

# FOCUS

## Quarterly Newsletter Volume 101 Autumn 2021

### Top five challenges faced by businesses post-covid

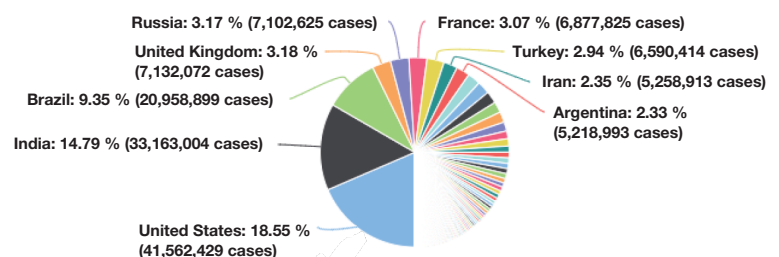
Several innovations in history were born out of crisis. Covid-19 has changed the world and while this pandemic might end soon, its impact will be felt for several decades. I have seen several businesses closing and thousands of employees put on furloughs during last 2 years. On the second hand, the digital adoption truly accelerated across all corners of the world while the world witnessed the value of internet. Business owners must look at the top challenges the world is facing to be prepared for the post-covid era.

*"Climate risk is a systemic risk and can only be addressed globally. We still have an opportunity to correct course now and construct a world that will be greener, more sustainable, and more resilient"*

**Jérôme Haegeli, Swiss Re's Group Chief Economist**

- 1. Uncertainty about the crisis:** As of 9<sup>th</sup> September 2021, globally, more than 222 million people have suffered from COVID-19 while 4.6 million people lost their lives. The vaccination rate, which stands at 5.4 billion, is highly skewed towards developed countries. In several parts of the world, covid cases are re-emerging which provides uncertainty about the future.
- 2. Cybersecurity situation is worsening:** The total damage done by cybersecurity amounted to \$6 trillion in 2021. If this is measured as a country, cybercrime would be world's third largest economy after the US and China. This damage will accelerate to \$10.5 trillion by 2025. Small businesses, usually do not spend enough on this front, must make this a priority now.
- 3. Supply chain rebalancing:** Covid exposed the vulnerabilities in the global long and complicated supply chain dependencies. This could result in a major shift, as much as one-quarter of global exports, valued at \$4.5 trillion by 2025.
- 4. Diversity and Inclusion:** Diversity and inclusion are two most important pillars that drives innovation and creativity at work. Companies around the world are going beyond a tick in the box approach. With more companies accepting remote work, diversity and inclusion are more accessible to businesses.
- 5. Climate Change:** Often considered cliched by business leaders, an alarming statistic about climate change is that if nothing is done, world economy will lose up to 18% of its GDP by 2050. Emerging economies are the worst positioned to be affected by this. This, however, bring new opportunities for businesses as the world adopts the green economy.

#### Distribution of cases



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## How does it feel to be a Chief Audit Executive (CAE)?

We all know that Internal Auditors are perceived in so many cases as policemen. This misconception of Internal Auditors' nature of work is, mainly, due to the auditors themselves.

Now here is the why; as internal auditors, we present ourselves, to take the extremely serious attitude, and this is a step one for other employees to perceive us negatively. Number two is how do we execute our work and interact with our auditees.

If a real positive perception is to be obtained, then we need to really think of change in approach; benefits beyond getting audited need to be communicated in a clear and easy to understand manner, not only to the key auditees but to all the personnel involved. In addition follow up of

recommendations until completion and explaining to auditees the generated benefits post implementation is key to positively enhancing the image of internal audit.

Now, based on all the above, how does a CAE really feel? In most cases, he feels (different) compared to other chief executives, but why? Well, it is simple, they are non-executive, and because they don't perform a routine daily job with a tangible and direct impact on main operations. Let us admit, we are still traditional in our thinking even though we are in the 21<sup>st</sup> century.

CAEs need to give the real value and importance to their role. They will need to convince, that without Internal Audit, business is really at a high risk. An

all-inclusive change in perception and approach of dealing with auditees will change, so basically it is us, CAEs, that must work towards a change in perception.



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## Intellectual Property - Impact of Transfer Pricing & Economic Substance

### • What is comparability/ benchmarking search analysis ?

Comparability/benchmarking search analysis is an important aspect of Transfer Pricing documentation to determine arm's length price of controlled transactions. The objective of analysis is to evaluate that whether pricing of intra-group transactions are in line with market standards (independent third party transactions) or not to ensure no tax evasion.

### • How to undertake comparability/benchmarking search analysis?

Comparability analysis can be undertaken to find either (1) internal comparable; or (2) external comparable, which are broadly similar to controlled transactions.

Under an internal comparability analysis, one needs to compare the transaction of taxpayer with related parties vis-à-vis unrelated parties. Generally, in the absence of internal comparability, one needs to adopt external comparability to find broadly similar external potential comparable (on licensed database) having regard to the nature of business/transactions of the controlled transactions. A benchmarking search can be performed on licensed database by applying relevant criteria such as financial, jurisdiction, industry / business, turnover criteria, related party threshold, etc. Subsequently, after screening of these filters, potential comparable companies can be identified. These globally recognised licensed databases have industry / business data of companies (listed as well as unlisted) of various jurisdictions.

### • Which inter-company transactions can be benchmarked on licensed database?

Generally, benchmarking search on licensed database can be performed for most of the inter-company transactions entered amongst multinational group such as:

- **Traditional transactions** Purchase/sale of raw materials or finished goods.  
provision/availing of services, management/technical fees, etc.
- **Financial service transactions** Intra-group loans/guarantees ( including determination of credit rating of borrower ), etc.
- **Intangible property transactions** Royalty, franchisee, technical know-how, brand/trademark fees, etc.

### • Way forward:

Transfer Pricing topic has gained significant focus globally (including Middle East and Africa) in last decade wherein many countries have introduced Regulation. Moreover, tax authorities are aggressively undertaking Transfer Pricing audit / scrutiny with the aim of verifying tax evasion or increase in tax revenue of country. It is recommended to undertake fresh benchmarking search analysis to evaluate if pricing of intra-group transactions are aligned with market conditions. This would help them to justify intra-group transactions and mitigate potential risk of tax in future.



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## What Will Business Travel Look Like in The New Normal ?

Purists claim face to face meetings are still the only way to build and strengthen, trust and confidence. Aficionados of digital change want more meetings online. They are freeing people of jet-lag, long-winded meetings, hours of sitting in a darkened room or nibbling on stale buffets. The resulting downtime for work means uptime for leisure.

Even before the pandemic, organisations were questioning meetings. Not just because they could have been an email. Limited meeting room spaces were quickly chased by budget cuts on travel and entertainment from previous recessions, when organisations were faced to cut costs and pave the way for efficiency.

This time however, its not just the accountants and budgeting driving change. It's the health situation. 20-odd months into the pandemic and several variants later, well-being is of great concern as civic duty reminds us to support the already burdened Health Services by doing our part and staying safe.

Just as recoveries increase and new cases are falling, we are reminded about our carbon footprint. Like Crowe UAE, most global organisations have made significant savings in carbon emissions. At Crowe Global, member firms are working hard to do our bit for leaving behind a cleaner and greener environment, for generations to come.

Does that mean, #businesstravel is a thing of a past? I do not believe so. There will always be a market for business travel. Going forward, I may not very often wave the kids off to school and jump into an #emiratesairline chauffeur drive. Like everything in the pandemic, business travel will evolve. Attendees and speakers will demand a significant leisure element.

Instead of flying for back-to-back meetings and presentations, an element of #leisuretime will be demanded. We no longer want to stare at presentation screens. That can be done online. Taking a walk around the city, exploring the countryside or playing a round of golf, will make the "investment" in business travel worth it. The greater social interaction will strengthen relationships.

Airlines too, will need to follow the stellar example of Emirates. Their Business Class is not aimed just at the business traveller. Specialist catering for young children, frothy milkshakes, ultra-wide entertainment screens with privacy dividers and an army of attentive hostesses, cater to luxury family holidays. Imagine being on a trans-Atlantic flight where your child is taken care of so well, you can take a nap, enjoy fine-dining or just catch up on your favourite box sets. Now that makes Business sense.



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## Banking on Board Excellence

"Excellence is not a skill. It is an attitude"  
**Ralph Marston**

This is so true in the context of Boards of Banks and Financial Institutions. the torch bearers of corporate governance. Boards need to rise to occasion in managing the challenges posed by the COVID-19 crisis, which continues to impact the economies worldwide. Board teams and individual directors are expected to excel in effectiveness, performance and corporate governance as evident in their actions surrounding prudent response, guiding the organisation's recovery and subsequently organisation's sustainability in the new normal.

As the current pandemic tapers down globally, with the governments around the world working to determine the best strategies to reach what could loosely be called a new normal, the boards will need to lead their companies through multiple challenges. Going forward, the Boards shall be focusing on the purpose, in being effective, making the most of digital and emerging technologies, being open to collaboration, being inclusive, having the right mix of members-that will go together to help them navigate today's turbulent times thereby providing them competitive advantage and position them for a better future.

Strategy Development requires that organizations should not only be effective but there should also be Board Excellence in both letter and spirit. Board Engagement shall build the capacity of the Board Members to focus on wide ranging points collectively. Key areas to improve Board Engagement can include: Engagement between Board Meetings, Engagement for Strategy Formulation, Engagement for Talent Development, Engagement in the Field, Engagement on Tough Decisions.

### Independent Governance Reviews

It is a good practice for the Boards to get an independent governance review done ideally on an annual basis, as a good step towards Board excellence. A governance review can be wide ranging, focus on effectiveness of the Board's processes and its work viz. strategy, reviews, financial reporting and risk areas, meetings, documentation, director's training, skill gaps, diversity, Board committees and their effectiveness. These reviews are normally formal and undertaken by a relevant professional or a professional firm. The board shall need to decide.

A review shall bring to the fore a few key queries in the given context of governance arrangements for example, have they kept

pace with the versatility and rapid change within the organisation? Are the current structures still fit for purpose? Do they allow appropriate decision making that the dynamic environment requires?

An independent governance review should assist the organisation in providing the confidence both internally and externally that governance arrangements are 'fit for purpose' and help deliver the organisation's intended objectives. It shall also be useful to identify the gaps and develop action plans and timelines to implement agreed plan of action towards tangible improvement.

Towards the end this brief, leaves me with a few queries i.e. When was your last review? Is your governance fit for purpose?



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# Ultimate Beneficial Owner – Is the one-time compliance enough?

Identifying and declaring the Beneficial Owner (“BO”) was one of the hot topics of 2021, specially with a one-time compliance statutory deadline towards end of June 2021. However, the important question is whether a one-time compliance is enough or should one be aware of other compliances surrounding declaration of BO and its regulations?

## Brief Background:

The BO Regulations<sup>1</sup> introduced a new framework and requirements for entities to disclose its BO. The main purpose was enhancing transparency in ownership of entities registered in the UAE, developing effective regulatory mechanisms and procedures in respect of BO data, and to curb practices such as financial fraud, money laundering, financing terrorism and evading of taxes.

## Applicability:

BO Regulations applies to all entities licensed in the UAE except entities in financial free zones (ADGM & DIFC) and the entities which are directly or indirectly wholly owned by Federal or Emirate government.

## Identification of BO:

The natural person who ultimately owns or controls the Legal Person, whether directly or through a chain of ownership or any-other indirect means. And the natural

person on whose behalf the transactions are being conducted or who exercises ultimate control over a legal person is a BO.

## Key compliances in brief under BO Regulations:

Inevitably, apart from the one-time compliance, there are other on-going compliances connected with declaration of BO that are required to be taken into consideration. Every Legal Person is responsible to comply with the following requirements:

- o To keep, maintain and update Register of BO.
- o To keep, maintain and update Register of Partners or Shareholders (including data of Partner or Shareholder acting as Trustor or Nominee Board Member and person represented by any Trustee or Nominee Board Member).
- o To furnish to the Registrar.
- o Information / details / data contained in the Register of BO and Register of Partners or Shareholders.
- o Data regarding shares and identity of any person or board member to whom shares are issued.
- o To inform Registrar upon any change in data/information required to be kept under BO Regulations.

## Penalties:

Upon any non-compliance or violations, there are penal consequences ranging from a written warning to hefty monetary penalties to restriction on the powers of the board to suspension of trade license.

Considering the strict enforcement of the BO Regulations and the connected penalty implications on non-compliance or violations, it is crucial that entities exercise due care and diligence in meeting the requirements of the BO regulations.



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<sup>1</sup>Cabinet Resolution No. (58) of 2020 regulating Beneficial Owner Procedures

For more information  
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While placing great emphasis on establishing professional relations with each of our clients. This enables to work in an atmosphere of openness and trust. Our broad technical expertise and deep market knowledge means we are well placed to offer insight and pragmatic advice to all the organisations and individuals with whom we work. Close working relationships are at the heart of our effective service delivery.



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