meant that I followed the seemingly pre-set route of

studying accounting and finance. After graduating and starting work however, I quickly realised that numbers weren't for me. They say luck favours the prepared and, in hindsight, I'm grateful not only that I followed my heart, but also kept an open mind. In trying to quit, I was talked into something else – something within the industry, yet something which made me feel happy and confident. As with a telescope, a small movement can give us an entirely different view. But unless we keep our minds open, we cannot benefit from the myriad of opportunities which are often a lot closer than we think.

## Tap into Positivity

As I started my journey in International Tax, allowing me to travel extensively, my exposure to different people, places and cultures ignited passion. But it wasn't all rainbows and butterflies – I was often out of my comfort zone, in



rooms where I was the only female voice, feeling overwhelmed and at times under-qualified. Instead of backing down, however, I was bold, took risks, and persevered. What helped me was tapping into the positives of building relationships and developing a keen interest in my niche area. A genuine enjoyment blossomed in helping clients reach their goals and translating complex ideas in a light-hearted, personable manner. My clients loved seeing a personality and in turn, I loved putting them at ease and making a difference to their worlds. Friendship, confidence, and trust were built as a result – something my clients and I value more than anything.

## Keep Connected

Zooming forward a good few years, and having recently been made a Partner within GE, I am now leading the firm's international tax presence – a position I had never dreamt of. I can't help but wonder however how easy it would have been not to get here. There were many moments of anxiety, and I recall interactions where the easy option was to simply nod along and go unnoticed, but this

would not have got me anywhere. Not only did I speak up, but I listened well. Whilst it is true that anyone with partner-level aspirations must take charge of their career, this is not possible without help, conversation, and collaboration. We live in a world which is all about connection, but little of it is made of human connection based on experience and trust – in my view, this approach is vital in your toolkit for getting ahead.

## Respect Your Happiness

There is no job in the world which is worth losing what makes you happy. The list of what is precious to me starts with my family, husband, nieces, and friends. Compromising on any of these people for work would have created a sense of bitterness. Be real about what makes you happy and ensure the balance is there.

Reflecting on the past, almost inevitably I think of what could have been done better, but I now make a conscious effort to also acknowledge what has gone well and what helped along the way. I was open to

opportunities, harnessing resilience despite the odds being against me at times, and I am incredibly grateful for the support I received to develop my career. This simple exercise of positive reflection and gratitude inadvertently boosts confidence, recognises strengths, and helps us remain resilient in an unpredictable landscape. As my measure of success starts shifting to my team and their growth, I look forward to the journey ahead, continually striving to make an impact for our people, clients, and the firm.

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# Real Estate Investments in Spain

## ■ By James Berrio Hoyos

We are pleased to inform you about “**SOCIMI**”, a special tax regime specifically introduced by Spanish legislation in 2006 to promote investment in all kinds of real estate properties in Spain and abroad, including commercial premises, residential, and industrial properties.

The Spanish Law 11/2009 establishes a special regime for listed companies with a share capital of at least EUR 5 million, under which the **Corporate Income Tax** (hereinafter CIT) **rate is 0%**.

The SOCIMI regime is an optional regime that must be agreed by the General Shareholders Meeting and communicated to the Spanish Tax Office before the last three months prior to the conclusion of the relevant tax period.

**The requirements to apply for this special tax regime are the following:**

## 1. Corporate Purpose

The main corporate purpose for SOCIMI companies has to be the acquisition and development of urban real estate assets for lease, or the holding of shares in the share capital of other companies, resident or not in Spain, whose main corporate purpose is the acquisition of urban real estate assets for lease with the same benefits distribution policy as the SOCIMI, as we are going to explain. However, SOCIMIs might perform



**James Berrio Hoyos**

other accessory activities, provided that these activities represent less than 20% of the company's incomes in each tax period.

## 2. Investment

In general terms, SOCIMIs must invest at least 80% of their assets in leasable urban properties or land plots acquired for the development of leasable urban properties. The properties (or shares in other SOCIMIs) which integrate the assets must remain leased for at least three years, including any time when they may have been offered for lease, with a maximum of one year.

## 3. Trade Requirements to Be Accepted for SOCIMI

The shares in a SOCIMI company must be admitted to trading in a regulated market and the minimum share capital of a SOCIMI company has to be EUR 5 million.

Also, it is required that the company has only one class of shares and they must be nominative.

Regarding the name of the company, it must include “SOCIMI, S.A.” or “Sociedad Cotizada de Inversión en el Mercado Inmobiliario, Sociedad Anónima”.

## 4. Payment of Dividends

SOCIMIs are obliged to distribute as dividends to their shareholders the profit obtained in the fiscal year, as follows:

- 100% of profits from dividends or shares in profits distributed by companies which have the main corporate purpose for SOCIMIs.
- At least 50% of the profits deriving from the transfer of properties and shares, subject to the fulfilment of their main corporate purpose, once the maintenance periods mentioned above have elapsed. The rest of these profits must be reinvested in other properties or shares, subject to the fulfilment of their main corporate purpose, within three years following their transfer. Failing that, such profits must be fully distributed together with the profits, if any, that come from the year in which the reinvestment term finishes. If the elements subject to reinvestment are transferred prior to the end of the maintenance period, those profits must be fully distributed together with the profits, if any, that come from the year in which they were transferred.
- At least 80% of the rest of the profits obtained by the SOCIMI.

## Taxation of SOCIMI

The CIT rate applicable for SOCIMIs is generally 0% and the SOCIMIs are not allowed to compensate their negative taxable bases.

On the other hand, the SOCIMI is subject to a special levy of 19% on dividends distributed to "Qualified Shareholders".

The Qualified Shareholders are those whose interest in the entity's share capital is equal to, or greater than, 5%. Such dividends distributed to them are exempted or are taxed at a lower tax rate than 10%, provided that the shareholder who collects the dividend is not an entity to which the SOCIMI Law applies, with certain exceptions.

## Taxation of Shareholders

The dividends distributed—charged to profits or reserves—are treated as follows:

- The deduction for avoiding double taxation (Article 21 of the CIT Law) does not apply when the recipient of the dividends is a payer of the CIT or Non-Resident Income Tax (hereinafter, NRIT) with Permanent Establishment in Spain.
- The dividends received are taxed when the recipient of the dividends is a payer of the NRIT without Permanent Establishment in Spain, with some exceptions.

The capital gains obtained in selling of the shares in companies which have opted for this regime are treated as follows:

- The deduction for avoiding double taxation does not apply in most cases when the recipient is a payer of CIT or NRIT with



Permanent Establishment in Spain.

- The capital gain or loss will be determined in accordance with the Personal Income Tax Law when the recipient is a payer of this tax.
- The exemption provided in Article 14 of the NRIT Law does not apply when the shareholder holds at least 5% of the share capital.

Finally, any shareholder whose holding in the company's equity is equal to or greater than 5% and who receives dividends or shares in profits for which it pays tax at a tax rate of at least 10%, will be obliged to notify this circumstance to the company within ten days of the day following the day when they are paid. In case this notice

is not made, it would be understood that the above-mentioned requirement (10% taxation) is not met.

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# Expanding Globally During COVID-19: Risky Business or Perfect Timing?

■ **By Natalie Jones**

The Coronavirus (COVID-19) is unsettling supply chains, sapping sales of products, shaking global stock markets, throwing travel into chaos, sinking businesses worldwide, and intensifying fears of a global recession. With so much uncertainty surrounding the global marketplace, business leaders who had expansion plans are asking themselves: **Is now the right time to go global or is it too risky?**

Going global could act as an excellent hedge against domestic, or even regional, economic, and political conditions. In these circumstances, the question is not when to expand, but how to expand successfully.

**If your plans are to expand to Australasia, we provide our Top 9 “thoughts” on the Australian market and how to enter successfully.**

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## 1. Why the Australian market?

Australia is an attractive market to set up a business. Multinational companies view Australia as presenting the best case for regional headquarters to target the dynamic Asia Pacific region. Key business centres include Sydney (NSW), Melbourne (VIC), Brisbane (QLD), and Perth (WA). Australia is a leading financial centre in the Asia Pacific region. There is a strong and enduring tradition of democracy in Australia where rule of law and frameworks prevail. Australia has one of the strongest, most competitive, open, and flexible economies in the world.

🔗 **Download our Guide to Setting up in Australia.**

## 2. Due to COVID-19, is now the right time to expand to Australia?

During these uncertain times, we have seen a steady stream of international clients expanding into Australia. Azure Group have experienced an increase in the numbers of enquiries coming from abroad. Those businesses that have a unique proposition, or that are



**Natalie Jones**

not impacted directly by COVID-19, are still setting up locally to take advantage of the market when others may be cautious to enter.

Industries showing the greatest interest in Australia include the utilities, manufacturing, and wholesale sectors, as well as software development, e-commerce and education sectors, as more people work remotely and are utilising technology to operate both their personal and professional lives daily.

## 3. Do you have the right product/service to offer to the Australian market?

One of the biggest considerations must be whether your business can build a strong customer base in Australia. A product or service that sells well in your home



country may not have the same appeal in an international target market. **Is there a need for your offering? Don't think that there might be – know that there is.** You also must understand the direction your new city is going in and leverage that momentum to support your expansion.

## 4. Subsidiary or Branch? Choose the right business structure when starting a business in Australia!

In establishing operations in Australia, an overseas company may choose between two options:

### a) Company (“subsidiary”)

A subsidiary is a company that is owned and controlled by another company. A “company”

is a separate legal entity and lets you conduct business throughout Australia. Most subsidiaries are set up as proprietary companies that are limited by shares.

### b) Branch (“registered foreign company”)

A foreign company (“branch”) is one that is incorporated outside Australia. A foreign company can register with the Australian Securities and Investments Commission (ASIC), allowing it to carry on business in Australia. Upon registration, the company is issued with an ARBN (Australian Registered Body Number) and is required to provide annual reporting directly to ASIC.

## 5. Opening a local office

As part of your local operations you will need to have an Australian office. You can do this by either leasing an office or purchasing Australian real estate. You need to consider legislation around the acquisition

of real estate by foreign companies. Generally, if the property value is less than AUD 50 million it does not need the approval of the Foreign Investments Review Board (FIRB).

## 6. Tax matters

In Australia, tax is governed by the Australia Taxation Office (ATO). Generally, if you are earning money in Australia, regardless of your structure, you will be required to pay tax. You must comply with a range of obligations including corporate tax, capital gains tax (CGT), duties and excise, and GST. If you have employees you will also need to manage employment tax withholding, fringe benefits tax, and superannuation.

Every company must have a Tax File Number (TFN) and an ABN (Australian Business Number). It is imperative that you understand Australian tax law and what your obligations are regarding tax. Failure to comply with the Australian governing bodies can result in heavy fines or

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even a criminal conviction. This is a specialised area and it is essential that you [get](#) the support and advice of a registered tax accountant.

## 7. Accounting matters

Setting up the appropriate systems for GST and PAYG is crucial for your local operations. Choosing the right software keeps you abreast of all legislative changes, ensuring data and systems comply.

It can be difficult to set up your own system without an accounting background. Our team of fully

qualified accounting professionals use best-practice accounting standards to integrate every aspect of the system with our local legislation, ensuring compliance with regulatory bodies.

## 8. Final decision – document your processes for next time

Even if you don't decide to expand now, prepare a well-documented plan that can be utilised for when you are ready to launch.

It is likely that once you have entered one country, you are probably considering your next move. Whilst rolling out your first global office, prepare a well-documented plan that can be utilised for your next launch. This will not only save you an enormous amount of time but will help in streamlining the steps needed for a successful new venture.

## 9. Finding the right support is critical for global success

We are happy to support you in doing business in Australia. Just get in contact to discuss possibilities.

# Canada Emergency Wage Subsidy: Substantial Enhancements, Changes... and Complexity!

### ■ By Vinay Khosla

Following the announcement of the [Canada Emergency Wage Subsidy \(CEWS\)](#) extension to December 2020, the Federal Government has released detailed CEWS amendments impacting the programme for the remainder of the year.

Many businesses that were not previously eligible to receive the CEWS may now receive a portion of CEWS.

In addition, businesses with severely impacted revenues may receive an additional Top-Up Subsidy.

## Summary of Key Changes

- Subsidy extension to 19 December 2020, with these changes applying from 05 July to the period ending 21 November.

- Eligible employers that have experienced revenue declines of less than 30% may now qualify for CEWS, retroactive to 05 July.

- Financial support provided by CEWS applies on a sliding scale dependent on the extent of revenue decline.

- A Top-Up Subsidy has been introduced to potentially provide for the highest possible subsidy



amount per employee of CAD 960 per week (calculated on a maximum remuneration per employee of CAD 1,129 per week).

- Companies now have the option to use the previous month's revenue as a reference for revenue decline.
- Allowing the subsidy for employees that are without remuneration for 14 or more consecutive days in an eligibility period.
- A "Safe Harbour" provision that enables employers to receive the same subsidy amount for



**Vinay Khosla**

July and August (Periods 5 and 6) as they would have under the previous rules if the new rules result in a lower subsidy.

## Sliding Scale Subsidy

CEWS will now apply on a sliding scale, dependent on the extent of the employer's revenue decline. The amount of the subsidy will be reduced gradually throughout the remaining periods.

If an employer's revenue decline is up to 49%, the employer will multiply the revenue decline with the appropriate factor to determine the percentage of its employees' salaries which may be claimed under CEWS. Companies experiencing a revenue decline

of 50% or greater will receive 60% of their employees' salaries and may also be eligible for the Top-Up Subsidy. The same maximum subsidy amounts apply to this "base" subsidy on a per-employee basis, with this maximum subsidy amount being reduced gradually throughout the remaining periods.

The reference periods for the subsidy have also been broadened so that an employer may select the current or previous month as a revenue comparison to the same month in 2019 or the average of January and February in 2020. Employers may select either method for Period 5 regardless of which CEWS eligibility method they used in the first four CEWS periods. Whichever CEWS eligibility method is used for Period 5 must be used for the following periods as well.

## Top-Up Subsidy

In addition to the standard wage subsidy, a Top-Up Subsidy will be available to employers who have experienced a three-month average revenue decline of more than 50%. The Top-Up Subsidy rate

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is equal to 1.25 times the average revenue decline in excess of 50%, to a maximum top-up rate of 25%.

As the Top-Up Subsidy uses a three-month average to determine an employer's revenue decline, it has distinct reference periods. It also has two comparison methods available, similar to the Sliding Scale Subsidy. The previous three months before the claim period can be compared to the same three months in the previous year or to January and February of 2020. The same comparison method utilised for Top-Up Subsidy purposes must be used for Periods 5 through 8.

## Employee Eligibility Changes

- Employees who are without remuneration for 14 or more consecutive days in an eligibility period are eligible for CEWS effective 05 July 2020.
- The changes to the subsidy do not apply to furloughed employees for July and August but the subsidy will be adjusted for furloughed employees in September.

- For active arm's length employees, the amount of remuneration is based solely on remuneration paid for the eligibility period and reference to the "pre-crisis" remuneration has been removed.
- For non-arm's length employees, the calculation for "pre-crisis" remuneration has been expanded to include 01 March 2019 to 31 May 2019, or 01 March 2019 to 30 June 2019, when calculating average weekly remuneration for Period 4. For subsequent periods, average weekly remuneration from 01 January 2020 to 15 March 2020, or from 01 July 2019 to 31 December 2019, can be used as "pre-crisis" remuneration.
- The subsidy is only available for non-arm's length employees that were employed before 16 March 2020.

## Additional Changes

- There is an appeal process for the subsidy amount to the Tax Court of Canada.
- Eligible public institutions that are a registered charity or a non-

profit organisation can choose to exclude government-source revenue or not in revenue-reduction calculations.

- Employers that use the cash method of accounting can use accrual-based accounting to compute their revenues.
- Corporations formed on an amalgamation can calculate their benchmark revenue using combined revenues, except where it is reasonable to consider that a main purpose for the amalgamation was to qualify for the subsidy or increase the amount of the subsidy.
- Certain tax-exempt trusts qualify for the subsidy.

While these legislative changes have made the CEWS accessible to a wider range of businesses, the CEWS programme has become considerably more complex. If you have any questions about how the new Wage Subsidy or Top-Up Subsidy may impact you or your business, please contact Bateman MacKay LLP.

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# New XLNC Member Firms

We present the new member firms that have joined our alliance since the previous issue of this Magazine. We warmly welcome all of you!

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**Upcoming XLNC Events**

- **29 October 2020:** XLNC Autumn Conference Online | 16:00 pm CET
- **12 November 2020:** XLNC Tax Focus Group Webinar | 09:00 am CET
- **10 December 2020:** XLNC Legal Focus Group Meeting Online | 15:00 pm CET
- **27 January 2021:** XLNC NA Regional Call 13:00 pm EST | 10:00 am PDT
- **24 February 2021:** XLNC NA Regional Call 13:00 pm EST | 10:00 am PDT
- **24 March 2021:** XLNC NA Regional Call 13:00 pm EST | 10:00 am PDT
- **28 April 2021:** XLNC NA Regional Call 13:00 pm EST | 10:00 am PDT



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