FOCUS

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Growth in Uncertainties

Uncertainty refers to epidemic situation where in modern life with easy access to technologies and tools, enterprise are unable to predict the trends, volumes of business or behavior pattern. Outcome is so uncertain that may result in wrong decisions affecting financial resources. In such situation experts avoid medium and long-term planning or budgeting.

As such budgeting makes the expert faces strong justification for each and every component used in the budget. 2020 was perhaps the most difficult year for almost all sectors with few upward results whereas most downward trends. Downturn achievement made enterprise face very difficult situations and requiring more funds to finance loss, mounting stock, slow realization of market debts, some non-performing assets and so on.

Uncertainty is worse than a presence of a known risk as the outcome with risk when addressed property can be predicted whereas during uncertainty comes with unknown probabilities and no one can exactly foretell future events.

Despite all these, forecasting is essential, plans need to be updated appropriate intervals and needs updations as the time crystalize the business performance.

Let us look the ways of achieving success with growth in such uncertainties;

To be successful and increase market share during non-growth oriented market, entrepreneurs need to recognize some important aspects of business strategies:

- Requirements to fundamentally overhauling of business models and comes out of mindset of pass success of their business model.
- Current format of the end product/services they have been offering needs re assessment.
- Re looking at the technology they are using and the human skills available to make best use of revised technological composition.
- Re appraisal of current end users of corporate capital (both own and borrowed) to gauge the need of any consolidation or assessment of available alternatives/additions to comprehend captive customer base currently entity is enjoying.
- Finally, entrepreneurs need resources both human and otherwise to successfully drive the incremental changes the team agreed to implement.

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Increased focus of Transfer Pricing in GCC Region

Introduction:

International tax dynamics have changed substantially over the years as a result of economic challenges and financial crisis. Topic of Transfer Pricing (TP) has obtained a significant momentum over past few years especially after introduction of Base Erosion and Profit Shifting (BEPS) framework by Organisation of Co-Operation and Development (OECD).

Gulf Cooperation Council (GCC) countries have also not been immune to global TP developments. All GCC countries (except Kuwait) has signed BEPS Framework and thereby, committed to implement minimum standards for tax transparency.

Way forward:

Exchange of CbC Report information amongst countries have already started and it will be interesting to witness as to how the tax authorities in GCC countries uses these information to make transfer pricing risk assessments of multinational group. Therefore, multinationals are advised to relook their existing Transfer Pricing policy and make corrective actions (if required) to mitigate the risk.

Brief update on TP in GCC countries:

Being a G20 member, Kingdom of Saudi Arabia was the first GCC country to formally introduce full-fledged TP Regulation in 2018 and taxpayers are in a process to undertake their 3rd TP compliance in April 2021.

Similarly, Qatar too introduced complete TP legislations recently and awaiting first compliance from its taxpayers in April 2021 (extended upto 30th June 2021).

At present, United Arab Emirates, Oman and Bahrain have introduced only Country-by Country (CbC) Reporting in their country at present. While we are expecting that Oman may soon introduce detailed TP Regulation soon, UAE and Bahrain may need to introduce TP Regulation only on commencing corporate tax regime in a country. Meantime, taxpayers are recommended to prepare TP documentation to substantiate their intra-group transactions at arm's length.

Lastly, Kuwait is not yet a signatory to BEPS Framework, however, it has already signed multilateral convention to implement tax treaty related measures to prevent BEPS. Therefore, we expect Kuwait to soon initiate implementing TP legislation in a country.

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Trademarks – Stay Alert

The value of having a trademark has been widely recognized. The word 'trademark' refers to both product and services marks which are used to assist customers in distinguishing your business from others. This encapsulates anything ranging from words, phrases, symbols, designs or a combination of them. The trademark itself can yield value for businesses owners if they decide to keep the legal rights or transfer them.

Why register your trademark?

It is imperative that any trademark used by a business is registered. The protection of a trademark is directly tied to the place it is registered. This means to enhance protection of a trademark and possibly have a course of action against a wider range of infringers, it is best practice to register your trademark across multiple jurisdictions. There is real commercial power in staying alert and taking immediate action against infringers. The remedies are varied and include a fee to be paid to the legal registered owner of the trademark and or an order to seize the goods of the infringer. The compensation can then be utilized to further your business and allow it to preserve its customer trust and relations.

Registering a trademark also provides you with the opportunity to assign or license your legal rights to use a trademark to others. This could be a source of passive income for a business. The IP rights can be sold off as any asset of the business and is particularly useful for the establishment of franchises or branches. There are services to help corporations with IP valuation to ensure corporations are getting a good bargain for their respective trademark.

What is one of key consideration?

Thinking of a unique, inventive and creative brand name sets the tone to follow through a successful Trademark process, creating a brand that distinguishes itself from the goods and services of that of a similar class is one of the key factors that then makes a trademark registrable and protected.

This is done at the planning stage; one must think about expansion into different countries and if the name can pose any geographics or phonetical conflict in other foreign language which may then stand a rejection.

Hence the strength of a TM would be one that is fanciful or coined, arbitrary or a suggestive word mark that sets your mark or phrase apart from the other brands existing in the marketplace. Avoid the generic terms, descriptive words, personal names and even geographical mention in a trademark.

How to stay alert?

The prospects of catching out infringers are attractive to any business owner however a critical question becomes; how can I easily and practically discover infringers? The answer is investing in a trademark monitoring service. This would take care of the burden of frequently checking whether there is a third party you could potentially have a course of action against. The monitoring service also enables you to check if there any potential applicants who wish to register the same trademark. This would then alert you to file a protest or a notice of opposition, depending on the status of the other party's application. Trademark monitoring can be seen an essential complimentary service to have alongside your trademark registration.

You can subscribe to have a monitoring session completed on your behalf on request, monthly or annually depending on your business needs. Through having a service tracking your trademark, you are essentially installing a security system to safeguard and catch offenders whilst being able to focus on the smooth running of your business.

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Can Auditors face the "weather "on Climate Change?

California's Pacific Gas and Electricity Company (PGEC) filed for bankruptcy in January 2019. While this might seem just another corporate failure, what makes this event extremely critical is that it is the world's first bankruptcy related to "climate change". PGEC was badly affected by rapid climate change since a debilitating and prolonged drought dried up the forests, resulting in severe and uncontrollable wildfires, that brought the company to its knees because of the numerous liability claims. In January 2019, the market value of the company crashed to $4bn from a high of $25bn in October 2018.

Climate change can impose three kinds of financial risks – physical, transition and liability risks.

Are SEC and IASB looking the other way? In 2010, the SEC issued "Commission Guidance Regarding Disclosure Related to Climate Change," which elucidated ways in which the SEC's long-standing disclosure requirements called for material climate-related disclosures. But SEC has not enforced disclosure rules on Climate Change. IFRS Standards do not mention climate change. So, can Auditors simply ignore Climate Change?

Far from it. Auditors are required to obtain a reasonable assurance that financial statements are free from material

Physical risks are climate related catastrophes that can cause substantial losses in lives and physical property. Between 1970 and 2012, about 1.9 million lives were lost with economic damage of $2.4 trillion and above. But what is material is that these natural disasters are occurring five times more frequently as compared to the 1970s.

Transition risks relate to the shift to a low carbon economy from a carbon intensive economy. This requires massive investments and if not managed properly, can affect asset values and disrupt financial stability. Since mid-2019, several oil and gas companies have downgraded the value of their assets by more than $145 billion based on a re-evaluation of future oil price assumptions. Some explicitly acknowledged in their SEC misstatements.

If climate change impacts an entity, the auditor needs to consider whether financial statements adequately reflect this. Although, "climate change" does not find a mention in International Standards of Auditing (ISA), they require the auditor to identify the risk of material misstatements, even if its due to error. Auditors need to wake up. Climate change is not something in the future. It looms large before us.

filings that they changed their assumptions to become compatible with the Paris climate accord. Analysts suspect that the fact that more companies have not taken similar actions suggests that there may be significant, hidden losses that will only grow.

And lastly, climate change can pose substantial liability risks on companies, especially from fossil-fuel industries when parties claim compensation for losses suffered. Also, liability risks might result from poor disclosures about climate change risks.

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An ESG compliant Leadership strategy – The Way to Go

What is ESG?

Refers to the overall sustainability of a corporation across three areas. These include environmental friendliness of the business, the social sustainability of the businesses and the sustainability of a business's corporate governance.

The ESG factors test how well a business manages its own operations to reduce negative impact across the three areas. A corporation that can demonstrate that it effectively considers the ESG areas for its business decisions is said to be ESG compliant. This has the potential to reap a variety of business for corporations which will be explored in this article.

Businesses can adopt leadership strategies that cover more than one area. For example, at Crowe UAE we are working to become 100% paperless, this can account for both being environmentally friendly because it is eco-friendly but is also socially sustainable because we are acting in a way that is conscious to the social issues of climate change.

Why are the ESG factors important for business? Why now?

Investors now more than ever before are considering how ESG compliant a corporation is. Companies with higher ESG ratings have been seen to significantly outperform lower rating firms by 40%. A research carried out on investment patterns conducted by Bloomberg also shows that 43% of investors identify ESG as an important factor.

This applies international – there are now forums in the Arab world such as ESG Invest that investors are more readily using. These forums provide investors with reports which analyze sustainability across the ESG dimensions and beyond. This indicates a new trend in investor behavioral patterns and a need for corporation to respond to the changing tide.

ESG compliant management strategies yield 7 times more value than their cost of investments. Incorporating ESG areas in the long run the running of business operations is efficient and imbedded in strong values. This will yield value back to the business by improving the name and value of

Failing to show that your corporation is actively trying to incorporate ESG factors onto operation processes can also negatively revenue directly, especially on corporations' trade products. This is because we are moving into the 'economy of integrity' where environmental, social and corporate governance issues are at the forefront of consumer minds. This increases pressure to comply as millennials as a generation specifically are more willing to pay for products that come from ESG complaint businesses.

ESG compliance is a 10-steps ahead of the game type of initiative. Post the pandemic it is expected that an influx of legislation and regulation will be put in place in line many nations aim to become more sustainable. For example, in the UK there is a tax on plastics coming into force in April 2022 and in the UAE 2021 vision which is centered on eco-friendliness. This means by being ESG complaint a business is operating in the way of the future.

What are the ways your business can become more ESG compliant?

There are many ways a business can demonstrate ESG compliance. The areas do have overlap, but you can implement strategies that target a specific to a specific ESG depending on your business needs.

The (E) in ESG – Environmental Friendliness

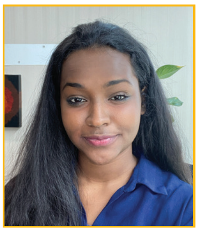
- Investing in energy efficient equipment e.g., printers that have a lower electricity usage, light bulbs that operate on lower volts etc.
- Implementing a zero plastic policy e.g., using glass cups instead of plastic cups.
- Donating used electronics to recycle banks to reduce your overall carbon footprint.
- Improving waste management of the businesses.

The (S) in ESG – Social Consciousness

- Implementing health and safety guidelines and protocols to be followed by workers in manufacturing industry.
- Ensuring that employees are paid fairly and low-skill workers are paid well above the minimum wage.
- Recruiting those from BAME backgrounds and there policies in place to ensure they are respected.

The (G) in ESG – Governance

- Employing a diverse range of directors and including those with ESG expertise and experience.
- Engage a third-party consultant to help enhance the board's ESG compliance.
- Including committees where junior members of staff opinions can be considered for major decision making.
- Assess and prioritize ESG risks e.g., identifying your corporation's weakest area and working on it.
- Ensuring there is shareholder democracy.
- Instilling a strong business ethics value system.



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The Test Result that Matters Most

Just like an antibodies blood test can detect if a person has antibodies to any infection and can help identify or judge the recovery or the infection status; similarly, an internal auditing function can provide an objective assurance to add value or improve an organisation's operations. *The assurance derives satisfaction.*

2021 being the year of comeback, can also be felt in the internal auditing approach. We focus more on an integrated audit, combining controls assurance, compliance, financial and information technology assurance which is perhaps gaining the most momentum and interest from management. Not limited to general IT or specific application controls but also to cyber security and developing a cyber incident response plan. The IPPF is the compass that provides internal auditors with direction to keep up with the rate of business change.

As we all continue to juggle decisions from getting vaccinated to doing an antibodies test, WHO states that studies are still underway to better understand the levels of antibodies that are needed for protection, and how long these will last.

Likewise, the results of internal auditing function are largely reliant on the support they get from Management. Internal auditors being a strategic unit of a business are primarily focused on the future and play a key role in helping management improve the organization's control structure. Working alongside, they can promote ethics, values, ensure effective performance management and accountability, and communicate on effective governance and risk management.

As most may be aware, DFSA administers the Regulatory Law 2004 which is the cornerstone legislation of the regulatory regime at DIFC. As we have all seen, and I quote HH Shaikh Maktoum bin Mohamed bin Rashid Al Maktoum, "The remarkable growth for DIFC in 2020 enhances the diversity and sophistication of DIFC's financial eco-system, further raising Dubai's status as a major focal point for global finance and a growth multiplier for the industry." The result of these compliance and regulatory requirements including Internal audit requirement; allow companies to be deeply resilient to challenges such as this global pandemic.

What matters most for the internal auditor is to uphold the principles of integrity, objectivity, confidentiality, and competency, regardless of the nature of the assignment.

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Donations to be regulated in the UAE

In January 2021, Federal National Council (FNC) approved a draft federal law ('law') in the matter of organizing & regulating donations in the UAE. This brief article is written based on the minutes of the said meeting published on https://www.almajles.gov.ae/ The importance of such law has been emphasized to protect donor funds, to create an attractive local environment for donations and to enhance coordinate of federal and local authorities to regulate ways of collecting donations. A quick summary on the features of the said law is provided below:

- **Applicability :** It could extend to any party wishing to collect or provide donations in the country, including free zones.
- **Definition :** Donation has been defined to include any collection of funds which is to be spent on charitable or humanitarian services and aid. It could be in whatever kind, in cash or in kind, movable or in kind, including national currency, foreign currencies, bonds, stocks, and whatever their form, including electronic or digital.
- **Regulating Donations:**
- Donations may not be received, presented, or transferred to any person or entity outside the country, except in accordance with the controls and procedures specified by the executive regulations of this law.
- The law prohibits to establish, organize, or perform any act with the aim of collecting donations without official license / permit.
- **Permit:** Brief procedure regarding such official permit involves application to the competent authority which would be decided upon 20 working days. If not, it shall be considered as rejection of the application.
- **Records:** A unified electronic record / register shall be maintained with the concerned Ministry. The inputs would be recorded by the local authorities, licensees, and authorized entities.
- **Penalty:** The law imposes heavy penalties which include imprisonment, fines ranging from AED 100,000 to AED 500,000, confiscation of the donations collected in violation of the provisions of this law, and to deport the foreigner after carrying out the sentence imposed. The grievance procedures mechanism will have a turnaround of 15 working days.

  It is pertinent to note that the executive regulations specifying operational, controls, procedures & implementation of this law shall be issued within six months from the date of its publication.

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About Us

Crowe UAE provides audit, tax, advisory, risk, human capital, and intellectual property services with global reach and local expertise. We are an independent member of Crowe Global, the eighth largest accounting network in the world. With exceptional knowledge of the business environment, our professionals share are committed to building value for our clients and to deliver service excellence.

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.