



# Company Formations: A jurisdictional guide to setting up a business

IR Global members collaborate together to provide their jurisdiction-specific perspectives on Company Formations, the laws and regulations they might encounter, the due diligence that will be required and the best structures to use.



# IR Global - The Future of Professional Services

IR Global was founded in 2010 and has grown to become the largest practice area exclusive network of advisors in the world, in just a few years. This incredible success story has seen the network awarded Band 1 status by Chamber & Partners, featured in Legal 500 and in publications such as The Financial Times, Lawyer 360 and Practical Law, among many others.

The group's founding philosophy is based on bringing the best of the advisory community into a sharing economy; a system, which is ethical, sustainable and provides significant added value to the client.

Businesses today require more than just a traditional lawyer or accountant. IR Global is at the forefront of this transition, with members providing strategic support and working closely alongside management teams to help realise their vision. We believe the archaic 'professional service firm' model is dying due to it being insular, expensive and slow. In IR Global, forward-thinking clients now have a credible alternative, which is open, cost effective and flexible.

## Our Founding Philosophies

### Multi-Disciplinary

We work alongside legal, accountancy, financial, corporate finance, transaction support and business intelligence firms, ensuring we can offer complete solutions tailored to the client's requirements.

### Niche Expertise

In today's marketplace, both local knowledge and specific practice area / sector expertise is needed. We select just one firm, per jurisdiction, per practice area ensuring the very best experts are on hand to assist.

### Vetting Process

Criteria is based on both quality of the firm and the character of the individuals within. It's key that all of our members share a common vision towards mutual success.

### Personal Contact

The best relationships are built on trust and we take great efforts to bring our members together via regular events and networking activities. The friendships formed are highly valuable to the members and ensure client referrals are handled with great care.

### Co-Operative Leadership

In contrast to authoritarian or directive leadership, our group puts teamwork and self-organisation in the centre. The group has steering committees for 12 practice area and regional working groups who focus on network development, quality controls and increasing client value.

### Ethical Approach

It is our responsibility to utilise our business network and influence to instigate positive social change. IR founded Sinchi a non-profit that focuses on the preservation of indigenous culture and knowledge and works with different indigenous communities / tribes around the world.

### Strategic Partners

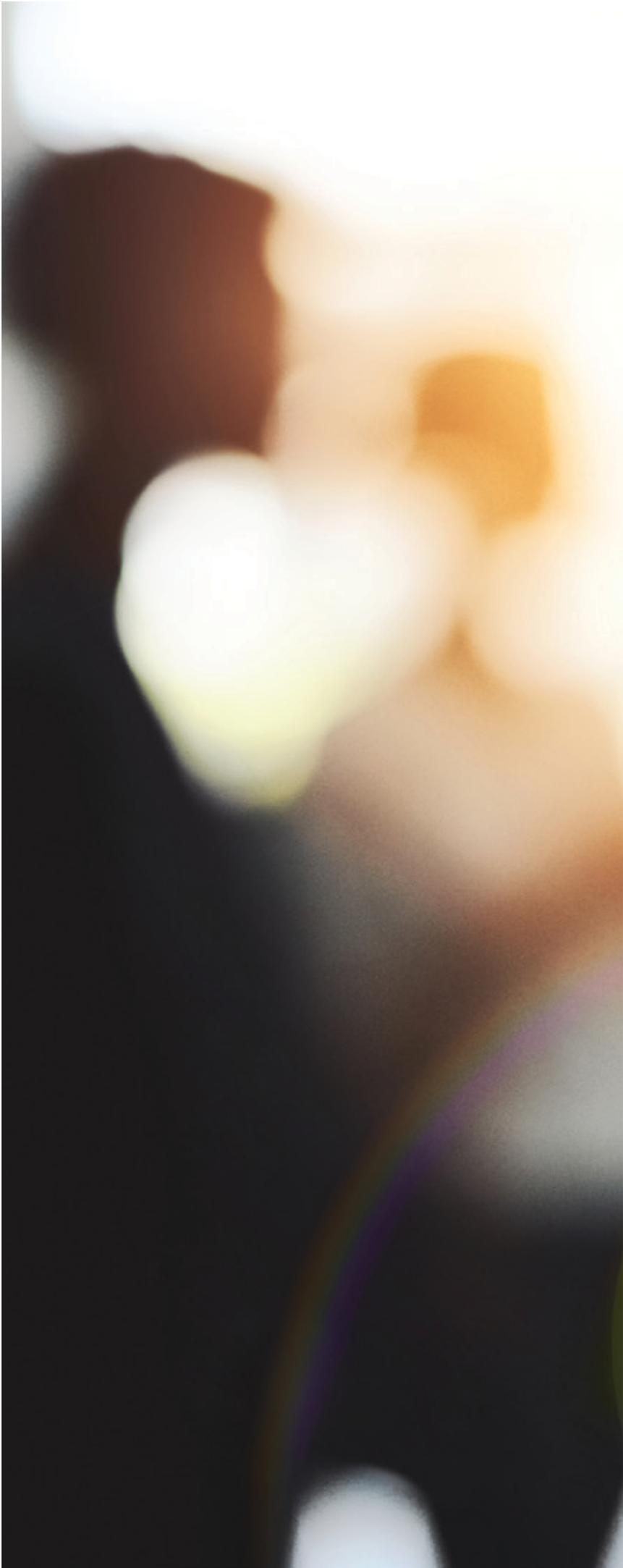
Strength comes via our extended network, if we feel a client's need is better handled by someone else, we are able to call on the assistance of our partners. First priority is to always ensure the client has the right representation whether that be with a member of IR or someone else.



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FOREWORD BY EDITOR, NICK YATES

# Company Formations: A jurisdictional guide to setting up a business

Multinational corporations require a range of different structures in order to maintain a global presence. These structures can be used for different purposes, whether it is developing a trading operation in a country, or establishing a holding structure for wider business interests in a region.

Before taking the plunge and forming a company, there are a number of important considerations to take into account, in order to find the right structure with the right flexibility for your needs.

Initially you must consider the incentives available for setting up a new operation in a country. This includes things like enterprise zones and tax breaks. Many countries will make it attractive for foreign investors to establish in their country, subject to certain conditions such as investment in underdeveloped regions. Double taxation treaties can also be important to reduce withholding and corporation tax, while ensuring profits are not taxed twice.

Once you have established these parameters, then it is time to choose the type of structure required to meet your needs. Issues such as speed of formation, disclosure and compliance are critical to making sure the company form is fit for purpose.

If you are testing the market in a certain jurisdiction, you may decide that a branch office of an existing operation will suffice. If a more permanent establishment is required, then a limited company or partnership may be a better fit. Each will have different requirements around start-up capital, registration documentation and ownership.

As an example, limited companies will usually require directors, shareholders and articles of association to be drawn up, while branches don't have those stipulations. In some jurisdictions, such as Qatar and other Gulf states, there is a restriction on how many shares a foreign national can own. This means thought must go into finding a local partner to act as an investor.

If a holding structure is required for managing wealth or trading operations in a region, then international business centres with favourable rates of taxation are usually most attractive. These structures can be limited companies,

foundations or trusts and their effectiveness will differ depending on use. In most cases the ideal location for a holding structure will be tax efficient, but also subject to a strong, internationally-recognised, regulatory framework in line with Organisation for Economic Cooperation and Development (OECD) standards.

One area that touches all forms of company formation is compliance around anti-money laundering and know your customer (KYC) regulation. The OECD has set global standards on this, that all reputable jurisdictions adhere to. The Financial Action Task Force (FATF) advocates a risk-based approach to KYC, suggesting that resources are allocated so that the greatest risks receive the highest attention. Businesses that do not cooperate fully on this, with regard to ultimate beneficial ownership (UBO), are likely to find it harder to establish companies in the jurisdictions they want to operate in. They will also find it difficult, if not impossible, to open bank accounts, since banks are subject to some of the strictest compliance procedures around.

The upshot is that establishing a presence in another jurisdiction can be a very difficult and complex procedure, that requires the advice of a professional 'on the ground'. Attempting the process without help, will likely result in inefficiency and even failure.

The following brochure features jurisdiction-specific advice from 24 firms with expertise in company formations. They guide you through the various formation vehicles available in their jurisdictions, and offer advice on regulatory hurdles you need to be aware of, or opportunities you may find useful. They also discuss various KYC compliance regulations, describing the best ways to streamline these onerous obligations.



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NORTH AMERICA

# Contributing Firms by Region

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CERTIFIED PUBLIC ACCOUNTANTS



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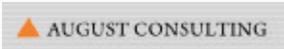


EUROPE





ASIA PACIFIC



AFRICA & MIDDLE EAST



EUROPE





NETHERLANDS

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Robert Bron, co-owner and founder of ABiLiTieS Trust | Corporate Services based in Amsterdam.

A strongly client-oriented legal counsel and manager with affinity for Dutch corporate law, tax and accounting. Robert Bron is skilled in setting up companies, and providing business support to holding, royalty and finance companies. He also has expertise in international structuring and corporate law. Before co-founding ABiLiTieS Trust, he had a major role in the successful set up of a 10+ employees trust office from scratch.

Robert Bron is a trouble shooter with a Master in corporate law from Utrecht University. He is always available for clients or IR Global members to answer questions on the Dutch jurisdiction.

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The Netherlands is popular with international clients who wish to set up new businesses. In the last few years, a large number of newcomers have arrived in the Dutch market. Many of them are innovative start-ups. There are good opportunities for newcomers, with an active support from the government and good access to venture capitalists. The economy is healthy and shows stable growth. Relatively strong sectors in the Netherlands are agro & food, horticulture, chemicals, logistics, maritime and water, creative industry, life sciences and high-tech materials and systems.

As vehicle for both operational and holding activities, the use of a private limited liability company (BV) is most common. In the past, the use of a cooperative was beneficial for distributions of profits, though this advantage no longer exists.

For dividend withholding purposes, it is usually advised that shares of a Dutch operational company are not directly held by individuals residing outside the Netherlands. A foreign company on top of the Dutch company is a good remedy for that.

### Holding BV

The Dutch holding structure is continuously popular. As the Netherlands has an open economy with many multinationals, the conditions for holding companies are, and will remain, favourable. Dutch holding companies are attractive for a number of reasons. These include favourable holding regimes, the level of asset protection when investing in risky countries, flexible law for complex cooperation, international flight connections, proven structure, English speaking staff, a good legal and financial infrastructure and efficient dispute resolution.

### Trading BV

Dutch trading company enjoy an increased popularity for import from outside the EU, due to Brexit. Dutch trading companies with local clients can benefit from a favourable VAT regime and good logistical infrastructure.

### Foundation/STAK

For various applications, the Dutch foundation is popular. For international clients the STAK, a type of foundation, can be used for estate planning, which enables families to efficiently shift beneficial ownership to heirs whereby the control over the assets, often shares in a company, shall be with the board of the STAK. The board can consist of one or more family members or trusted persons. This enables a (gradual) transfer of beneficial ownership of a company to a large number of family members, whereby only a limited amount of family members or trusted persons will be in charge over the business. It also allows the transfer of beneficial ownership of a company from a parent to its children whereby the parent stays in charge over the business.

The STAK is also used to keep control over family businesses listed on the stock exchange. The STAK enables the issuance of depository receipts instead of shares at public offerings. Well-known companies that apply the STAK for control are Heineken and Anheuser-Busch InBev. In these examples, shares have been contributed to a STAK which issued depository receipts. The depository receipts holders have the dividend rights of the shares. The voting rights are with the board

of the STAK, and the members of the STAK are appointed by the family members. As a result, the family, as advisors of the board of the STAK, can indirectly control the shareholder meeting.

Further the Dutch foundation is used by international clients for (i) charity, (ii) as family fund whereby the contributed funds shall be invested and distributed in line with the objectives of the articles and list of wishes (this creates an orphan structure with many characteristics of a trust), (iii) securitization, which uses the orphan property of the foundation to create a floating structure to offload certain assets from a balance sheet of for example a bank.

The Dutch collective investment fund (FGR) can be an interesting vehicle for an investment fund (often portfolio investments). It exists of a dipartite agreement between an investor and asset manager (sometimes expanded to a tripartite agreement with a custodian). Also here the Dutch foundation can be applied. One or more of the parties to the agreement can have a foundation as its legal form, which mitigates the risk of bankruptcy.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

For a foreign party it is easy to get access to the Dutch market. ABiLiTieS Trust can coordinate the full formation and registration process. An advantage of the Netherlands is that Dutch corporate law is very flexible. If required, the articles of association and shareholders agreement can be tailor-made, which is a large advantage in the case of a complex cooperation. Under Dutch regulations, it is also possible to hire staff from outside the EU. In case of a company with employees, please keep in mind that Dutch workers are well protected in case of sickness and that there are limited reasons for dismissal in case of a permanent contract. In particular for trading and holding activities, it is important to meet the tax substance requirements. ABiLiTieS Trust is specialised in providing the support to meet the substance criteria.

#### I QUESTION THREE

### What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The due diligence that is required to be undertaken by company formations agents in the Netherlands in respect of anti-money laundering laws is risk-based. The higher the risk, the more compliance efforts shall be made.

People with more than 25 per cent of beneficiary rights shall be identified, and a structure chart provided. A PEP statement shall be signed and/or PEP status checked in compliance data bases. In case the anti-money laundering risk is being considered high, a request to substantiate the source of wealth of the beneficiaries and funds in the structure will be made, on the basis of independent information.



ABiLiTieS Trust is a corporate services company specialised in formation and guidance of newcomers to the Dutch market and special purpose vehicles, such as holding, finance and royalty companies and foundations.

The Amsterdam-based team is committed, experienced and knowledgeable and is able to assist with any aspect of company formation. ABiLiTieS Trust is management owned and long-term client relations are its focus.

The firm can provide newly arrived entrepreneurs in the Netherlands with all regulatory and practical information on labour, tax, legal, accounting and expat topics, to make sure the Dutch market is entered well prepared.

### Doing business in The Netherlands

The Netherlands has an open and diversified economy, with access to 170 million consumers within a range of 500 kilometres, with low corporate income tax rates, offering many opportunities for newcomers.

It has excellent infrastructure, in combination with a very beneficial VAT regime for import from outside the EU (with the option to defer VAT at import until the moment of VAT filing or exempt from VAT in case of freight forwarding).

There is a proven holding regime that combines an attractive tax regime with many double taxation treaties. There are possibilities to distribute profits exempt from dividend withholding tax and favourable participation exemption, in combination with an unique level of asset protection for investments in risky countries.

Netherlands has high standards of living with affordable housing, safe country, good education and work environment and the comfort of an efficient expat centre, that can assist with residence permits and registration with the municipality in one stop.



IRELAND

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Anne is a member of Chartered Accountants Ireland and the Irish Taxation Institute. She is also a member of the Institute of Internal Auditors and the Life Insurance Association (LIA). Prior to starting her own practice in 1992 Anne both worked and trained with KPMG. Anne is Vice President of DFK EMEA.

Anne is a well-respected member in the accounting community and is a former member of the QARC (Quality Assurance Review Committee) of the Chartered Accountants Regulatory Board. She currently sits on the Technology Committee of Chartered Accountants Ireland.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The most common form of company to incorporate here in Ireland is a Company Limited by Shares (Ltd). Limited companies can carry out any lawful activity they wish. There must be at least one director and one company secretary. There are no minimum share requirements. The limited company is the option which gives the directors the most flexibility to carry out activities and is why over 85 per cent of all companies in Ireland are companies limited by shares.

A second form of Company also used is a Designated Activity Company (DAC). DAC's are similar to limited companies, in that they too are also limited by shares, however the activities of the company are limited to those set out in their company constitution. DAC's must have at least two directors. In general, it is companies which carry out regulated activities which are incorporated as DAC's – examples being insurance companies or banks.

Another form which international companies use is to register a branch operation of the foreign entity here in Ireland. Here, only the Irish branch is subject to Irish taxes. Some larger multinational companies have set up in Ireland in this way for example Lidl supermarkets.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

The most common favourable legislative provision for companies here in Ireland is the low rate of corporation tax on trading income being 12.5 per cent. Ireland has numerous tax reliefs and incentives that are available to companies operating here, in particular the availability of the research and development tax credit which allows against corporation tax to the value of 25 per cent of qualifying expenditure incurred on research and development activities.

The Knowledge Development Box tax relief allows for a reduction in the corporation tax rate to 6.25 per cent on income generated from qualifying patents and computer programmes. Ireland also has some favourable reliefs available to staff who are assigned from abroad to work here in Ireland. The Special Assignee Relief programme (SARP) provides relief from income tax on part of the income earned by employees who are assigned to work in Ireland. This can be an important factor when initially establishing a base here in Ireland. Ireland has comprehensive tax treaties in place with 74 countries all over the world.

One potentially unfavourable requirement under the Companies Act 2014 is the default position that companies must have at least one director of the company who is resident in a EEA country. With the uncertainty around Brexit, it is possible that UK resident directors will no longer fit that criteria. There are solutions to this issue, where a company does not have an EEA resident director. In this instance, the company can take out a bond to a value of EUR25,000 which is valid for two years, or the company can apply to the relevant authorities for an exemption on the basis that it has economic links to one or more trade in the state. The company must be actively trading here for this exemption to be allowed.

Ireland is in the process of finalising a Central Beneficial Ownership Register. All companies will be obliged to give details of the ultimate beneficial owners (natural persons) who directly or indirectly control more than 25 per cent of the company. Details of this register will be made available to specific authorities where required.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Company formation agents must carry out Know Your Client (KYC) procedures and anti-money laundering checks on all new customers. This is in the form of a risk-based approach and will include confirming the identity and addresses of the individuals involved. As part of this, they require copies of identification and at least one recent utility bill for each director or secretary of a new company being formed.

Depending on the individual, enhanced due diligence may also be required whereby confirmation of an individual's identity or address will need to be verified by a bank or other entity in the country of origin.



Anne Brady McQuillans DFK is a client-focused firm of professional advisors - chartered accountants, chartered tax advisors, registered auditors and payroll specialists.

Anne Brady McQuillans DFK is a growing, internationally recognised organisation. The firm is dedicated to consistently surpassing the expectations of its clients, whether it is helping them to achieve their business objectives or keeping their tax affairs up-to-date. The practice is heavily client focused, dealing with all sectors of the economy from banking and financial services to retail, IT, construction and not-for-profit organisations.

Services include:

- Audit and assurance
- Tax
- Outsourcing
- Business Advisory
- Payroll services

## Doing business in Ireland

Ireland has a low corporation tax rate of 12.5 per cent on trading income. This is one of the lowest in the EU. Companies can also benefit from tax reliefs such as Research and Development Tax Credit and the Knowledge Development Box.

Ireland is a member of the EU and the Eurozone and is one of two English speaking countries in the EU. With the threat of Brexit, Ireland may soon be the only English speaking country in the EU.

Ireland has one of the youngest and most skilled workforces in the world.



QATAR

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Dr. Antonio Ghaleb has more than 15 years of extensive audit, accounting, tax finance, management, and risk management experience gained from the leading audit and tax consultancy firms in the world. He earned a doctorate in Business Administration (DBA) from a reputable and accredited university in the USA. He is a member of the American Institution of Certified Public Accountant (AICPA) and the Guam Board of Accountancy. He is also certified in Risk Management Assurance (CRMA) and is a Chartered Global Management Accountant (CGMA).

He established his Qatar-accredited audit firm, in 2017 and is specialised in audit, tax, and business advisory services.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The legal structures according to the Qatari Commercial Law are the following:

1. Joint Liability Company
2. Limited Partnership
3. Joint Venture Company
4. Public Shareholding Company
5. Private Shareholding Company
6. Partnership Limited by Shares
7. Limited Liability Company

The most common legal structures that foreign entities or natural persons may establish in Qatar, are the Limited Liability Company and a branch of a foreign entity. The process of establishing a branch is subject to the new investment law 1/2019, in which a foreign entity (legal person) may own the branch, whereas a foreign natural person can only own up to 49 per cent of the capital of a Limited Liability Company.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Qatar has proved its strong economy, by continuing its business activities independently, maintaining one of the highest GDP growth rates in the region, and also maintaining its title as one of the countries with the highest GDP per capita in the world.

We have to differentiate between international entities that come to Qatar to carry out activities connected to government or semi-government projects. These companies can set up a 100 per cent branch owned by their parent companies, which are located and registered abroad, by getting special approval from the Ministry of Economy and Industry in Qatar.

The advantage of setting up a branch 100 per cent owned by a foreign entity, is to ensure that the foreign entity controls the management entirely and has a significant influence in any decision during the board meeting. Hence, the foreign entity controls the management in Qatar and can take any decision at its sole discretion in any investment or organisational change, without getting back to any local partner. However, the disadvantage of doing this, is the corporate tax in which the General and Tax Authority (GTA) levies the tax on the profit the branch generates in Qatar on the basis of 10 per cent from the net profit. The foreign entity can appoint a manager or director to manage the branch, and the director will assume any responsibility in the event of any gross negligence. The director will run the daily business and he/she will have a full authority to sign any document in any private or public entity.

There are also certain benefits investors can get from the government, to invest in Qatar and obtain a share of more than 49 per cent. This process will be clarified in details in the Executive Regulation, which is not yet issued. However, foreign investors cannot invest in banks, insurance companies, commercial agencies, or any sector not approved by the Ministry of Economy and Industry.

Foreign entities, which come to Qatar to establish a limited liability company, are obliged to share a percentage that is not more than 49 per cent of the capital amount. They can increase their profit share up to 97 per cent in the Articles of Association (AOA). The advantage of increasing the profit share to 97 per cent, is to ensure a significant control in any managerial decision, and accordingly, the role of the local partner will be merely passive and has a protective right to sign and not a substantive right.

These foreign entities establish limited liability companies, because they do not have a project with the government or semi-government and therefore the requirements of setting up a branch are not met. If the company generates income, then the General and Tax Authority (GTA) levies the tax on the profit share stated in the AOA. The local partner is entitled to the profit stated in the AOA and will assume the same loss in case the company incurs losses.

Every company, regardless of its legal structure (branch, LLC, partnership), is required to register at the General Tax Authority and obtain a Tax Card. There is a new income tax law 24/2018, which has been published officially in the official gazette in December 2018. The GTA has changed substantially the articles related to the delay penalties, and other requirements that follow the preparation process of file the tax return. Although the companies can apply the International Financial Reporting Standards (IFRS), however, some adjustments require the companies to adjust in the tax return. All companies should meet the deadline of submitting the tax return and audited financial statements according to the Income Tax Law, and any violation of the rules will impose a significant amount of penalties. Further, the GTA has substantiated in the income tax law on the transparency and objectivity of the daily transactions and the process of submitting the tax return; any process that leads to tax evasion imposes the taxpayer to significant penalties and imprisonment.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Law No 4 of 2010 Promulgating the Law of Combating Money Laundering and Terrorism Financing obliges reporting entities such as financial institutions, independent legal professionals such as auditors, lawyers to report any suspicious transaction they may detect during their review of any business transaction. Further, the central bank is conducting regular ongoing off-site surveillance and on-site inspection of all financial institutions regulated and controlled by the Qatar Central Bank to ensure that all financial institutions comply with the AML/CFT legal requirements. Auditors should report to the financial information unit any suspicious transaction detected during audit, in which this process is in alignment with the International Auditing and Assurance Standards Board (IAASB) and International Code of Ethics for Professional Accountants by International Ethics Standards Board (IESBA).

On the 9th of September 2018, Qatar published new country-by-country reporting (CbCR) requirements in the Official Gazette. Qatar Tax resident firms, which are members of multinational groups that have annual consolidated revenues that exceed QAR 3 billion (approximately USD822 million), are required to comply with the CbCR report filing requirements in Qatar for fiscal years commencing on or after 1 January 2017.



AG & partner CPA was founded and registered by the Ministry of Economy and Commerce in Qatar under Commercial Registration number 103317.

The firm is specialised in auditing, accounting, tax, and business advisory services; which include financial consultancy services, budgeting, forecasting, and planning, internal audits, due diligence assignments, business restructuring, accounting systems and accounting treatment of the complex transactions.

Additionally, the firm assists in company establishment, credit facility reviews and liquidation services. All work complies with the International Standards of Auditing (ISA), code of ethics and objectivity, and International Financial Reporting Standards (IFRS)

The practice works firmly with clients to help them optimise tax legally, in compliance with current rules and regulations.

## Doing business in Qatar

Foreign investors can transfer dividends to their home country without paying any tax. There is no restriction nor threshold to the amount that will be transferred from Qatar to any other country.

All expatriates' salaries are exempted from any individual tax in which this gives investors another incentive to consider Qatar as an investment destination.

Qatar has no sales tax or value-added tax, which attracts foreign investors to build up manufacturing or trading capacities for local market consumption or exportation with minimal taxation. The government is encouraging potential investors to build up factories that add value to the economy. Dependent on conditions and government requirements, such as feasibility studies and other capital requirements, the same factories will get an exemption from the government to pay corporate tax, and customs duty.

The government has also started a new vehicle, which is a free zone area. Qatar Economic Zone (QEZ), enables potential investors to establish foreign entities owned 100 per cent by foreign investors.



SWITZERLAND

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Cees Jan Quirijns is specialised in international tax and estate planning and the managing partner of the Athos Group. After studying Corporate and International Tax Law in the Netherlands, he worked at a leading international tax consultancy firm in the Netherlands and in Curacao.

He subsequently joined a global fiduciary services firm and joined their management team in Switzerland before he became a founding partner of the Athos Group.

Cees Jan is specialised in the creation and implementation of tax efficient corporate structures and the creation of trusts and family foundations for estate planning and asset protection purposes. He mostly deals with complex planning issues for affluent and international oriented families.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Many internationally operating businesses and their advisors decide to establish a Swiss AG (or GmbH) or a Swiss branch within their group planning structures. As a result, most international companies have a presence in Switzerland, whether as their group holding company or with a subsidiary, and the activities of these companies vary widely. One can generally say that, besides banks and investment funds, many foreign groups use Switzerland for holding activities, European headquarters, finance and treasury activities, trading (purchase and / or sales office) activities, intellectual property and / or (sub-) licensing activities.

The above is not meant to be exhaustive, since many other activities have been and can be moved to Switzerland as well. In fact, the range of companies using the Swiss advantages is almost unlimited. In this respect, one could mention all kind of group support activities, asset management activities, commodities and securities traders, e-commerce companies, crypto companies, research and development, consultancy activities, either as part of an international group or as start-ups.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Although the above implies that Switzerland is - and not only from a fiscal point of view - one of the most attractive locations within Europe, or even globally, we should always carefully consider the local and international regulations (and pitfalls) before setting up a Swiss company.

A good international structure does not only consider the effective tax rate on the derived income, but also the possible, and preferably tax neutral, ways to repatriate profits and to exit the structure.

Currently, many treaties with a full refund of Swiss withholding tax are in place, and this has further improved after the implementation of the EU parent-subsidiary directive. One of the most relevant tax issues to consider (from a Swiss perspective) is the Swiss dividend withholding tax, or rather the relevant domestic anti-abuse regulations, as applied by the federal tax administration.

Many countries implement CFC-regulations, and their own anti-abuse regulations, combined with black lists. Furthermore, the OECD as well as the EU have been quite active in pointing out non-cooperative low tax jurisdictions and harmful tax regimes. As a result, one should always consider if an international structure is in line with local anti-abuse regulations in all countries involved.

This is especially true for CFC-regulations, whereby a minimum effective tax rate is set and will have an impact on structures using Swiss companies. Such regulations may completely nullify the effect of any such planning. The fact that the effective tax rates can vary within Switzerland proves to be an excellent tool to manage this.

Clearly on a global level the need for economic reality (substance, transfer pricing etc) is getting more and more relevant in any cross-border structure. Switzerland offers a very logical and natural solution for dealing with such requirements.

Even with the low VAT rate of 7.7 per cent, one should always make sure that the VAT consequences of the Swiss activities are taken into account and are totally clear. The same is true for any other possible taxes and charges involved, such as employee withholding taxes, social security contributions, stamp duties etc.

At our Athos offices in Baar, we are best positioned to advise and assist clients in all matters regarding doing business in Switzerland. Together with local and international experts we have assisted many foreign clients – private clients, entrepreneurs as well as multinational corporations – in establishing operations and maintaining structures in Switzerland. We coordinate legal, tax as well as administrative and support services on an ongoing basis for companies based Switzerland.

We usually start a relationship with a client and his/her advisors by organizing a meeting in which we make an assessment of the current situation and define the goals and needs. We may consider some possible solutions, which we will subsequently discuss with the tax and legal advisors in order to define the best way forward and to decide on the best possible solution.

Once this decision has been made (and rulings or opinions have been obtained), we establish the Swiss company (together with a Swiss notary) and subsequently we will take full responsibility for its administration and maintenance.

To ensure that we consistently satisfy the high expectations of our clients, Athos Group is guided by four principles;

- Excellence in services: We offer global, optimal, creative and effective solutions, enabled by our valuable knowledge, experience and our extensive network.
- Total dedication: We always use our knowledge and experience in the best interest of our clients and we are fully committed to the growth of our clients' happiness, business and wealth.
- Personal approach: We take time to understand our clients' goals and needs building long-term relationships based on mutual respect, integrity, discretion and confidentiality.
- Proactivity and flexibility: We stay ahead of global developments, anticipating change in a flexible, entrepreneurial manner to protect our clients' interests by adding value at all levels

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The due diligence requirements in Switzerland very much depend on the services that will be provided. In case these services are considered AML relevant (this includes incorporating a company, acting as director or having signatory rights on the bank account), a more thorough procedure will need to be put in place, which includes obtaining information (such as passport copies, CV's, proof of residence and source of wealth) on the ultimate beneficial owners (UBOs) of the Swiss company.



Athos Group is a highly regarded provider of trust and corporate services for private clients, entrepreneurs and family-owned businesses. Athos Group operates as an international trust boutique with offices in key locations worldwide including Cyprus, Liechtenstein, Luxembourg, Malta, the Netherlands, Switzerland and the Caribbean.

As an independent group, the firm works with a selection of tax and legal firms as well as wealth managers and (private) banks.

Athos Group is proud to serve reputable families, entrepreneurs and their companies around the globe. We believe in adding value by providing a top quality service with a personal approach and fair pricing.

## Doing business in Switzerland

Establishing a presence in Switzerland has always been a preferred option for international companies from all over the world. Switzerland truly offers an extremely attractive business climate for companies that are interested to expand internationally.

Furthermore, Switzerland has been used in sophisticated planning structures since many years, but the low effective tax rates and the open, "client"-friendly attitude of the Swiss authorities are not the only reason for companies to set up operations here.

For most companies the decision to move to Switzerland is made by the combination of low taxes, the quality of life, and a highly qualified but flexible work force – the Swiss labor law is very attractive, especially compared to other European countries.

Other relevant aspects that play an important role in the popularity of Switzerland are the solid and efficient Swiss legal system and infrastructure (including the availability of many very qualified and competent international lawyers), the world famous reliable and international banking environment and the central location (globally and within Europe) combined with a multi lingual work force.

And on top of all that Switzerland is a strong brand that still stands for stability and neutrality; features that are becoming more and more relevant.



INDIA

## Neelam Rangwala

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Neelam Rangwala provides advice to clients ranging from corporate law to Reserve Bank of India matters, and has had a wide exposure to several industry verticals representing clients and taking them through the statutory maze.

She has handled a variety of organisations including LLPs, private and public limited companies assisting them with their formation, day-to-day compliances and closures. She holds a Bachelor of Commerce degree as well as a degree in Law from the University of Mumbai. She is a Chartered Secretary from the Institute of Company Secretaries of India (ICSI).

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

In order to ensure ease of doing business in India, the legislature is constantly undergoing changes such that India truly provides ease in conducting various business opportunities. While many options are available in the form of different structures which can be established, there are two main requirements that must be fulfilled – an Indian resident individual who would be legally responsible for the business in India and an address of an office space where the business could be conducted.

There are various forms of structuring a business in India. Foreign companies who would prefer to foresee the Indian business opportunities before establishing themselves in India in a permanent manner, could consider setting up a liaison office, branch office or project office.

A liaison office is a place of business acting as a channel of communication between the principal place of business or head office, and entities in India, but which does not undertake any commercial / trading / industrial activity, directly or indirectly. It maintains itself out of inward remittances, received from abroad through normal banking channels.

It represents the parent company/group companies in India, promotes export/import from/to India and promotes technical/financial collaborations between parent/group companies and companies in India.

It also acts as a communication channel between the parent company and Indian companies. Since a liaison office is not meant to earn any income in India, it is generally not liable to pay any income tax.

A project office is a place of business to represent the interests of the foreign company executing a project in India, but excludes a liaison office. A foreign company may be permitted to open a project office/s in India, provided it has secured from an Indian company, a contract to execute a project in India.

A project office cannot undertake any other activity, other than the activity relating and incidental to execution of the project. A project office of a foreign company is taxed as an independent company in India at 30 per cent. However, a tax rate of 25 per cent is applied if turnover or gross receipt, does not exceed 50 crore Rupees. It is required to file a tax return in India.

A branch office in relation to a company, means any establishment described as a branch by the company, or any establishment carrying on either the same or substantially the same activity as that carried on by the head office of the company. It also means any establishment engaged in any production, processing or manufacture, but does not include any establishment specified in any order made by the central government.

It can be used for the export/import of goods, rendering professional or consultancy services, carrying out research work, in which the parent company is engaged.

It can also be used to promote technical or financial collaborations between Indian companies and parent or overseas group companies, or to represent the parent company, or render services information technology and development of software in India.

A branch office of a foreign company is taxed as a foreign company in India at 41.82 per cent. It is required to file a tax return in India.

## I QUESTION TWO

### **Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

When a foreign company is looking for permanence in India along with limited liability, it is suggested to establish a company or a Limited Liability Partnership (hereinafter called LLP).

Audit is mandatory for a limited company, but only for an LLP, if the contribution is more than 25 lakhs Rupees, or turnover exceeds 40 lakhs Rupees.

Dividend distribution tax will be applicable to the company, although dividends are not taxed in the hands of the shareholder. It is not applicable to an LLP.

The company structure is most suited for large and medium businesses, companies who are contemplating an initial public offer or establishing themselves on the stock exchange as well as structures where multiple stakeholders are concerned. The LLP structure seems most suited for concerns wanting the benefits of limited liability and the flexibility in internal management that is akin to partnerships on the other.

The cost of running the company is substantially larger than that of a LLP.

## I QUESTION THREE

### **What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?**

The Prevention of Money Laundering Act 2002 (the PML Act), together with the rules issued thereunder and the rules and regulations prescribed by regulators such as the Reserve Bank of India (RBI) and the Securities and Exchange Board of India (SEBI), set out the broad framework for the anti-money laundering laws in India. The purpose of the Bank KYC Guidelines is to prevent banks from being used for money laundering or terrorist financing activities.

The process of opening a bank account in India is dependent on the time required to avail documents that would satisfy the 'KYC' (Know Your Customer) of not just the shareholding companies / promoters or shareholders of the Company / LLP but also the individuals authorised to operate the account. Similarly, in the event transactions of a high value are undertaken due to business reasons, the bank has the discretion to ask for KYC documents of the said business entity, before the transaction is approved. The requirement to furnish documents for KYC is an annual exercise and would need to be complied with. While this seems like a cumbersome task, it is a small effort to prevent money laundering.

## AUGUST CONSULTING

August Consulting was established in 2002 to assist companies in all matters related to financial accounting, management information and statutory compliance. The services have been developed with an integrated approach – taking legal and regulatory requirements, best corporate practices and business needs into consideration.

Understanding our clients' goals and requirements forms the basis for all our service lines. Being accepted by our clients, is the first step towards a strong, lasting relationship.

Our clients value our experience in local accounting methods and statutory compliances. Developing a close working relationship, we build client confidence and help them focus on their goals better.

### **Doing business in India**

India is ranked 77 among 190 economies in the ease of doing business, according to the latest World Bank annual ratings. The rank of India improved to 77 in 2018 from 100 in 2017.

India is the fastest growing economy in the world, and a lucrative investment option as it provides a subtle balance between technological expertise and human labour, which is monitored with the laws and regulations of the land.

Bring your idea into India, and while you focus on your stuff, we at August Consulting will deal with the chaos of laws such that you run your enterprise in the way you want to.



BARBADOS

## Roland Jones

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Roland Jones AICB, CPA, CGA, FCA, TEP is Managing Director and Founder of the Axebridge Group. Roland has more than 26 years of experience in the areas of Banking, Trusts, Wealth Management and International Financial Services. Roland is a trust professional, a chartered accountant and banker and sits on the board of the Axebridge Group of companies and several private international business companies.

He is a member of Certified General Accountants of Canada (CGA), the Institute of Chartered Accountants of Barbados (ICAB), the Institute of Canadian Bankers (ICB), the International Fiscal Association, and the Society of Trust and Estate Practitioners (STEP). Roland also sits on the Council of STEP worldwide.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The most common structures used by clients are companies and trusts. Trusts in Barbados are governed by English common law and by the Trustees Act Cap 250 as amended, which deals with the powers of trustees. Appeal is to the Privy Council. There is no registration requirement or stamp duty; trustees can be non-resident as long as one is resident. A resident corporation acting as trustee must be licensed under the Financial Services Act or the Corporate and Trust Services Act 2015 of the Laws of Barbados.

There are many types of companies in Barbados, the most popular used by international clients are Barbados companies with a Foreign Currency Permit (formerly International Business Companies). Holding a Foreign Currency Permit (allowed for companies only doing business outside of Barbados) affords them certain exemption benefits including withholding taxes, stamp duty, property transfer tax, value added tax and the filing of annual returns.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

##### Capitalisation shares

Shares in Barbados companies are to be issued without nominal or par value and no company may issue bearer shares or bearer share certificates. However there exist no general minimum capitalisation requirements or restrictions.

Shares may not be issued until fully paid in money; or in property or past service that is the fair equivalent of the money that the company would have received if the share had been issued for money.

In determining whether property or past service is the fair equivalent of a money consideration, the directors may take into account reasonable charges and expenses of organisation and reorganisation, and payments for property and past services reasonably expected to benefit the Company. It must also be noted that "property" does not include a promissory note or a promise to pay.

Shares of a company may be transferred by a written instrument of transfer signed by the transferor and naming the transferee and where an instrument is prescribed in the by-laws of the Company then that instrument must be used to transfer the shares.

The instrument of transfer must be presented to the Registrar of Companies within 30 days of its execution for the assessment and payment of property transfer tax and/or stamp duty in accordance with the laws of Barbados.

##### Corporate administration

Under the Companies Act, Cap. 308 of Barbados (the 'Act') it is mandatory for the company to call an annual meeting of the shareholders within 18 months after incorporation and thereafter to hold annual meetings not later than 15 months after holding the last preceding annual meeting. Special meetings of the shareholders may otherwise be called at any time.

Meetings may be held at any place in Barbados as provided in the By-Laws of the Company and where not specified may otherwise be determined by the board of Directors. However, meetings may be held outside of Barbados if all the shareholders entitled to vote at the meeting so agree.

## Taxation and reporting obligations rates and allowances

Effective January 1, 2019, the new rates of corporate tax for all companies are as follows:

- Less than B\$1,000,000 - 5.5 per cent
- More than B\$1,000,000 but less than B\$20,000,000 - 3.0 per cent
- More than B\$20,000,000 but less than B\$30,000,000 - 2.5 per cent
- More than B\$30,000,000 - 1.0 per cent

A Barbados Company may elect to take a credit in respect of taxes paid to a country other than Barbados provided that such an election does not reduce the tax payable in Barbados to a rate less than 1 per cent of the profits and gains of the Company in any given year.

## Dividends and other payments

Any dividends, interest, royalties, fees or management fees paid or deemed to be paid by the Company to another International Business Company or to a person not resident in Barbados are exempted from income tax.

In addition, the Barbados Income Tax Act allows for dividends (excluding preference dividends) received by a resident Barbados company from a non-resident company to be excluded from taxation if the Barbados company is a shareholder owning at least 10 per cent of the capital of the non-resident company other than for sole purpose of portfolio investments. Dividends (excluding preference dividends) paid by one resident Barbados company to another are also excluded.

Furthermore, a transfer of securities or assets of the Company to a non-resident or to another International Business Company other than a transfer of taxable assets is likewise exempted from the payment of taxes or duties or other impost by the Company, its shareholders or the intended transferees.

## Special tax concessions

The Minister responsible for finance may grant tax concessions in respect of those people resident outside of the CARICOM region.

The tax concession would allow a certain percentage of an employee's or contractor's salary, fees or other emoluments to be exempt from income tax in Barbados. It could also be paid in a foreign currency inside or outside of Barbados in some prescribed manner to those said individuals who must also hold valid work permit for employment in Barbados for a period of at least three years.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The required document checklist for new relationships established with Barbados Service Providers, includes certified copies of government issued identification, with a clear photo, bearing date of birth, a unique identifier and a signature.

There is also the requirement for written reference (preferably addressed to Axebridge) with the client's name & address from a financial institution confirming relationship of at least 2 years.

For corporate clients, original or certified copies of organisational charts, audited/unaudited financial statements, certificate of incorporation, memorandum/articles of association and by-laws are required.



The Axebridge Group is a privately held wealth, trust and corporate services firm specialising in finding traditional and alternative solutions for private and corporate clients.

Axebridge is a full service Trust and Corporate Services Provider, licensed and regulated in Barbados. The team of dedicated professionals assist entities to meet their tax and treasury objectives by providing substantive support and presence with a wide range of activities. These include; trustee and trust administration services, company formation and registration, director and other fiduciary services, corporate services and administrative duties including fiduciary (e.g. directors), corporate secretary, registered office, accounting and administration plus bookkeeping and accounting services.

## Doing business in Barbados

A stable government, well-developed legal system and a good network of professional service providers

Barbados has the most advanced network of Double Taxation Treaties (DTA's) spanning over 35 countries which were mutually negotiated by partner countries including Canada, USA, China, Mexico, Panama, Spain, etc.

Key features of DTA's include reduced withholdings tax on foreign dividends paid to Barbados holding companies and zero tax on capital gains on the sale of foreign subsidiaries held by Barbados holding companies. Further, the potential for reduced corporate tax treatment afforded to international business conducted via Barbados companies

Barbados has a large network of Bi-lateral Investment Treaties (BIT's) governed through the Washington, D.C. based International Centre for Settlement of Investment Disputes which allows countries to advance and protect their interest in foreign countries including jurisdictions like Venezuela, China, Cuba, Germany, Italy, etc.



HUNGARY

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Dr. Csongor Buzády was raised in Munich. He pursued legal studies at the Faculty of Law of Eötvös Lóránd University (ELTE) in Budapest, and obtained a postgraduate LLM diploma at Humboldt University in Berlin.

He has been practicing as a lawyer in Hungary for over 10 years. In 2014, he has obtained an extra qualification as a legal specialist for investment and corporate finance.

He specialises in cross-border M&A transactions, corporate/corporate finance and commercial law.

Csongor currently serves on the Board of the Hungarian-German Lawyer Association and is an honorary member of the Swiss Business Club Hungary. He handles the legal affairs of numerous social organisations on a pro bono basis, including the Lions Club Thomas Mann Budapest.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

In business partnerships such as General Partnerships (Kkt.) and Limited Partnerships (Bt.), at least one of the shareholders are personally liable for the debts of the company. They are not very attractive because of that, however, they are useful for multinational tax structure optimisation.

The most common company form is the Limited Liability Company (Kft.), under which the managing director is liable vis-à-vis the shareholders and, in some cases, vis-à-vis third party business partners. Limited liability companies are used most widely, as this form of company is best suited for SME businesses best.

Apart from the limited liability of the shareholders, it offers great structural flexibility. Shareholders may agree different terms in the Articles of Association, and the Kft. may be set up as a single-shareholder company as well. This is a solution that is commonly used, as formal statutory restrictions, such as obligatory auditing or the prohibition of a single-shareholder company being owned by single-shareholder company itself, have been abolished by the Hungarian legislator.

The minimum share capital of a limited liability company (Kft.) is three million HUF. A new, quite attractive, legislation allows the shareholder to delay the actual performance (payment) of the share capital and to wait for dividends to arise in order to use such monies to serve as a capital contribution.

The most formal type of Hungarian business association is the Company Limited by Shares. They might be established privately (Zrt.) or publicly (Nyrt.). In the latter case, shares are listed on the stock exchange. Also, personal liability is limited to the registered capital as a main rule. The minimum initial capital is HUF 5 million (approx. EUR 17 000) for private limited companies and HUF 20 million (approx. EUR 65 000) for public limited companies.

The best way to set up a Hungarian legal entity is to establish a Hungarian branch (Magyarországi fióktelep) or Hungarian commercial representation office (Magyarországi kereskedelmi képviselet). Both entities may de facto deemed as an extended work bench of the foreign enterprise. While the Hungarian branch has full legal capacity, it acquires rights to the benefit of, and assumes liabilities for, the foreign enterprise under its own company name. The scope of activities of a Hungarian Commercial Representation Office is limited to mediating and preparing contracts and carrying out information, advertising and propaganda activities on behalf of the "mother" company (i.e. they may not conduct profit-oriented activities in their own name).

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Foreign investors are free to carry out business without a local partner. *Company registration fees and regular maintenance* costs are low, compared to other European countries. Corporate income tax is only 9 per cent, the lowest in the whole EU. Investors may benefit from a wide range of refundable and non-refundable subsidies.

The legal regime applicable to the *liability of managing directors* was completely reshaped in 2014, raising questions and uncertainties. In order to properly deal with the managing directors' liability issues, more sophisticated legal advice and more detailed contractual stipulations are now necessary, compared with advisable, under the old legislation. Hungarian VAT, amounting to 27 per cent, is the highest rate in the world at the moment. However, an exclusive 5 per cent VAT rate for newly built residential properties has given the property market quite a boost.

The procedure of company registration is very quick, as the documents are being filed electronically. The Court of Registry only carries out a formal check of the documents, rather than a material legal check, as it used to be. It is worthwhile mentioning that the Hungarian company may operate as a pre-company after the corporate documents have been countersigned by the local lawyer – giving the company a further time advantage, which can be worth its weight in gold in some situations.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Hungary is completely compliant with applicable EU legislation. A client due diligence procedure is obligatory in legally-defined business transactions, particularly in case of an establishment of a Hungarian company. This is in the interest of prevention of money laundering and terrorist financing, and for the purpose of appropriate compliance with the obligations set out in the Hungarian implementation act (Act No. LIII of 2017).

Service providers, including law firms, have to carry out client identification and verification procedures, aimed at the clear identification of the client (KYC) and its agents, proxies or other authorised representatives. In the course of the identification procedure, law firms are required to record the following particulars:

1. In case of private persons: Present family name and given name, family name and given name at birth, nationality, place and date of birth, mother's maiden name (which is a Hungarian speciality!), foreign residential address, Hungarian residential or domicile.
2. In case of legal persons: Company name, short company name, registered office or registered address of the Hungarian branch, main company activity, name and position of authorised representative(s), identification data of Hungarian delivery agent, company registry number or similar data, tax number.

Next to the data to be provided, law firms have to request the following documents:

1. In case of private persons: Passport or personal identification document, valid residence permit for Hungary or similar document (if any).
2. In case of legal persons: Company registry extract.



**BUDLEGAL ATTORNEYS AT LAW**  
ÜGYVÉDEK • ANWÄLTE • ATTORNEYS

Budlegal Hungary is an independent Hungarian law firm with strong business connections in the CEE region. The main focal points of the practice are Hungarian and EU law in the areas of M&A, corporate/commercial law, labour law, data protection & real estate law.

Budlegal Hungary provides services at the shareholder level, to company groups or in cross-border scenarios. As an independent Hungarian law firm, they also serve the local management and other operative levels of Hungarian companies on a daily basis.

The firm's philosophy is to provide legal solutions on a highly professional level.

The firm's partners serve multinational corporate clients from a range of industries on a transactional and/or day-to-day basis. These include, the construction industry, real estate facility services, financial services, online retail and IT service providers.

## Doing business in Hungary

Hungary is centrally located on the European continent and is a member of all key international organisations such as the EU, NATO, OECD, WTO. Hungary is deemed as a gateway between the EU and neighbouring non-member countries of the Balkan Peninsula.

Hungary is politically stable and has an investment-friendly government policy. BMW recently set up a new factory in Debrecen (Eastern Hungary), with an investment of 1bn EUR. World-renowned companies such as GE, Microsoft, IBM, Coca Cola, Morgan Stanley, Audi, Mercedes, British Petrol, Wizzair and Tesco also have facilities in Hungary.

According to a governmental survey in 2017, Hungary is one of the most mature SSC markets in the Central and Eastern European region. Tier 2 cities outside Budapest, like Debrecen, Miskolc, Pécs, Szeged are Székesfehérvár are becoming more and more attractive, therefore labour arbitrage is decreasing as a factor to invest in Hungary. The added value is generated from an educated, well-trained, English-speaking and highly motivated local labour force.



US - OKLAHOMA



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Eric Kunkel's major areas of practice include: income tax planning and compliance, foreign and international tax matters, business valuation, multi-state tax matters, estate and gift tax planning, audit and financial accounting services, general business consultation and benefit and retirement planning.

In addition to other sectors, Eric's practice at CCK involves companies in the manufacturing and distribution industries. As a result, his professional experience has grown to include foreign and international tax matters.

Eric is a Founding Partner of the CCK Firm. He is a Certified Public Accountant, Certified in Financial Forensics, Accredited in Business Valuation, and a Certified Valuation Analyst. He is a graduate of the University of Tulsa, with a Bachelor of Science degree and a Master's degree in Business Administration.

**Kaitlin Flinn**  
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Kaitlin Flinn was raised in Tulsa, Oklahoma and received her Bachelor's degree in Accounting at Oral Roberts University and her Masters of Taxation at the University of Tulsa. After living in Michigan for three years and developing multi-national tax experience, Kaitlin joined CCK Strategies to pursue her passion - to help business owners envision the possibilities and develop an action plan to fulfil their dreams.

Kaitlin is known for her international business expertise, as well as leading and teaching other CCK team members as they develop in this specialized field. Through her trusted advisory approach, Kaitlin provides client-confidence in her commitment to resolving challenges in today's marketplace. In addition to international business, Kaitlin specialises in Multi-State Tax Compliance & Consulting, Tax Credit Research and Development, and Tax Research Solutions.

#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Foreign companies investing in the U.S. often form either a C corporation or a limited liability company (LLC) that elects to be taxed as a C corporation. The corporate structure provides distinct separation between the international and U.S. activity, which can prevent the foreign owner from being subject to U.S. tax at the international owner level. The corporate owner would not be subject to U.S. tax and withholding on annual earnings in the way an international owner of a U.S. partnership would, unless a dividend or similar payment was made to the owner.

Foreign individuals often choose a partnership (or LLC taxed as a partnership) over the corporate structure, due to the tax rate efficiency of only one level of income tax versus two levels of income tax that a corporate owner would have (income taxed once at the corporate level and again when income is distributed.) However, the foreign partnership owner may be subject to a U.S. personal income tax filing for his or her U.S. income.

In addition to Federal filings, foreign persons must consider state registrations and reporting. Each state maintains a unique set of legal and tax laws. The best state to form a U.S. operation depends on the facts and circumstances of the company. Before formation, a foreign person should consult both an attorney and tax accountant.

Recently, CCK Strategies advised a Singapore company on forming a Delaware holding corporation with subsidiaries in Indiana and Oklahoma. The newly formed company maintains physical assets and employees within Indiana and Oklahoma, which necessitated that the company register in each of the States. Delaware gained popularity as a formation domicile due to a rich legal history. However, Oklahoma was one of the first states to create LLC statutes and those statutes are very similar to Delaware.

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## I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Effective in 2018, the U.S. passed a number of favourable tax measures. The corporate tax rate dropped from 35 per cent to 21 per cent, and newly acquired equipment may be 100 per cent expensed for income tax purposes (100 per cent bonus depreciation). While corporations are still subject to double taxation (income taxed once at the corporate level and again when income is distributed), the overall tax burden is reduced. A foreign corporation receiving a dividend from a U.S. subsidiary may be subject to only the one layer of U.S. tax, if an income tax treaty exists. Partnership structures now benefit from a qualified business income deduction in many cases corresponding with the tax rate reduction for regular corporations. Oklahoma adopted the 100 per cent bonus depreciation for state level taxation and continues to maintain low tax rates.

The 2018 tax reform brought a number of unfavourable changes too, including the anti-hybrid rule and broader controlled foreign corporation rules.

After a recent U.S. Supreme Court case, many U.S. states have been aggressively imposing sales tax on remote sellers. Foreign companies selling to U.S. customers may be required to collect and file sales tax returns if sales within that state exceeds USD100,000, even when no U.S. physical presence exists. Not all have adopted this threshold, but states continue to pass legislation following the Supreme Court ruling.

CCK Strategies works with clients around the world, including U.S. businesses in every state. With offices in Oklahoma and Texas, CCK operates in two of the states with the lowest effective tax rates in the country. On top of the low effective tax rates, Oklahoma created the Quality Jobs Program, which provides incentives to foreign and U.S. investors. This program gives quarterly cash payments up to 5 per cent of new payrolls for up to 10 years for meeting certain criteria.

## I QUESTION THREE

### What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Establishing a business in the U.S. is simple, even as a foreign person. Once established, the U.S. requires informational filings for transparency.

For example, foreign companies investing in the U.S. may be required to file form 5472, Information Return of a 25 per cent Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. The form is filed with the U.S. income tax return and discloses the indirect and direct foreign owners and any related party transactions. Beginning in 2018, the failure to file penalty increased from USD10,000 to USD25,000, which also includes late tax filings. The U.S. requires U.S. persons, including U.S. companies, with a foreign bank account that exceeds USD10,000 at any point during the year, to file an annual report electronically. The requirements expand to capture those with signature authority over those accounts. If the person fails to file this annual report, they may be subject to a penalty of up to 50 per cent of the maximum value of the account during the year.

CCK was founded in 1997 by three young partners motivated to build a new type of CPA firm. John Curzon, Terry Cumbey and Eric Kunkel took a big risk, leaving successful existing positions to form a new firm - one founded on the principle of "service." The three established CCK, and in 2002, became members of the nationally-recognised McGladrey Alliance of exceptional accountancy practices.

Over the years, CCK has continued to grow in staff, as well as in depth of experience and service offerings. Today, the CCK team is comprised of nearly 90 individuals who work together to provide strategic planning solutions for new and repeat entrepreneurs to grow and add value to their businesses.

While CCK is proud of its heritage, the firm is also excited about the future. The partners look forward to many more years of helping clients to succeed and accomplish their business goals.

## Doing business in Oklahoma

Oklahoma has a highly-skilled, technical workforce due to the innovative nature of the oil and gas industry and oil and gas equipment and aerospace manufacturing in Oklahoma.

There are very competitive tax incentives for companies relocating in Oklahoma, and it has a strong economy and a low cost of living.

Oklahoma also has the furthest inland port in the U.S., a centrally-located and substantial interstate highway system and an aircraft maintenance facility hub.



BVI

**Glenn Harrigan**  
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Glenn Harrigan, BSc, ACA is a UK trained Chartered Accountant who qualified in 1989. He has since amassed extensive experience in the fields of auditing, accounting, financial services, company management, compliance and insolvency. He is also an avid entrepreneur who loves to help others achieve their business goals.

He has served as treasurer of the British Virgin Islands (BVI) Investment Club since inception in 1992 and has been primarily responsible for creating loan proposals and offering documents which have raised over USD 60 million in financing. He also served as Chairman of the BVI Airports Authority from February 2012 to April 2019.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Examples of common structures utilised in the BVI, include:

**Primary Vehicle for Operational Companies.** BVI companies are often used as the primary vehicle under which a business is operated. This can be a factory, an import / export business, an IT consulting firm, or a product sales website. Such businesses, although incorporated in the BVI, typically operate in the country or countries adjacent to where the owner is based.

**Holding Company for Investments.** A BVI company is typically used to hold an investment for the benefit of an individual or family office. The form of investment may vary; for example, a portfolio of stocks and bonds at a global investment bank, a commercial complex in Singapore, a residential rental property in London, or an art collection, to name a few.

**Ship Registration.** Persons choosing to register ships in the British Virgin Islands typically use a British Virgin Islands company to own the ship.

**VISTA Trusts** Unique only to the BVI, a VISTA trust enables a settlor to set up a trust where the trustees are subject to limitations on their ability to intervene in the management and operations of the trust assets. So, for example, a settlor can create a trust to own shares in a BVI Company under which a family business operates, confident in the knowledge that he can exercise full control over the business except for rare situations where control reverts to the trustees.

Combining a BVI company with a VISTA trust allows a family to access the benefits of a trust arrangement such as estate and succession planning without being subject to trustee intervention and interference which are the hallmarks of standard trusts in other jurisdictions.

**Funds** BVI law allows for private, professional and public funds. Wealthy individuals are mostly attracted to the private funds which limit the number of investors to 50. A company can be used as the vehicle to set up the fund, and a director of the fund can thereafter manage assets subject only to restrictions contained in the fund offering documents. Shares can be easily issued to family members and they can be easily redeemed or separated into different classes with different rights.

**Initial Coin Offerings** – Initial currency offerings (ICO) for new crypto-currencies have become increasingly popular over the past two years. Although there is no specific crypto, blockchain or ICO provision built into any BVI Legislation at present, BVI companies provide certain inherent advantages. These have made the BVI an attractive jurisdiction with several successful launches in recent times.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

In keeping with its status as a jurisdiction committed to tax transparency, the BVI has recently enacted economic substance legislation which will require businesses carrying on relevant activities to demonstrate adequate substance in the BVI. The relevant activities include; banking, insurance, shipping, fund management, finance and leasing or intellectual property.



Unless they can prove that they are tax resident elsewhere, companies carrying on these activities will be required to conduct core income generating activities from within the BVI. They will also need to demonstrate economic substance, in accordance with other criteria such as having adequate staff numbers, incurring expenditure, renting physical offices and having key equipment located in the BVI.

This is a new and dynamic piece of legislation which may significantly impact how business is conducted in the BVI going forward. However, the detailed operational guidelines and reporting obligations are still in development phase and at present the industry is adopting a wait and see approach awaiting this critical information.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Anti-Money Laundering (AML) and Know Your Customer (KYC) due diligence requirements worldwide, are constantly evolving to keep pace with electronic, digital and financial technology (Fintech) innovations. Not to be left behind, the BVI regulator has recently updated the AML and KYC requirements so that they remain relevant in the Fintech era.

The key objective for any KYC/customer due diligence program/AML regime is to ascertain the veracity of funding used in structures, the identity and proof of address of relevant persons (e.g. beneficial owners and directors) during the customer on-boarding stage; and to monitor on a regular basis thereafter, for any changes. The typical documents obtained and reviewed during this process are:

- Passport or other approved government ID to verify identity
- Utility bill or bank statement to confirm a physical address
- Source of funds confirmation
- Bank or professional reference to establish character/integrity of subjects when enhanced due diligence is called for.

Copies of passports and utility bills previously needed to be certified as true copies. Specific wording was required to indicate that pictures were a true likeness of the original. Also, the identity and contact details of the certifier needed to be present and legible on the document. However, under the new rules, BVI regulated companies can now place greater reliance on copies sans the previous certifications and requirements subject to them conducting an assessment to determine the applicable risks. Further than this however the new rules allow for firms to utilise fintech, digital tokens and blockchain innovations in carrying out this process.

Since its inception in 1991, the CCP Group of Companies has been providing a range of valuable services to both local and international clients. The key members of the group are:

- CCP Financial Consultants Limited, a provider of company management and insolvency services which is regulated by the BVI Financial Services Commission since 1991.
- CCP Accountancy Services Limited, a provider of audit, accountancy, bookkeeping, payroll processing, business plans, loan proposals, general consulting and other services since 1993.
- CCP Logistics Limited a provider of logistics and general business services since 2018.

## Doing business in the BVI

With a large active register of companies, the BVI has been the world's preminent choice for corporate domicile for the last three decades.

Below are five key reasons why the BVI is a great choice of jurisdiction to establish a company.

- It is an Overseas Territory of the United Kingdom with a sterling history of political stability.
- Robust legal framework based on English Common law.
- Meets international compliance standards and is 'White Listed' by the OECD.
- The BVI Business Company Act, 2004 is a flexible act containing innovative, non-onerous and light touch features conducive to both shareholder and lender protection. The ability to flexibly structure complex cross-border corporate activities – involving investors from all parts of the world makes the BVI highly effective for joint ventures, mergers and acquisitions, IPOs and as holding companies for high valued assets.
- Tax neutral and cost effective.



BELGIUM

## Yves Lecot

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Yves, is a certified accountant and tax advisor and general manager of Comptafid Benelux NV, a Belgian company established in Brussels in 1978 and Antwerp in 1995. The company is mainly active in accountancy and tax advice (national and international), guiding its clients to the different specialists on the Belgian market such as notary firms, law firms, insurance brokers, real estate and financial specialists, marketing and publicity firms.

With its international experience, Comptafid emphasises the knowledge of languages and is sensitive to different legal cultures. Languages such as English, French, Dutch and German are commonly spoken in the company.

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

### BV or SRL

The BV or SRL requires a minimum of one shareholder and no share capital. Owners must guarantee all activities for at least three years and a financial plan covering the activity for minimum two years.

Shareholders must prove the validity of the figures based on a marketing study, or other objective resources that prove the reality of the plan. The certified accountant will be personal liable as well as the shareholders and the management where it is clear that one of these professionals did not provide professional advice. Where dividends are linked to a proportion of the share capital, it is possible to link voting rights to dividend distribution, and in allow full control of the company by its management.

As an example, a father could give 95 per cent of its shares to the children, and keep 5 per cent of the shares, but can specify that with 5 per cent of his shares he has 80 per cent of the voting rights and has 100 per cent of the dividends.

Furthermore, he could define that he is general manager for life. Dividend distribution may not put the company in difficulties for the next 12 months, otherwise the general manager must re-call the dividend and can be personal liable if his plan doesn't settle the matter.

The BV or SRL has good transparency, but creates significant responsibility for the managers and the certified accountants. The management is personal liable and the certified account must prove his positive intervention as a professional, in order to influence the management.

### NV or SA

This company type is a limited liability company where the share capital is a central element in the structure.

The Board can be composed of one director, who has a real veto right, even on his own dismissal. It is possible to setup a management dynasty which means the bylaws can specify who will be the heir, family or not, of the director.

The manager is jointly and severally liable for all actions of the company, so that in case of dispute, the company must be convicted first, before any liability can be apportioned to the director. The power of the director is not really unlimited. It is possible to provide exceptions in the bylaws, with some powers reserved for the shareholders meeting.

## I QUESTION TWO

## Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

The Belgian Parliament decided in February 2019, to adopt a new company law and association law that has the aim to answer the needs of a modern society and focus on the real economic actions of the entrepreneurs, rather than putting in place an old fashioned structure that doesn't answer any more on the actual needs. The new Companies and Associations Code enters into force on May 1 2019 for new companies and January 1 2020 for existing companies.

The new law states explicitly, the definition of a company, an association and a trust (special form of association). The number of different types of structures has been reduced to four and Belgium recognises two official languages - Dutch and French.

The new code reduces the number of different forms of companies from more than fifteen to four basic forms. These are, partnership, private company (PC), the limited company (LC) and the cooperative company (CC).

These new forms of company should simplify the attraction of foreign investments. This code modernizes the law in various ways, including providing a choice for the principle of the registered office instead of the real seat principle (the company is governed by the law indicated in the article of association). It also offers the introduction of double voting rights in listed companies and multiple voting rights in non-listed companies and the limitation of liability of the director.

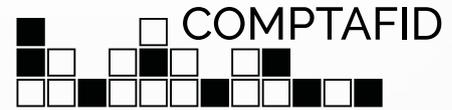
The limited company (LC), is a company type for very big companies with legal personality and limited liability. As from now on, a single director can be appointed, with possible protection against resignation. An LC will have the choice between the current monastic governance system and a full-fledged dual governance system (with an executive committee and a supervisory board). A listed LC can provide for double voting rights for loyal shareholders in the articles of association.

The private company (PC) is a company type with legal personality and limited liability. The PC is presented as the basic company type, is a very flexible company vehicle, and can be listed. The legal minimum capital is no longer necessary, however sufficient means to perform the activities of the company should be in place. Shares with multiple voting rights are possible, however there is no longer a capital condition. The founder should take a net assets and liquidity test.

The European company, the European cooperative company and the European economic interest grouping, remain intact after the reform.

The old company law and association law is applicable on structures, until 31st December 2019. The new law has two type of obligations; the mandatory obligations and the forced obligations, until 1st January 2024 when the old law is replaced by the new law and old structures will be replaced by the new ones. If a company wants to change its bylaws after 1st January 2020, they must automatically move to the new law.

In this instance, the first job is to analyse the bylaws of the company, discuss with the shareholders what they really want, and propose new bylaws, with the help of the certified accountant.



Comptafid Benelux is a Belgian company established in Brussels since 1978 and Antwerp since 1995. The company's main activity is accountancy and tax advice (both national and international).

Other than its own services, Comptafid Benelux guides its clients to different specialists on the Belgian market such as notary firms, law firms, insurance brokers, real estate and financial specialists, marketing and publicity firms, etc.

The firm is head-quartered in the capital of Europe, Brussels, and is committed to producing high quality work, delivered and aimed at practical solutions.

Comptafid Schweiz is the Swiss subsidiary, that offers a full range of services such as accountancy, financial planning, corporate trust and legal services. The clients of Comptafid Schweiz range from listed multinationals to individual entrepreneurs.

## Doing business in Belgium

Many multinationals use the Belgium market as a test bed for products and services. The population is so complex in terms of culture, language and spiritual beliefs, that a new product, accepted by the Belgian market, is an excellent test if it is accepted by its population. Furthermore, the country has a reputation for chemical and pharmaceuticals knowledge, meaning a lot of new developments are realised in Belgium, with the aid of top universities and governmental aid.

Wallonia is trying to compete to Flanders, so this regional competition can help entrepreneurs to succeed in their goals.



GERMANY

**Wolfgang Hohl**  
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Wolfgang Hohl started his career at Franz Reißner Treuhandgesellschaft mbH in 1977. A few years later, he completed his exams to become a Tax Consultant and Auditor. In 1980 he became the CEO of the company. Since then he has continuously developed the Franz Reißner Treuhandgesellschaft mbH and the FRTG Group.

Wolfgang Hohl's second business interest, besides the FRTG Group; is the FRTG Holding. The holding has companies in different fields at home and abroad. These include, for example, SOLVANTIS AG, EWG Edelstahl-schraubenfabrik Winterberg and FRTG Exptel Hannover AG & Co. KG.

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#### I QUESTION ONE

**What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?**

Under German law, it is not always possible to easily find the right structure for the company to be founded. There are a lot of individual reasons that influence the choice of company structure, including tax reasons.

The most popular structure for a new company is the limited liability company (GmbH). Germany has a special law for limited liability companies which defines the guidelines for the shareholders, managing directors and the relationship to civil laws. This legal form is the most popular structure in Germany because it is relatively easy to establish and easy to handle for the shareholders and the management.

Typically, the limited liability company is used for small and medium-sized clients, but there are several other types of incorporated companies used to conduct business in Germany. These include, the stock cooperation (Aktiengesellschaft/AG), the European stock cooperation (Societas Europaea/SE) and the limited liability entrepreneurial company (Unternehmergesellschaft/UG).

Partnerships are also available, including the limited partnership, which is a special form of the GmbH. Some international investors prefer opening a branch office, which is not a separate legal entity, but part of their existing foreign operation.

#### I QUESTION TWO

**Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

The foundation and registration is quite simple because of the strict regulations. The easiest way is to purchase a shell company, because it's already set up and ready to commence business. We provide those companies and related services.

The regulations regarding the company name when it comes to competition law should be considered. We accompany our clients regardless of preference, whether that's buying a shell company or founding a new company. The civil law framework guarantees stable laws, meaning the protection of liberties and the equality before the law is ensured by basic law (Grundgesetz).

In contrast to the Anglo-Saxon common law system, which is based on case law, German legal codes delineate abstract legal principles and the judges have to decide on the basis of these standards. Investors find a business-oriented legal, regulatory and fiscal framework that is a stable basis for business in Germany and Europe.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Our firm does not need company formation agents, only the notary that certifies the foundation. We have been working with a notary for many years and they deal with every possible condition (e.g. the money laundering act and relating questionnaires). By using a shell company a lot of those steps have already been completed beforehand and result in less work for the client. The entry in the commercial register has already taken place, bank accounts have been set up and a tax number issued, so the company can commence business activities right away.

The identification of the entity and its verification, plus the proof of identity of the client, must also be carried out. The authorities need to know the structure of ownership and management and the origin of the financial resources in the business. German banks have strict regulation, following the anti-money laundering laws in Germany, while auditors, tax advisers, notaries and lawyers, also require a lot of data and documents to set up a cooperation.



The FRTG Group is an association of five tax consulting companies. This means the group can draw on a pool of experts who are able to provide their clients with qualified, comprehensive and personalised advice in different specialist areas. FRTG Group provides clients with individual solutions tailored precisely to their needs, from a single source for national and international companies of any legal form and size, entrepreneurs, associations, foundations and private individuals in the following areas;

- Auditing
- Tax consulting
- Services
- Business management consulting
- Restructuring

Independent institutes and magazines have awarded the FRTG Group several times already.

### Doing business in Germany

The legal standards in Germany are strictly complied with and this leads to a high level of certainty.

In Europe, Germany is considered to be the biggest and also the most challenging market. Anyone who's successful in Germany can make it anywhere.

Taxation in Germany is moderate. The tax on profit is 30 per cent and in holding structures in the legal form of a corporation, the tax can be reduced to 1.5 per cent (tax on dividends).



NEW ZEALAND

## Richard Ashby

Partner, Gilligan Shepherd

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Richard has more than 30 years' experience with New Zealand (NZ) taxation, and particularly enjoys dealing with land tax issues and the GST regime.

Having spent the majority of his early career in the investigations unit of the New Zealand Inland Revenue, Richard's passion for tax stuck and he eventually became Gilligan Sheppard's tax partner.

He deals with clients of all types and sizes and provides tax opinions on the appropriate treatment of items of income and expenditure. He also assists clients with IRD risk reviews and audits, and can assist clients who are having difficulties meeting their tax payment obligations to make suitable repayment arrangements with the IRD. Richard also provides cross-border tax advice, both to existing clients looking to expand their operations offshore, and to offshore persons looking to either establish a NZ presence for their business or to relocate themselves personally to NZ more permanently.

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Offshore clients looking to establish a New Zealand (NZ) presence, most often arrive on our doorstep with the pre-conceived notion that a standard NZ company is the best trading structure for them to use to undertake their business activity.

However, before formalising the plan to incorporate, it is imperative to fully understand the exact nature of the proposed NZ activity, how the offshore person is structured themselves (company, trust, individual for example), and what are they actually trying to achieve by using a NZ company.

We have experienced numerous cases for example, where the offshore client was simply looking to get their product into the NZ market by being the "importer of record" for NZ Customs purposes, and their understanding was that the only way they could facilitate this scenario, was via the use of a NZ company.

Establishment of a NZ company would now potentially establish a NZ permanent establishment (PE), with NZ then obtaining a right to tax any profits attributable to that PE. This scenario could in fact have been avoided, via a simple written request to the NZ Companies Office, for a letter of exemption which could then be provided to NZ Customs, alleviating the need to form a NZ entity in order to obtain the necessary client code.

Should the off-shore client's level of proposed NZ activity however dictate that a NZ trading structure is warranted, the desire to use a NZ company structure may ultimately lead to greater profit repatriation costs than the offshore client initially appreciated, due to a misunderstanding of NZ's corporate income tax regime. In this regard, in NZ we have what is known as an imputation regime. The NZ company is assessed for income tax on its annual profit at a flat rate of 28 per cent, the tax paid then becoming an imputation credit which can then be attached to any dividend subsequently paid to the company's shareholders.

For a NZ shareholder, the imputation system works well, as it ensures the shareholder is not taxed again on the dividend income to the extent the company has already been taxed on the amount. However most foreign taxing jurisdictions do not recognise a NZ imputation credit attached to a dividend payment as qualifying as a foreign tax credit, and consequently the foreign shareholder is subjected to full taxation again on the dividend income they have received. The result often equating to a repatriation cost exceeding 50 per cent.

Where the offshore client has some flexibility with their NZ structuring therefore, they should explore alternative trading vehicles, such as a NZ limited partnership (NZLP). Commercially the NZLP retains the corporate veil of the company form, usually protecting the investor from the claims of creditors, however it does not have the aforementioned imputation credit regime, often enabling therefore, the off-shore client to obtain a direct tax credit in respect of any NZ income tax paid.

### I QUESTION TWO

## Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

The formation of a NZ company is usually a fairly simple and low cost process, and we often receive comments in that regard, when attending to registrations on behalf of our offshore clients.



The governing code for NZ companies is the Companies Act 1993 (the Act). The Act contains all the rules which deal with the incorporation of the company (its birth), ongoing maintenance of the company (including director's powers and duties, shareholders' rights and obligations, record keeping requirements and reporting obligations) and the liquidation of the company (its death). In fact, the Act itself is suitable for the purpose of becoming a particular company's rulebook, where the company decides it does not wish to adopt a separate constitution.

NZ companies only require a sole director and shareholder, which can be the same person, resulting in the commonly used term in NZ of 'one-man-band' companies. For offshore clients looking to establish a NZ company, at least one director must live in NZ (although an exception applies where the person lives in Australia and is an existing director of an Australian company).

The NZ Companies Office maintains the NZ company Register, a free, on-line searchable database of all NZ registered companies. To ensure the Register is kept up to date, all NZ companies are required to file an annual return, the due date usually dictated by the month during which the company was originally incorporated.

Whether a NZ company is also required to provide a copy of its annual financial statements to the NZ Companies Office, is now determined by the size of the company – whether it is considered to be large or where it has more than 10 shareholders (unless the shareholders opt out of the requirement). In regard to being large, where a company has for the previous two reporting periods, total assets exceeding NZD60 million (NZD20 million for subsidiaries of overseas companies) or total revenues exceeding NZD20 million (NZD10 million for subsidiaries of overseas companies), then its annual financial statements must be filed with the NZ Companies Office within five months of the company's balance date.

A NZ company does not have a mandatory audit requirement in respect of its annual financial statements either, the rules which determine the company's reporting obligations to the NZ Companies Office, usually also determining the audit requirements.

Finally, the NZ Commerce Commission and the Financial Markets Authority, are essentially watchdogs to ensure NZ companies behave appropriately within the NZ environment.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

In recent years, NZ has seen the introduction of more stringent AML/CFT rules, the legislative reach bringing accounting firms under the compliance obligation umbrella effective 1st October 2018.

When on-boarding any new client now, which includes the incorporation of a NZ company for an off-shore client, we have to complete certain due diligence requirements, which will include requesting various certified identification documents from those persons behind the company (shareholders/directors), to enable us to verify they are who they say they are.

However, it should be recognised that all NZ banks have greatly increased their customer due diligence processes, as has the NZ Inland Revenue, before it will be prepared to issue the new NZ company with the requisite tax file number.

Gilligan Sheppard is a different kind of accounting practice that does more than just accounting. The partners listen, then provide a no-nonsense, cut to the chase solution that will be tailored to each individual circumstance and need.

We're different. We challenge. We consider. Then - we deliver.

Gilligan Sheppard takes the time to understand each client and the particular challenges they face moving forward, given what they would like to achieve. The practice then methodically evaluates the options ahead, vigilantly considering the potential short and long-term outcomes, to ensure clients get the best possible advice.

Advice is delivered in a very simple, straight-talking manner that will always clearly elucidate the decisions that need to be made. Some clients have called it a breath of fresh air, which is quite fortunate, because we are not comfortable operating any other way.

## Doing business in New Zealand

New Zealand is a stable, well regulated, business and political environment. Establishing a company is a simple, low cost and relatively quick (same day potentially) process to incorporate. The country is a good test market for an offshore client's products and services before entering some of the bigger marketplaces.

It also has potentially lower ongoing maintenance costs, with no public reporting or audit requirements unless the company is "large".



LUXEMBOURG

## Christophe Gammal

Managing Director, HALSEY  
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Christophe Gammal graduated from the European School in Luxembourg in 1987 and is a member of Society of Trust and Estate Practitioner.

From 1991 to 1996, he pursued business administration studies (Diplom Kaufmann) at the University of Regensburg, Germany, with specialisation in investment, banking and finance as well as operation research. In 1998, he studied commercial law in Luxembourg and has subsequently followed various courses in taxes; management (including MIT); human resources and private equity.

He joined HALSEY in 1997 and has served as a member of the Executive Committee and holder of a CSSF license since 2000 and as a director since 2006, at which point he became a partner. Before he joined HALSEY, he served in various positions with FLG Metallurgie GmbH (VIAG Group) in Düsseldorf, Germany, Murex Rainham Ltd, Rainham (UK) and with Hypobank International S.A. in Luxembourg in the internal audit and deposit department.

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Luxembourg offers a wide range of investments vehicles, which are subject to different levels of regulation. The choice of structure is usually driven by the investment policy and the marketing strategy of the promoters.

### Undertakings for collective Investments in Transferable Securities (UCITS)

UCITS are governed by the Part 1 of the Law of 17 December 2010. The peculiarity of these funds is that they are marketed to all the categories of investors, including retail investors. These funds are subject to the highest level of regulation with the aim of protecting the investor. Consequently, they are subject to strict investment restrictions and shall comply with specific requirements in terms of risk diversification and investment strategy. These funds can be freely marketed within Europe as they dispose of the European passport.

### Regulated Alternative Investment Funds (AIFs)

**Undertakings for Collective Investments (UCIs)** which are subject to the Part II of the Law of 17 December 2010. These are funds that can be sold to all types of investors, including retail investors. However, these funds do not dispose of a marketing passport, therefore they can only be marketed in accordance with the regime applicable in the country where they are intended to be marketed.

**Investment companies at capital risk (SICARs)**, which are subject to the law of 15 June 2004. These funds are subject to less strict investment restrictions and their investment strategy is extremely flexible, as they shall only comply with the principle of risk diversification.

**Specialised Investment Funds (SIFs)**, which are subject to the law of 13 February 2007. These funds are subject to less stringent investment restrictions compared to the UCITS funds, although they still have to comply with the investment restriction criteria defined by the SIF Law.

**SICARs and SIFs** are reserved to well-informed investors, or any other investors confirming in writing that they have the status of "well-informed investor". They must also invest at least EUR 125,000, or provide a bank confirmation.

### Holding Companies (SOPARFI)

The SOPARFI (financial holding company) is the most used unregulated investment vehicle. The notion of SOPARFI is not a defined legal or tax concept but refers to a company the corporate purpose of which is to carry on holding financial activities under the ordinary tax regime (the so-called Participation Exemption).

The recent modernisation of the Company Law has again increased the flexibility (contractual rather than institutional approach) and security of the rules governing Luxembourg companies.

### Unregulated

The unregulated AIFs group all those funds that are not included under the SIF, the SICAR or the UCI Part II regime. They pursue alternative investment strategies and are generally private equity funds, real estate funds, hedge funds and venture capital funds.

These funds are often set up as common limited partnerships (sociétés en commandite simple - CLP) or as special limited partnerships (sociétés en commandite spéciale - SLP. There is a high degree of contractual freedom in the implementation of the limited partnership (i.e. voting rights, transfer of partnership interests, profit allocation/loss sharing, kind of contribution, new partners, etc.).

Key features of the SLP are the absence of legal personality and the tax transparency regime, while the CLP has a legal personality and is tax transparent.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Luxembourg's economy has the advantage of a business-oriented legal, regulatory and fiscal framework that features a high degree of adaptability to economic change and a predictable fiscal environment that is particularly favourable for investment.

Political stability and economic predictability go hand-in-hand in the country. Luxembourg features great flexibility and responsiveness on the part of its public administrations, with shortened administrative procedures and easily-made contacts with all the parties concerned.

The ease with which speakers of different languages are able to communicate in Luxembourg has attracted more and more talents over the decades, concentrating in the country a highly qualified workforce from all over the world. At HALSEY, despite the fact that we are "only" slightly over twenty professionals, we have colleagues speaking French, Italian, German, Dutch, Luxembourgish, Romanian, Turkish and, of course English.

HALSEY and its team have a high skills level in day-to-day management of regulated and unregulated Luxembourg entities for international clients like private equity firms and real estate investors, multinationals, promoters and investment companies held by high net wealth individuals. In addition, as we are fully independent, we can always help our clients to find to right local advisor for any specific structuring or situations to manage.

#### I QUESTION THREE

### What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Luxembourg has a comprehensive and extensive anti-money laundering and countering the financing of terrorism (AML&CFT) legal, regulatory and institutional framework based for the most part on EU instruments and FATF standards.

In Luxembourg, the Financial Supervisory Authority (CSSF) issues the applicable AML/CFT laws for the financial sector. The main AML&CFT law is the Law of 12 November 2004 (as amended) ("AML Law"), reinforced with the Law of 27 October 2010, the FSA Regulation 12-02 and the FSA Circular 17/650 (on predicate tax offences).

The AML Law, although addressed to the financial sector, is the law that is used as a 'source of inspiration' to issue AML legal framework also for the other entities and/or professionals which are not under the supervision of the CSSF (i.e. notaries, lawyers).

In practice, identification is done for the direct shareholders and parent companies / ultimate beneficial owners (UBOs) and includes obtaining supporting documents as relevant for individuals/legal entities. The AML law settles the threshold to define UBOs at 25 per cent or more of the shares (direct/indirect ownership) and voting rights in that legal entity. Where no individual can be identified to meet the 25 per cent threshold, it might be that the entity's senior managing officials will be considered as UBOs.

Finally, there is the Luxembourg law of 13 January 2019 on the register of beneficial owners which was published on 15 January 2019 and entered into force on 1 March 2019.



## HALSEY GROUP Sàrl

HALSEY, as a provider of solutions and customised professional services for companies, put all the advantages of the regulatory framework of the Grand Duchy of Luxembourg and its international financial centre to good use.

Established for more than 20 years, regulated by the Financial Supervisory Authority (Commission de Surveillance du Secteur Financier – CSSF), the firm is independent and wholly owned by its management. They offer a personalised and objective approach specific to client needs.

They offer an extensive range of high quality services in connection with Luxembourg financial companies both at the time of incorporation and throughout the life of the company including: company formation; administration and accounting; corporate secretarial; fund administration; tax compliance; management of companies; assistance in setting-up own offices & management of client staff.

### Doing business in Luxembourg

Luxembourg as a geographically central European location has given it a greater importance than its demographical size. It is situated at the heart of Europe and has borders with France, Belgium and Germany, putting it within easy reach of some of the largest and most important European financial and industrial centres.

Our country is a demographically and linguistically diverse country. Out of a population of approximately 615.000, 47 per cent of Luxembourg residents are foreign nationals. The majority of Luxembourgers speak Luxembourgish, though French and German are the main languages for administrative purposes. English is also commonly used as a business language.

Also, Luxembourg is an important financial centre, where investment funds, banks, reinsurance businesses and holding companies have expanded rapidly during the last fifteen years. Strong measures are in place to prevent money laundering, supporting the integrity of the marketplace.



TAIWAN



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Trista Wu is Deputy Managing Partner of HW & Partners, Barristers & Solicitors. She is currently serving as the supervisor for Taiwan Association of Corporate Patent Executives, and previously served as the honorary consulting lawyer for small and medium enterprises of the Small & Medium Enterprise Administration, Ministry of Economic Affairs, ROC.

She specialises in consulting and claims and dispute handling for all kinds of construction contracts and regularly participates in the mediations of the Public Construction Commission, Executive Yuan (Taiwan).

Trista is the commissioned lawyer for several highly regarded criminal defence cases involving the Securities Exchange Act in Taiwan (e.g. Leadtrend Technology Corporation IPO case, FAST Technologies, Inc., Mingguan Technology Engineering Co., Ltd, Gia-Tzoong Enterprise Co., Ltd., etc.)

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Sean Chen is a senior partner of HW & Partners, Barristers & Solicitors. He is a qualified lawyer in China and has acted as legal counsel for numerous public offering and off-the-shelf (OTC) companies. He has served as Chief Legal Officer in several architecture companies and Intellectual Property Director in a number of bio-tech companies.

#### I QUESTION ONE

**What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?**

Foreign companies usually set up their subsidiaries or branches in Taiwan when they decided to invest in Taiwan. The analyses of taxation in Taiwan show that profit-seeking enterprise income tax is charged at 20 per cent for subsidiaries and branches. Surtax on undistributed retained earnings is charged at 5 per cent for subsidiaries and is exempt for branches.

Tax on the remittance of the dividends, which return to their parent companies (headquarters), is charged at 21 per cent for subsidiaries and nil for branches. If the parent company is a tax resident in a jurisdiction outside of Taiwan, and has a tax treaty with Taiwan, then the withholding tax rates on the remittances from the subsidiary can be reduced to 5 per cent to 15 per cent.

If a foreign investor wants to exercise the same equity rights as other Taiwanese company shareholders, they must set up a Taiwanese subsidiary in order to obtain similar tax benefits to Taiwanese companies. If a foreign investor is in the fields of trading and manufacturing, they would need to set up branches in Taiwan to enjoy no withholding tax. If a foreign investor intends to invest in real estate in Taiwan, they must set up a branch office to enjoy similar tax benefits.

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## I QUESTION TWO

**Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

From the perspective of the Company Act, setting up a representative office indicates that a foreign company has no intention to conduct profit-seeking business activities, but will only appoint its representatives to fulfil juristic duties.

For instance, hiring engineers for research and development is considered to be more like performing routine and repetitive business activities. This is very different from those of signing contracts, bidding for projects, quoting prices, procurement, and price negotiation. Hence, it will be regarded as profit seeking business activities rather than fulfilling business juristic duties. Thus, it is not recommendable to set up representative offices as such.

From the perspective of taxation, if a representative office has no profit-seeking business activities, it is not required to file income tax returns and will neither be taxable under value added taxes. However, it is often a decision of the tax authorities, as to whether it has profit-seeking business activities.

## I QUESTION THREE

**What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?**

At the time of company incorporation and thereafter, any paid up capital or any increase or decrease of capitalisation, is required to be certified by a Certified Public Accountant. According to Article 9 (1) of the Company Act, a company shall collect and receive the full amount of paid up capital from the issuance of shares and shall not subsequently refund to any shareholder or allow any amount of capital be taken back by any shareholder.

According to Article 5 (3.3) of the Anti-Money Laundering Control Act, any lawyers, accountants and notaries will be considered as non-financial professionals for their clients, when making preparations or carrying out any transactions. This includes, buying and selling real estate, managing client funds, securities or other assets, managing of bank, savings, and securities accounts and providing company formation, operational and managerial services. Thus Know Your Customer (KYC) applies including reviews of clients' identities, implementation of customer due diligence (CDD) and enhanced due diligence (EDD) on potentially higher risk clients. Transaction records keeping and reporting of any suspicious transactions to the authorities is mandatory.



HW & Partners, Barristers & Solicitors provides local services in Taipei, Hsinchu, Taichung, Tainan and Kaohsiung, as well as overseas services in the US, China and further afield. In order to allow clients to receive more complete services, the firm not only integrates with external professionals in the areas of accounting, tax and finance to assist in handling cases, but also employs dual-licensed specialists in accounting, law, finance or taxation.

In addition, they have overseas service bases which are combined with the cross-field expertise of external alliance partners, while converging with global leading firms. With a full range of legal professional services and an attitude toward excellence, HW & Partners has built a high-quality and efficient professional fleet of legal services.

### Doing business in Taiwan

Taiwan and China share a common language, history and culture. About 40 per cent of Taiwan's total exports are to China and some key industry sectors like technology have much of their manufacturing in China. With cumulative investments there estimated at well over USD200 billion, Taiwan is among the largest sources of inward investment in China.

Taiwan remains an important high-tech hub in itself, supported by a well-developed network of industrial parks and clusters. The production of higher end goods such as semiconductors and LCDs has largely remained in Taiwan, as has advanced tech R&D facilities.

There are no restrictions on inward and outward remittances related to foreign trade in goods and services in Taiwan. For other non-trade-related remittances, companies and individuals can freely remit foreign exchange up to an aggregate of USD50 million and USD5 million, respectively, per year, and non-residents may open Taiwanese currency bank accounts but can only remit up to USD100,000 per transaction.



**DUTCH CARIBBEAN**

**Luis Santine**

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Luis Santine is the founder and managing director of InfoCapital; providing diversified advisory services related to international business solutions and transaction services. InfoCapital serves a wide range of clientele ranging from corporate to small business owners and from merchants to institutional investors.

Luis is experienced in exchange-listing services on the DCSX and is active in the start-up scene, helping to facilitate fintech start ups with access to finance through the Earlybird Funding platform. Luis has built significant expertise and experience in e-commerce and e-payments, advising clients on payments and transactional structures, while providing merchants with (online) payment solutions through the CX Pay platform.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Curaçao's most recent tax reforms promote an attractive investment climate for businesses, as the jurisdiction positions itself more and more as a substance destination for financial services such as family office services, investment funds, trust services, intellectual property rights management, wealth preservation & asset protection, shipping and aircraft registry, international trade services, exchange listing/trading and e-commerce solutions.

The international financial sector of Curaçao has actively cooperated with the Curaçao Government to ensure improvement and amendment of the legislation to keep pace with the constantly changing international requirements regarding compliance, substance and transparency. Another BEPS requirement is that participating jurisdictions amend their legislation to terminate or modify regimes which are deemed preferential. Curaçao has introduced new legislation to comply with these OECD BEPS standards, to ensure that our regimes are favourably reviewed.

The international trend is that companies that operate in a jurisdiction should have real presence, or substance, in that jurisdiction. The substance should be proportional to the size and nature of the activities that the company performs. This means that, for example, a company with some basic investments that, if they were held directly by a natural person would not require much time and effort, will not require much substance. On the other hand, companies with a sizable number of assets and a substantial turnover, should have several full-time local employees and operational expenses such as office space and equipment that is in line with the reasonably required time and effort for these activities. The company may employ people directly or indirectly, but the core activities should be performed in Curaçao. To be certain that a company meets these substance requirements, it will be possible to request a ruling from the inspector, who must respond to such request within one month.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Curaçao has been a true financial centre since 1954. Due to its long-time activity in this area, the island has developed an infrastructure that is well suited for international finance, investment banking, shipping registration, funds administration and related services. Some of the key factors that qualify Curaçao as a preferred financial centre are:

- As part of the Kingdom of the Netherlands, the legal system is linked to the Dutch Supreme Court in The Hague;
- Supervision of the Central Bank of Curaçao and St. Maarten provides complete security and stability;
- Investment protection treaty eligibility as part of the Kingdom of the Netherlands;
- Tax system is compliant by OECD norms and linked to well-known regulations and incentives of the Netherlands and other EU member countries.

New regulation includes a general exemption for foreign source income in connection with the sale of goods or performance of services to customers abroad, based on the OECD-approved territoriality principle. As for IP income, the OECD has made it clear that all jurisdictions must adopt the so-called nexus approach. This is a form of substance, as it requires a company to have developed its own IP

in order to benefit from tax incentives for the income generated from that IP. The amendments form a balanced new system that will ensure that both the investment climate of Curaçao and doing business in the country remains compliant and attractive for investors.

InfoCapital provides private clients with all necessary assistance and coordination throughout the company formation process, including registered office facilities and agents as well as local representatives.

As part of our private client services, InfoCapital has experience and background in providing trustee and board services to high net worth families, family offices and privately held corporations. The services include financial administration and reporting, financial audit and internal control, payroll services, corporate governance matters and bank account management.

InfoCapital also provides exchange listing services through its affiliation with the Dutch Caribbean Securities Exchange (DCSX). The DCSX is supervised by the Central Bank of Curaçao and Sint Maarten and operates under full license of the Ministry of Finance of the Curaçao Government and is the only authorised securities exchange within the country of Curaçao. In addition, InfoCapital provides payments services under a private label, CX Pay.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Service providers must take reasonable measures to monitor clients and their transactions on a continuous and/or regular basis, by means of an established risk profile and risk classification of that specific client. Curaçao is not on the OECD nor the FATF AML Deficient List.

The international financial sector (IFS) of Curaçao strives to maintain its status as a premier and high quality, globally competitive financial centre that has invested heavily in establishing a robust regulatory regime with supervision that meets or exceeds international standards. In recent years Curaçao has promoted more transparency, compliance and substance over traditional offshore structures based primarily on favourable tax structures. Much of the financial infrastructure in Curaçao has been setup to cater to structures that seek not only a favourable tax climate, but mostly to provide insight and transparency into property and money flows of the respective companies and private clients.

The specific needs of clients are carefully and thoroughly assessed and evaluated to provide customised and compliant solutions through the most fitting structures that are tailored around the principles of a risk-based approach. This approach is anchored on current laws and regulations on the prevention of money laundering and terrorist financing that aim to provide a better, less timely and a more cost-effective alternative to the normative approach.

Service providers can therefore allocate resources more effectively on high-risk clients, and meet compliance requirements with greater efficiency. This, in turn, creates greater latitude and flexibility for professional service providers to dedicate the desired and adequate attention to the risk assessment of specific client profiles, country, product or transaction types. This risk assessment is used to describe how the risks are either eliminated or mitigated pursuant to the money-laundering legislation.



InfoCapital is a diversified provider of advisory services related to international business solutions and transaction services. With its operations in Curaçao, Dutch Caribbean, the company is well positioned to serve clients in Asia, Eastern Europe, Latin America and the Caribbean.

InfoCapital serves a wide range of clients ranging from corporate to small business owners and from institutional to individual investors. Our expertise and solutions are found primarily in the areas of fiduciary services, international payment, merchant payment platform, trade & transaction management, e-commerce solutions, financial advisory and project management.

## Doing business in Curaçao

Curaçao is a trusted and compliant jurisdiction with a stable financial sector that has facilitated the role of the island as a trade and logistics hub for doing business in the Dutch Caribbean, connecting Europe and the Americas as well as increasingly (East) Asia. Our strength lies in the diversity of services and vast knowledge and experience that we can offer: our regulated, compliant, and transparent infrastructure as well as innovative and diverse jurisdictional products.

High quality prudential supervision by the Central Bank of Curaçao & Sint Maarten as regulatory authority, with a strong and stable currency ANG (Antillean Guilders), that is pegged to the US Dollar.

The island has an attractive tax climate for non-resident legislation that guarantee property rights with strong affiliations to the Dutch and European legal system. There is also a skilled and well trained multi-national and multi-lingual workforce.

In addition, our geographical location and multi-region connectivity, along with our connections between Latin America, North America and Europe, make Curaçao the ideal financial and logistical centre.



POLAND

## Joanna Bogdańska

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Joanna specialises in civil, commercial and business law. She provides comprehensive legal services to companies and other business entities in the field of ongoing corporate services, obtaining necessary permits and concessions, drawing up legal opinions, drafting contracts as well as negotiating them.

She participates in conducting audits and deals with the implementation of compliance procedures, and advises in complex restructuring projects of companies. She specialises in transaction advisory, with particular focus on mergers and acquisitions and public procurement law, offering legal assistance at every stage of the process of both granting and obtaining public procurement.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The limited liability company may be established for any purpose allowed by law, including non-profit. It may be established by one or more natural or legal persons (as long as it is not incorporated solely by another sole shareholder). The minimum share capital amounts to PLN 5,000.

The company is represented by management board and is composed of one or more members appointed from among the shareholders or from other persons. The management board consists of one or more members (natural persons with full capacity for legal actions).

The company is liable for its debts and obligations with its whole property without any limitations. Members of the management board may be liable for the company's obligations when enforcement proceedings against the company have proved ineffective.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

The biggest difficulty with the establishment of companies, is the time needed. The articles of association must be signed before the Polish public notary, but Polish registered courts are overloaded, and waiting for registration of the company may take up to three months.

We can support clients and accelerate the procedure, by representing them before the notary, so a personal appearance by the client in the notary office is not necessary. We will also represent clients throughout the whole registration procedure. It should be also noted that the company exists and may operate from the conclusion of the articles of association before the notary, despite the lack of registration. Although the company exists, the company in organisation may not open a bank account.

To avoid any doubts, the institution of 'nominee' does not exist under Polish law.

The Polish government has introduced the following tax solutions that are beneficial for entrepreneurs:

- General CIT tax rate is 19 per cent, however a lower CIT tax rate of 9 per cent is available for;
  - non-capital revenues;
  - any revenues generated in the tax year that do not exceed the amount expressed in PLN equivalent to the equivalent of EUR 1,200,000.
- Sales made by a taxpayer starting business activity during the tax year is exempted from VAT, if the value of anticipated sales does not exceed, in proportion to the period of business activity in the tax year PLN 200,000.

- Tax relief - innovation box - provides application of a preferential tax rate of 5 per cent (previously 19 per cent) on income derived from qualified intellectual property rights, created, developed or improved as a result of a research and development activity conducted by the taxpayer.
- Tax relief – R&D relief - allows additional deduction from the tax base so-called eligible costs obtained from revenues incurred, i.e. a part of tax deductible costs incurred for research and development activities.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

There is no such institution in Poland as an agent of the company.

In accordance with Polish law we, as a professional representatives of the client, will take the following actions:

- verification of the identity of the client and the beneficial owner;
- verification of the identify of a person authorised to act on behalf of the client and verification of its identity and authority to act on behalf of the client
- verification of the aim of the transaction

We also need a client statement concerning source of assets involved in a transaction and not being a politically-exposed person.



KW Kruk and Partners Law Firm LP is an independent law firm providing complex legal services to Polish and foreign corporate clients, financial institutions and public administration bodies (state and local government). A team of experienced lawyers has knowledge of the specificity of operations, problems and legal aspects of individual sectors of the economy. This enables correct assessment of any business situation their clients are in, and allows them to adjust legal solutions to attain the intended objectives. KW Kruk and Partners has a global network of personally known and trusted high level advisers, experts and business connections, which allows them to meet the most complex of challenges and succeed.

## Doing business in Poland

Polish membership of international organisations (EU, NATO, UN, OECD) gives foreign investors wide opportunities for cooperation and affects the security and stability of investments. From a logistical point of view, Poland's great asset is its location in the centre of Europe, at the intersection of the main communication routes. This allows investors easy access to the markets of the European Union and Eastern European countries.

Poland has a stable economy with an established macroeconomic position. The Polish economy is developing fast, short-term economic prospects are optimistic, the fiscal policy framework is strong, measures taken to increase tax revenues are effective. The country also has a large and absorbent internal market, with over 38 million consumers, which is seen not only as a place of production but also as a target market.

Poland also has highly qualified employees. Every year, the number of well-educated university graduates grows in Poland.



ENGLAND

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Paul Beare founded Paul Beare Ltd having worked in a previous accountancy firm, following his involvement in a successful merger and acquisition in 2014.

With an extensive support network of international providers that Paul has built up over the years, clients, and potential UK in-bound start-ups, will regularly approach him for UK and international expansion support. He is referred by many clients as their trusted advisor.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

A branch, often referred to as a UK establishment, can work well for companies testing the market, or those wishing to setup on a short-term basis. It can also be de-registered swiftly if no longer required. The branch may be able to offset some of its losses against profits from other territories (if applicable).

Sometimes it is advantageous to start with one structure and then to transfer the UK business to the other structure. For example, the start-up costs and initial trading losses of a branch may be deductible from the taxable profits of the overseas company in its home country, but this advantage will be lost when the UK branch becomes profitable in its own right. A UK branch operation must disclose the accounts of the overseas parent company to Companies House in the UK.

Along with the balance sheet, the full profit and loss statements will also be published to Companies House. This means any interested party to the UK branch may have access to this data – including potential customers and employees. If the accounts of the holding company are in a foreign language, they must be translated. Those overseas companies who are not required to file in the home territory may find this particularly unwelcome.

A limited company, whether owned by a parent company (a subsidiary), or owned by individuals, is a very effective vehicle, governed under UK law. An overseas subsidiary setup in the UK is a UK limited company whose shares are wholly-owned by the overseas parent company.

The UK subsidiary is a separate legal entity, governed under UK law. The UK subsidiary is separate from its parent company owner. The minimum share-capital requirement can be as low as £1. This differs in other neighbouring European countries where the requirements are much more rigorous and costly.

Year-end accounts and annual filing of a Confirmation Statement must be made. The latter being a snapshot of the directors and those with controlling interest.

Partnerships (LLPs) and joint ventures are also available. Each individual member must register for UK tax and pay UK income tax on its share of the LLP's profits. This also includes corporate members. The partners cannot be on a payroll scheme and draw salaries.

#### I QUESTION TWO

**Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

This depends on a variety of factors, such as a client's ultimate beneficial ownership structure, their objectives for the UK and beyond – including whether to expand into other EU jurisdictions from the UK.

Opening a bank account is key for a successful UK operation. We estimate this will take two months (at least) from start to finish. Once we have completed our required anti-money laundering and know your client checks, we operate a designated client trust account on our client's behalf. A specific bank account for utilisation until the real bank account is operational. We are also appointed company secretary for our clients, where there are no UK-based directors (which is not a requirement to setup a UK company), and our address is usually the registered office.

A common misconception - you do not need to have a UK based resident director to have a limited (Ltd) company in the UK.

#### I QUESTION THREE

**What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?**

We are required to be satisfied as to our client's identity. This is namely a notarised copy of passport, together with two separate forms of home address documentation. This is required for those individuals with more than 20 per cent shareholding, or more than 10 per cent, if a high-risk operating entity. It will be required for some, if not all, directors or partners of the UK entity.



Paul and his team support the needs of overseas companies setting up, and operating in the UK.

One element is overriding among every client – they all need support and expert guidance on setting up and operating in the UK. They advise around the appropriate legal entity, payroll, VAT, banking and company secretarial services.

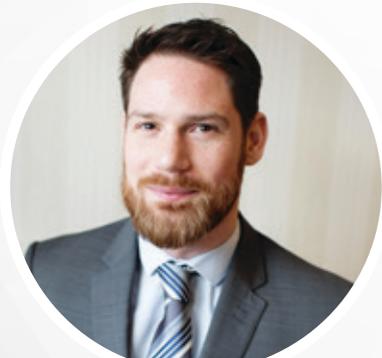
Clients range from publicly-quoted companies, through to owner-managed businesses. Paul travels frequently to Australia, New Zealand and the USA.

Paul has been heavily involved in IR for seven years, using IR Global as a support network for clients when they are using their UK company to expand further. Clients will use this as a foundation for further expansion into Europe and beyond.

Paul Beare has particular expertise in helping clients with overseas companies to expand into the UK, while choosing between a UK branch or a UK subsidiary.

### Doing business in The UK

The UK will always be seen as a financial powerhouse of the world. Despite numerous negative media reports surrounding Britain leaving the EU, companies are continuing to structure their global business operations around London and the UK. Ignoring the negativity, the UK will always be an attractive place to setup a business, based on its credibility as one of the world's most highly regarded legal systems, its commonwealth and the simple panache of having a UK based company.



ISLE OF MAN

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Nick joined Peregrine in July 2007 and is responsible for the accounting and tax departments. His role includes overseeing the preparation of management accounts, financial statements and tax returns for clients as well as monitoring international tax compliance and VAT returns.

Having developed quickly in his role and having qualified as a Certified Chartered Accountant, Nick was invited to sit on the Peregrine board of directors in 2015. He was recently approved by the Isle of Man Gaming Supervision Commission (GSC) allowing him to be a director on e-gaming companies licensed by the GSC.

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#### I QUESTION ONE

### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

We have both private and public limited companies in the Isle of Man, and the public companies incorporated here can be listed in the UK on the main FTSE or secondary AIM Stock Exchange as well as many other International Exchanges, including the International Stock Exchange, which has an office on the Island.

We also have LLC and limited partnership structures as well as foundations and trusts.

Many structures that we deal with are holding companies and comprise of a mixture of both trust and corporate entities. Trusts have long been a popular choice on the Island due to their effectiveness in maintaining wealth for the next generation. Increasingly however, we have seen a move towards foundations, which provide a mixture of both trust and limited company features to enable the initiator to maintain a greater level of involvement in the management of assets.

As the Island has 0 per cent corporation tax for most businesses, it does attract trading companies as well as holding structures. The low tax rate can enable the Island to be tax neutral in many circumstances. Recently, we have also seen a growth in interest in protected cell companies. This is still a relatively new concept on the Island, though it is clear that there is high interest in this area from clients setting up global structures.

Asset management companies are ever popular and the Island has become known for its internationally respected aircraft and superyacht registers and is still a popular choice for property ownership. We also act for a number of high net worth, private clients, providing wealth management structures and solutions, generally with the aim of preserving and growing wealth before passing it on to the next generation.

#### I QUESTION TWO

### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

In 2006, the Isle of Man brought in a new company form with various features designed to be attractive to non-residents investors. The 2006 Act company has reduced administration requirements for public filing and flexible share capital, removing the requirement for authorised share capital.

Accountancy requirements are also reduced which, in many cases, means that companies incorporated under the 2006 Act can dispense with the requirement for an audit, which is a significant cost saving. There are also no capital maintenance requirements, apart from complying with a solvency test.

The distribution and buyback of shares can be done relatively easily and the act allows for the re-domiciliation of companies between different countries to happen quickly.

The 1931 Act remains a popular choice but does require a minimum of two directors and a company secretary and does not allow for corporate directors to act.

Neither act requires the directors to be based on the Island, but both require some form of local presence. The 2006 Act requires a licensed registered agent and the 1931 Act requires an Isle of Man-resident Nominated Officer, if there is not a licensed CSP already appointed.

The Island both benefits and suffers from a strong regulatory environment.

The Financial Services Authority (FSA) oversees licensed corporate service providers with the aim of making the Island a reliable, professional and trustworthy place to do business as well as minimising the risk of money laundering and financing of criminal activity being run through the Island.

As well as the FSA, the Gambling Supervision Commission (GSC) is a regulator specifically focusing on the gaming industry. Again, focusing on similar targets as the FSA, but extending also to player protection. The Isle of Man Online Gambling Regulation Act license is now regarded as a well-respected license for international gaming providers and the success of the industry is clear to see with the number of high profile e-gaming business based here.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The Isle of Man has a reputation as a sound and well-regulated jurisdiction and this reputation has been earned partly as a result of the legislative framework for anti-money laundering and countering the financing of terrorism in place in the Isle of Man. Under this framework our regulators, the Financial Authority FSA, have defined Customer Due Diligence (CDD) procedures that all companies must follow to verify the identity of all a company's clients. Identification documents must be provided for every client including, but not necessarily limited to, shareholders, beneficial owners, company officers (e.g. directors), trust instigators, trust protectors and trust beneficiaries.

The documentation required for an individual includes photo ID, which is typically a certified copy of the person's passport, driving licence or national identity card, and a proof of the residential address. The proof of address must be no more than six months old when it is received and cannot be a business address or P.O Box address.

All identification and address documents must be certified by a professional. For companies, certified copies of documents such as a certificate of incorporation or registration documents and change of name documents; memorandum and articles of association, or bye laws; registered office details, place of business; register of directors, and details of any other authorised person(s); register of members; due diligence for the underlying principles are required. It is a requirement for us to identify the ultimate beneficial owner of all Peregrine clients.

For a trust, we require certified copies of documents such as an extract of the trust deed and any amendments; due diligence for the trustee(s), the settlor(s), for any person(s) whose wishes the trustees may be expected to take into account, any other parties including the protector(s) and enforcer(s), any beneficiaries who have benefited from the trust or at the time they come to benefit from the trust.



Peregrine Corporate Services Limited (Peregrine) was first established in 1986 to provide company and trust administration services on the Isle of Man to a worldwide client base.

We have a rich heritage of providing high quality, professional services to our clients, utilising our background in Accountancy with a team of professionally qualified Accountants on our board of directors.

With over 30 years of experience, we pride ourselves in offering a professional, friendly service to our clients from a long standing, knowledgeable workforce. With a very low turnover of staff we are able to put client relationships first, ensuring that clients know our team and vice-versa.

## Doing business in Isle of Man

The Isle of Man's Government invested over GBP4.5 million in local businesses last year alone. The Island has developed the infrastructure to provide the support that new start-ups need, including; assistance and support schemes from the Government targeting entrepreneurs establishing a business here.

The tax regime is favourable on the Island with 0 per cent corporation tax for most businesses. Personal tax rates are also relatively low, with a lower band of 10 per cent and a higher band of 20 per cent. There is also a tax cap available for high earners to limit the amount of income tax payable.

The Isle of Man has world-class connectivity, with an excellent telecoms and power infrastructure which has benefited from hundreds of millions of pounds' worth of public and private sector investment in recent years and which has helped develop the e-gaming industry on the Island. We have excellent transport links taking us to and from various location around the UK and Ireland via aeroplane or a ferry.



RUSSIA

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Alex Stolarsky is a German attorney-at-law and partner of SCHNEIDER GROUP in Moscow. He has been advising German and international investors on their activities in Russia and Russian investors in Germany for almost 15 years. Before joining SCHNEIDER GROUP in 2017, he worked in the Moscow offices of the major international law firms Beiten Burkhardt and Dentons.

Mr. Stolarsky's practice covers a broad range of corporate and legal matters with a particular focus on M&A, joint ventures, commercial and corporate law, and compliance. He primarily represents foreign investors in all phases of their business activities in Russia - from market entry, expansion, and production localization to liquidation. His work also includes advising Russian investors in the German market.

Mr. Stolarsky is a regular guest speaker at conferences in Germany and Russia on current legal issues and German-Russian economic relations.

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I QUESTION ONE

**What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?**

In Russia the following are the most common structures to start your business:

**Limited Liability Company (OOO)**

This is the most popular structure, a separate legal entity. It requires a minimum capital of RUB 10,000 and takes 4-8 weeks to establish. Funds cannot be transferred to the parent company's accounts by a simple bank transfer, as documents are required (e.g. contracts, certificates of acceptance). Payments made between an OOO and its Russian counterparties are not subject to currency control from the bank. Information about the owners is publicly available.

**Joint Stock Company (AO)**

This is a separate legal entity, which gives more control to the Central Bank of Russia over various corporate procedures and share sales (as compared to the OOO). It requires a minimum capital of RUB 10,000 – 100,000 and takes 8-12 weeks to establish. Funds cannot be transferred to the parent company's accounts by a simple bank transfer, as documents are required (e.g. contracts, certificates of acceptance). Payments made between an OOO and its Russian counterparties are not subject to currency control from the bank. Information about the owners is closed to third parties.

**Branch of a foreign company**

This is a part of the existing parent company. A branch will normally take four months to register (from the time you start collecting documents until accreditation of the branch). A branch can be easily financed by the parent company, but payments made between a branch and its Russian counterparties are subject to currency control from the bank.

In Russian law there is no trust concept, as in English law. However, there is the notion of fiduciary management, but it does not imply the transfer of ownership (property) rights to management as the English trust concept does.

I QUESTION TWO

**Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

Company registration aspects. The registration process takes three working days after submitting the package of documents, which must be notarised and apostilled.

Bank account aspects. Bank accounts cannot be opened simultaneously with the company's establishment. Some of the necessary documents are issued by the registration authorities on the day of registration, and only after that can they be submitted to the bank. The usual time for account opening after submission of the documents package is 5-7 working days.

Bank account authorisation cannot be changed concurrently with a director change, so, in practice, the previous director processes payments for some time without having any powers formally, or a person intended to become the future director, is officially authorised with a power of attorney to process bank payments before becoming a director.



SCHNEIDER GROUP specialises in helping clients to expand their businesses into or within Russia, Armenia, Belarus, Kazakhstan, Poland, Ukraine and Uzbekistan. Services include market entry support, accounting outsourcing, tax consulting, import, ERP systems, dispute resolution and advice on a broad range of legal issues focusing on compliance, migration, labour, contract, and corporate law.

Cross-jurisdictional expertise and a diverse team including non-legal professionals helps the firm to speak the same language as its clients and perceive clients' cases comprehensively and interdisciplinarily.

## Doing business in Russia

Russia offers favourable conditions for investors, including many options to reduce tax burdens and special zones with a range of benefits and ready-to-use infrastructure.

The country's geographical position acts as a bridge between west and east, most notably the EU and China. There is also a significant amount of low cost raw materials and energy sources as well as low cost labour. There is a high demand for consumer goods and low competitiveness from Russian goods and services in a wide range of industries. Russia is ranked 31st among 190 economies in the latest 2019 World Bank doing business ranking.

Labour and migration aspects. A foreigner cannot be appointed as a director in an established company at the beginning of its operation, because they require a work permit from an established company. Therefore, for the initial period of the company's activity, a Russian citizen is usually appointed as a director.

An employer may terminate labour agreements only upon conditions provided by law (by a simple resolution of shareholders – only with the Director). 'Highly Qualified Specialist' status for foreign employees gives a minimum salary of RUB 167,000 per month and 13 per cent personal income tax, plus a three-year working visa with no stay limit and no obligation to register in Russia within 90 days of arrival.

Localisation requirements. Made in Russia requirements apply to a wide range of industries: even if you set up your production in Russia, that does not automatically mean you have localised your products. Non-compliance results in restrictions on or prohibition of participation in public procurements.

Tax and currency control aspects. Special Economic Zones have certain benefits and incentives, including:

- cost-saving for investors of up to 30 per cent
- free customs zone and favourable administrative procedures
- tax preferences and guarantees against unfavourable legislation changes

Conditions in Advanced Development Zones (ADZs) and the 'free' port of Vladivostok: income tax is 0-5 per cent during the first 5 years, land tax is 0 per cent during the first 3 years, duty and tax-free importation is provided, storage and use of foreign goods within ADZs, etc.

Incentives related to certain activities (e.g. R&D and IT) imply lower payments to social funds, including pension and medical insurance, which is paid for by the employer as well as profit tax reductions. Double tax treaty reductions include:

- 20 per cent withholding tax on royalties and interest, depending on the double tax treaty a reduction to 0 per cent is possible
- 15 per cent dividend tax, depending on the double tax treaty a reduction to 5 per cent is possible.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

At the company launching stage, only banks are obliged to check anti-money laundering aspects. Russian law requires companies to disclose information on:

- beneficial owners – individuals who ultimately, directly or indirectly (through third parties), own (have a prevailing interest of more than 25 per cent in its equity) a company or can control its actions
- participants directly possessing more than 25 per cent in the equity

When opening a bank account for your Russian company, you will be required to provide the relevant information and confirmation documents by your bank, including the corporate scheme of the group of companies, official extracts from the companies register, and lists of shareholders with regard to the foreign companies of the group having 25 per cent or more in equity at each level.

After the accounts are opened, the bank will ask you to update the information about the beneficial owners once a year within KYC procedure. If the company fails to provide such information, the bank has a right to block transactions and the online banking system.



US - ARIZONA

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Todd is principal with Skinner + Company, a widely recognised accounting firm. A CPA, he has practiced in Phoenix for more than 25 years working with clients in Arizona, throughout the US and many other countries in a variety of industries that include real estate, healthcare, and manufacturing.

Todd oversees tax planning and compliance for the firm, and consults with business and individual clients on a variety of tax and accounting issues, including income tax planning and compliance, real estate transactions, estate and gift planning and compliance and trust design, retirement planning, international issues, and business acquisitions and dispositions.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The most common structure used by international businesses operating in the US is the corporation. A corporation is organised under the laws of a specific state in the US, and each state has its own requirements and advantages.

Corporations can be formed quickly and inexpensively in Arizona. A limited liability company is an alternative to a corporation. Limited liability companies (or LLCs) are even easier to form in Arizona and are also available in all other states in the US.

US tax law features 'check-the-box' regulations which allow an LLC to choose its form of taxation. If it has multiple members, then it can choose to be taxed as a partnership or a corporation. If it has only one member, then it can also choose to be taxed as a corporation, or alternatively, as an entity disregarded from its owner for income tax purposes (but not for other legal and business purposes). Because of this flexibility, LLCs are used for new businesses more frequently than corporations. The international business operating in US can enjoy the flexibility and ease of operation of an LLC with the tax attributes afforded a corporation.

A corporation, or LLC taxed as a corporation, is generally the preferred method for an international client to establish a business in the US, to minimise income tax and compliance obligations for the international owner. If a partnership is used, then the international owner has filing and tax paying obligations in the US more involved than when treated as a shareholder.

If multiple companies are needed in the US, it is easy to structure these as parent/subsidiaries or brother/sister arrangements, using either corporations or LLCs. The US federal income tax rate on corporations is 21 per cent as of January 1, 2018. The Arizona state corporate income tax rate is 4.9 per cent. Other states' rates range much higher and some states have no state income tax.

Income is apportioned among states based on the company's operations in each state, so an international business operating in the US can generate tax liabilities in many states, regardless of where it is organised. The operations can be monitored and modified to minimise state and local income taxes as much as possible.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

The most favourable recent legislation for companies operating in the US is the reduction in the federal income tax rate on corporations from 35 per cent to 21 per cent effective January 1, 2018.

A corporation must file articles of incorporation with the Arizona Corporation Commission (or other state's relevant authority, if formed elsewhere) when it is established. The requirements to maintain a corporation in Arizona are not burdensome and include an annual registration that is available to the public but has minimal disclosures. The corporation must also adopt bylaws, elect a board of directors, hold organisational and annual meetings, and keep minutes for these meetings.

Arizona requires very little to maintain an LLC. An LLC must file articles of organisation when it is established. No annual registration is required. Only few circumstances require a change in registration with the state once the LLC is formed.

Corporations and LLCs in Arizona limit the liability of the owners as long as the few corporate and LLC formalities are followed. Directors can be subject to liability related to their responsibilities, so insurance coverage appropriate to this purpose is recommended.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

In order to establish relationships with professionals and banks in the US, the international client needs to provide documentary evidence of the existence, validity and current status of the international owner. If this is a company, then it needs to supply the equivalent of the US articles of incorporation or articles of organisation certified by the issuing authority. The client must provide information about the activities of the international owner, including details of business activities, copies of financial statements, primary clients and their activities, primary creditors, and whether the client is associated with a foreign politically exposed person (PEP).

In addition to the information described above about the intended direct owner of the US company, information about any individual owning 25 per cent or more, directly or indirectly, of the equity interests in the US company must be made available. This information includes name, address, date of birth, citizenship country, residency status, government identification, etc. This information is also needed for the individual officer or manager who will have significant authority to control or direct the US company.

## **SKINNER + COMPANY**

CERTIFIED PUBLIC ACCOUNTANTS

Since 1987 Skinner + Company has provided tax planning and compliance services as well as accounting services to businesses and individuals. The firm is committed to our clients' success and employ our resources to that end. The measure of success is to assist clients in achieving their goals.

Skinner + Company believes deeply in service to the community. These opportunities to give back to the community have only added to Skinner + Company's ability to help clients succeed.

The firm's principals currently serve as board members and enjoy supporting and giving each year to a New Leaf, Tempe Cares, Tempe Impacts Education (T.I.E.) Foundation, Tempe Rio Salado Little League, and Lucky Sevan, a foundation they founded with a good friend in 2006. Lucky Sevan supports youth leadership surf camps held annually in San Diego that shape and prepare today's young people for tomorrow.

## Doing business in Arizona

The US continues to operate the largest economy in the world. Forming a company within the US (whether in Arizona or another jurisdiction) gives a business access to this economy.

Within the US, Arizona offers low taxes and reduced regulations compared to other states. Forming a company requires little effort. Even if your company is formed in another state (say Delaware or Nevada), qualifying to do business in Arizona is easy.

Arizona hosts numerous technology companies, world class universities with their business, research and scientific resources and has convenient access to huge markets such as California. Arizona's level of business taxation and regulation is nominal and friendly compared to states like California and New York.



CYPRUS

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Andreas Georgiou studied in Greece at the University of Macedonia and holds a Bachelor of Science degree with Honours in Applied Informatics. He is a Member of the Institute of Chartered Accountants of England and Wales (ICAEW) and a Member of the Institute of Certified Public Accountants of Cyprus (ICPAC).

Since 2010, he has been a practising member of the Institute of Certified Public Accountants of Cyprus (ICPAC) and a certified public accountant in Cyprus. He has worked with KPMG, one of the world's leading professional firms in Cyprus, for many years and through his exposure to a varied and numerous form of clientele, both in the audit & assurance and international tax departments, he has gained considerable expertise in the fields of international tax planning, tax compliance and audit & assurance.

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#### I QUESTION ONE

**What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?**

Cyprus offers an attractive and transparent tax regime, fully compliant with EU, OECD and international laws and regulations. Its main features include one of the lowest corporate income tax rates in the EU at 12.5 per cent, dividend income exempt from income tax and tax exemption on disposal/trading of "securities" (e.g. shares, bonds, debentures).

There are also no succession taxes, no withholding taxes and an attractive IP regime, where 80 per cent of royalty income is exempted from tax. Notional interest deduction for capital introduced into the company is possible, as are incentives for investment into start-ups.

Cyprus limited liability companies are being widely used by international businesses and investors with the most popular structures being;

#### **The Cyprus holding company**

Dividends received by a Cyprus tax resident company from overseas are exempt from corporate income tax, provided they are not allowed as a tax deduction in the jurisdiction of the foreign paying company (Hybrid structures).

Dividends received from overseas are also exempt from Special Defence Contribution (SDC) if one of the following conditions is satisfied:

The company paying the dividend must not engage more than 50 per cent directly or indirectly in activities which lead to passive income (active vs passive test) OR the foreign tax burden on the income of the company paying the dividend is not substantially lower than the tax burden in Cyprus (effective tax test).

#### **The Cyprus Intellectual Property (IP) holding company**

Has an 80 per cent tax exemption on income derived from IP treated under the provisions of the nexus approach of the OECD guidance.

#### **The Cyprus Finance Company**

Has notional interest deduction on capital introduced into the company and an interest profit margin taxed at 12.5 per cent flat rate.

#### I QUESTION TWO

**Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?**

The Cyprus Investment Firm (CIF) is regulated under the Cyprus Securities and Exchange Commission (CySEC). Electronic Money Institution (EMI) is regulated under the provisions of the Central Bank of Cyprus (CBC) and effectively the European Central Bank (ECB). Funds and other collective investment schemes are regulated under the provisions of the Cyprus Securities and Exchange Commission (CySEC).

If an individual does not remain in any other jurisdiction for one or more periods, which altogether exceed 183 days in the same tax year, and is not a tax resident of another jurisdiction, they can be considered a Cyprus Tax Resident. They must remain in Cyprus for at least 60 days during the tax year and the rule is subject to additional conditions.

Various incentives are provided for physical persons who are tax residents of Cyprus, that are considered to be non-domiciled from Cyprus (i.e. foreigners relocating to Cyprus).

A physical person is eligible to be considered as non-domiciled, if they were not a tax resident of Cyprus for 17 out of the 20 years before the tax year under review.

The main benefits of being a tax resident, but non-domiciled from Cyprus are the following:

- Dividends received by the individual from Cyprus or overseas companies are exempt from taxation
- Interest Income received from Cyprus or overseas is exempt from taxation
- 50 per cent tax exemption on the remuneration from any employment exercised in Cyprus, as long as the individual was not a resident of Cyprus before the commencement of his employment. Exemption applies for 10 years and, provided that the remuneration exceeds EUR100,000 per year.

Cyprus has a favourable naturalisation program and various other permanent residency schemes, for individuals who are interested in becoming a citizen of Cyprus.

By a single investment the entire family can become citizens of Cyprus married couple plus children up to 28 years that are financially dependent from their parents).

The procedure is fast, and it can be achieved through various investment options and combinations.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Cyprus, as a jurisdiction, places utmost importance on complying with all applicable laws and regulations for the prevention of money laundering and terrorist financing activities as well as complying with international and other institutions guidelines on sanctioned entities and individuals. Due diligence measures adopted are in line with and are based on:

The Law – Legislation transposing into domestic legislation the provisions of:

The U.N. Convention (Vienna Convention) – 1988; The Council of Europe Conventions on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime – 1990 and 2005; EU Directives; EU Council Framework Decisions on Freezing and Confiscation; and FATF Recommendations.

The fourth and fifth AML Directive of the European Union are also important.



SPL Audit (Cyprus) Ltd is an independent professional firm, based in Nicosia, the capital city and financial centre of Cyprus. Clientele consist of international business and local companies together with international and local wealthy individuals.

SPL Audit (Cyprus) Ltd offers bespoke advice and solutions mainly in accounting, audit, tax compliance, VAT compliance, social insurance compliance, payroll services, international tax planning and financial advisory services.

The firm provides custom made solutions for every client no matter size, building trust through the high quality of services provided. They guarantee a prompt reply and actions to client requests.

Through affiliate companies SPL also offers the following services:

- Registration of Cyprus companies
- Registration of other SPVs in various jurisdictions
- Opening and administration of bank accounts for our clients with Cyprus and foreign banks
- Assistance for obtaining the Cyprus citizenship, permanent residency, work permit
- Consultation and assistance for the creation of permanent substance in Cyprus for foreign companies and individuals.
- Provision of office space and services offices for substance purposes
- Assistance for the licensing and set up of regulated entities in Cyprus with the Cyprus Securities and Exchange Commission and the Central Bank of Cyprus.

## Doing business in Cyprus

The island due to its unique geographical position is an ideal investment gateway to the European Union, as well as a portal for investment outside the EU, particularly into the Middle East, India and China.

Based on English Common Law principles, Cyprus' comprehensive and robust legal and regulatory framework that is fully compliant with the EU, the Financial Action Task Force on Money Laundering (FATF), OECD, FATCA, the Financial Stability Forum laws and regulations and EU AML directives ensuring business transparency.

Cyprus's EU membership ensures safety and stability for investors, also offering them market access to more than 500 million EU citizens. Cyprus also offers an abundance of highly educated and skilled individuals, multilingual in their majority and ranks amongst the top countries in Europe for tertiary education per capital.

Cyprus residents enjoy an enviable lifestyle in a safe, clean and healthy environment with high living standards. Low crime levels, year-round sunshine, centuries of art and culture, and a delicious gastronomy all contribute to a high quality of life. Cyprus offers an attractive and transparent tax regime, fully compliant with EU, OECD and international laws and regulations for businesses and individuals.



FRANCE



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Frédéric Meunier is managing partner & founder of Squareness. As a chartered accountant and a legal auditor, Frédéric has 20 years of experience in financial consulting and audit. In July 2014, Frédéric founded Squareness along with the main managers of the TAS team of Primexis (where he acted as partner). The aim was to create a firm specialised in financial advisory, where team spirit overcomes individuality.

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#### I QUESTION ONE

What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The most common structure is the simplified stock corporation (SAS).

#### I QUESTION TWO

Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

One of the most favourable pieces of legislation is the Research & Development Tax Credit (CIR).

International French group branch offices or subsidiary companies can obtain from the French state the reimbursement of up to 30 per cent of their spending on research, experimentation and development operated in France, under the same conditions as French companies.

Costs eligible for 'CIR' include;

- Salaries and related social expenses,
- Depreciation allowances for assets used in research projects,
- Operational expenses,
- Intellectual protection expenses (patents costs),
- Technology watch expenses assured by the researchers,
- The costs of subcontracted research entrusted to public research entities, to scientific experts and private structures approved by the Ministry of Research.

The simplified stock corporation (SAS) offers also a favourable corporation environment. Its benefits include;

- A minimum share capital requirement fixed for the incorporation at EUR1.
- A transfer of shares principle freely effected in some cases

- It can issue preferred shares, preferential dividend rights, and permits to fix the rights and obligations of the shareholders (e.g. pre-emption rights, tag-along and drag-along rights, exit and exclusion rights, etc.)
- It can issue bonds, warrants, convertible bonds and other types of financial instruments,
- An auditor is required if it exceeds, at the close of a financial year, two of the three following thresholds: EUR1m of total assets, EUR2m of turnover, or 20 employees.

The most unfavourable legislation remains the social law. French corporate relationships are governed by a complex set of laws and regulations which leaves not much space for individual negotiation. The French Labour Code ('Code du Travail') provides a comprehensive framework for both individual and collective relationships between employers and employees.

Collective bargaining agreements be negotiated between employers and labour unions, covering a company or group of companies, or between employers' associations and labour unions covering an industry as a whole. In the event of conflict between the Labour Code and the relevant collective bargaining agreement, the provisions more favourable to the employee apply.

Individual employment contracts cover only those points that are not already dealt with in the Labour Code or in the relevant collective bargaining agreement.

Most of France is covered by collective bargaining agreements, and the Labour Code is supplemented by more generous rules like paid / maternity leave, medical cover and working time.

The El Khomri Law allows the French labour market to be more flexible, offering a collective bargaining agreement to be adopted by referendum of a majority of employees actually participating in the vote, reducing overtime pay, codifying grounds upon which dismissal for economic reasons can occur, and fixing suggested objective limits on amounts of damages for unjustified dismissal.

Employee representatives play an important role. In companies with works councils, employee representatives are entitled to attend meetings of the Board of Directors (if there is one), although they do not vote at such meetings. Although the employee representatives are subject to confidentiality rules, this often results in real decisions being made outside of the board meeting itself.

Dismissing employees is expensive, and numerous formalities must be complied with prior to implementing any monitoring of employee emails.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

Unlisted companies must disclose the name and identification card of its current beneficiaries.



Squareness aims to offer value added financial advisory services to its customers, both corporate and institutional, thanks to a multi-skilled team determined to work with humility and dedication.

The firm's lines of service are valuation, transaction services and litigation support, business modelling and operational management.

For accounting purposes, we have a dedicated subsidiary called Agilita, with its own team of specialists.

## Doing business in France

People in France are well trained and we have many tech firms located here. We also have a sophisticated level of infrastructure, while Paris, city of lights, is the location of decision making and power for the French market, and remains in a central position for doing business in Western Europe.

France has a business-focused government that simplifies the rules that govern business. French venture capitalists have raised more capital (2.7 billion Euros) than any other country in western Europe (including UK).



SLOVAKIA

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Andrea Vasilova is a partner of Vasil & Partners Law Firm, specialising in corporate, commercial and real estate law. She has been an attorney since 2003, when she was admitted to the Slovak Bar Association.

She began her career in 1999 as in-house lawyer for IPEC Management Ltd, one of the biggest property developers in the Slovak Republic. She was an associate lawyer with business consultancy firm ES Partners Ltd for two years before joining Vasil & Partners in 2004.

Andrea also graduated from the Economic University in Bratislava in the faculty of General Economics, specialising in finance, banking and investments. She has a doctor of law degree in commercial law and traffic policing from the Police Academy in Bratislava.

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### I QUESTION ONE

#### What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

The most common structures used when international clients want to form a company in Slovakia are the limited liability company joint stock company and a branch of a foreign entity, which however is not a legal entity.

In general, the limited liability company is the preferred legal vehicle, because there are less steps in the procedure of company formation, and less capital requirements, thus the process of limited liability company formation is faster and cheaper.

Running a limited liability company is more flexible from the point of simpler organisational structures and decision making for the company's shareholders, compared to the joint stock company.

A limited liability company is generally used by international clients, as a subsidiary of their foreign parent company. A joint stock company is used by international clients when their intention is to set up a joint venture with a strategic partner in the Slovak Republic.

There is also a new legal form of so-called simple joint stock company. It was introduced in 2017 and it is a hybrid type of partnership, having the features of joint stock company, but also of the limited liability company. Comparing it with the standard joint stock company where minimum registered capital is EUR25,000, the simple joint stock company is significant for a low minimum registered capital of 1 EUR. This legal form of company is suitable for start-ups, making it easier to attract investors and venture capital.

The popular structure among international clients, is a limited partnership, used as a holding company mostly for the purpose of tax mitigation, when the client uses the synergy of advantages of limited partnership and taxation of individuals according to a double tax treaty.

### I QUESTION TWO

#### Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

Slovakia is ranked 42nd among 190 economies, by the World Bank, for ease of doing business. However the Slovak legal landscape continues to be subject to frequent changes and therefore there is no stability in legislation and also the quality of legislation itself is questionable. With regard to company formations, the Slovak Commercial Code has changed several times and in particular the administration of process of company formations has increased.

Some of the most unfavourable legislations, include construction permits, high social and health insurance payments and strict regulation of establishment and termination of employment. Also, last year surcharges for night work and work during Saturdays, Sundays and during the public holidays increased.

Such regulations make the labour market in Slovakia less flexible than other countries. Slovakia has the highest corporate tax (21 per cent) among Central Europe countries (19 per cent on average), but on the other hand the dividend tax is just 7 per cent, which is among the lowest in the region.



The main advantages of Slovak regulation are simplicity of property transfers, insolvency legislation and easy access to bank loans. Law enforcement is improving promisingly too, where new civil procedure codes (effective from July 2016) and newly implemented electronic services from the state should help to speed up court procedures.

In order to streamline the process of establishing a presence in Slovakia, our firm provides the client with comprehensive legal services starting with suggesting the suitable structure of doing business. This typically continues with the service of company formation, commercial and employment contracts, advising on various tax issues, rental or purchase of property. We have communicated with the state authorities electronically for the past couple of years, which saves time and money for the client.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The following steps have to be undertaken by a company formation agent prior to commencement of business relations between a company formation agent and the client;

1. Identification of an entity and its verification, which shall be done via proof of identification of the client on the basis of ID card or passport, in case of natural persons and on the basis of the documents and data from official registers in case of legal entities.
2. Identification of ultimate beneficial owners (UBO) and taking of appropriate verification measures, including those ones to identify the ownership structure and management structure of the client.
3. Obtaining information on the purpose and intended nature of the business.
4. Ascertaining whether the client or UBO of the client is a politically exposed person (PEP) or sanctioned person.
5. Ascertaining the origin of finances (source of funds) and property used in the business.

The company formations agent is obliged to monitor continuously the truth and validity of KYC made according to the above mentioned steps, during whole period of business relations with the client. The company formations agent is obliged to keep the data and documents collected from the client for the purpose of KYC for five years from termination of business relations with the client. Collecting data and documents about the client for the purpose of KYC is closely linked with the protection of personal data, however for the purpose of protection towards anti-money laundering and financing of terrorism, the company formations agent is obliged to collect the above mentioned data about the client without the client's consent.

Slovak banks strictly follow anti-money laundering laws and indeed now require from clients more data and documents than in the past. It is also not certain anymore that Slovak banks will open bank accounts for persons or entities of whom KYC tests are positive, as we were used in the past. For instance, the banks consider the nationality of the UBO itself more strictly, and it is almost impossible nowadays to open bank accounts for Russian citizens, Cypriot or even US entities.

Vasil & Partners is an umbrella name for a law firm specialising primarily in corporate and commercial law, international tax law with formation and management of onshore and offshore companies in various jurisdictions. The firm is also a multi-family office providing solutions for protecting and growing family assets, family succession and wealth transfer planning, tax compliance and tax planning.

The firm represents high net worth individuals and their families, entrepreneurs, professionals and businesses of all sizes on a discrete basis, offering comprehensive advice on matters related to their tax affairs, business transactions and real estate with focus on cross-border issues. Vasil & Partners works very closely with associates in onshore and offshore locations and has extensive experience in coordinating overseas advice and the creation and administration of tax-efficient structures for its clients.

## Doing business in Slovakia

Slovakia has an extremely favourable tax on dividends of 7 per cent, which is the lowest in the CEE region.

The country has a strategic location in the middle of Central Europe with the capital city of Bratislava located only 60 km from Vienna, the capital of Austria. Since both capitals are situated on the banks of Danube River, there is synergy effect in terms of business and infrastructure. Prague (Czech Republic) and Budapest (Hungary) are also very close and easily reachable via car or train as well as other CEE countries.

Slovakia uses the Euro as a currency, which is a unique selling point, as no other Central European country (except for Slovenia) has it. It significantly eases doing business as there are no currency exchange hassles. Slovakia is a stable democracy, a member state of EU and also a member of the Schengen area. The Slovak economy is open to foreign investors via tax incentives, including for start-ups and innovation firms.



MALTA

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Dunstan Magro is the Managing Partner of WDM International, an IR Global Member firm from Malta. Dunstan, a graduate of the University of Malta, is an accountant by profession, having obtained his warrant and practicing certificate in auditing in 2001. During his early career, Dunstan carried out numerous financial audits of companies across different industries. Over the past 20 years, he has advised many local and international clients on tax, corporate and business advisory matters. He is an active member of the Malta Institute of Accountants and sits on a number of committees of the Institute.

Dunstan is also a member of the Malta Institute of Taxation and the Malta Institute of Financial Services Practitioners. A great believer in knowledge sharing, Dunstan loves building bridges and creating meaningful relationships with people. He is also an avid reader with a passion for the exceptional culinary experience, good wine and the arts.

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### I QUESTION ONE

## What are the most common structures used when international clients want to form a company in your jurisdiction? Any examples?

Maltese law provides for the formation of a number of structures, the most common of which comprise the following:

### Limited Liability Companies

The limited liability company is by far the most commonly used business entity in Malta and is regulated by the Companies Act. Maltese law provides for the registration of public and private companies – the primary difference between the two are the limitations to the number of shareholders and the restrictions applicable to the ownership in shares of private companies. Private companies are more suitable for small and medium-sized businesses. This is therefore the primary business entity opted for in Malta.

Maltese law also provides for the possibility of re-domiciling a company that has been registered and incorporated under a regime of a foreign country to Malta. Re-domiciliation allows companies to maintain their legal personality, while being regulated in a separate jurisdiction. All rights and obligations in existence in the previous jurisdiction will continue to exist once the company is continued in Malta. This provides the advantage of not having to renegotiate vital contracts or liquidate an existing company only to setup a new company carrying out the same business.

### Commercial Partnerships

Commercial partnerships, like companies, are also regulated by the Companies Act which provides for two types of commercial partnerships - the partnership 'en nom collectif' and the partnership 'en commandite'. Commercial partnerships are entities with different features from those of companies and may be used in different situations.

### Branches of Foreign Companies

Certain business operators may prefer to carry out business in different jurisdictions through the same legal entity. This may be done by setting up a branch of the operating company in more than one jurisdiction. Maltese law also allows for the registration of branches of foreign companies in Malta. This concept structure is known as an overseas company in terms of the Maltese law.

The foreign company would have to appoint a local representative who will be vested with the representation of the branch in Malta together with an office or place of business situated in Malta. Branches are treated the same as companies registered in Malta for tax purposes while branches of foreign companies would have to prepare audited financial statements with respect to their activities carried out in Malta. Branches of foreign companies may also benefit from the advantageous refund system that Malta offers while foreign companies may transfer their fiscal residency to Malta through their place of management and control benefiting from specific advantages that Malta has to offer.

### I QUESTION TWO

## Please detail some of the favourable and unfavourable legislation that businesses considering establishing a presence in your jurisdiction should be aware of? How can you help them to streamline the process?

As a small island nation, Malta has refused to let geographical restraints hinder its potential. Over the years, Malta has managed to smartly invest in its resources to hone a competitive edge on different fronts. Behind Malta's ascent as a jurisdiction of choice is a combination of sound policy making and a pro-business environment,

and its development has largely been attributed to its focus on knowledge and value-added industries. Generally speaking, our regulatory environment is considered to be robust, geared to protect the interests of entrepreneurs and consumers alike.

While foreign companies may not be accustomed to setting up operations in Malta, the procedure itself is swift and straight-forward. Various government incentives are also available to encourage the proliferation and success of start-ups, research, innovation, and healthy competition. Entrepreneurs wishing to safeguard their intellectual property rights can find security in Maltese legislation and regulations and a number of international conventions and treaties for which Malta is a party to. Trusts and Foundations are also an integral part of Maltese legislation.

The island has managed to carve out interesting initiatives within its tax legislation framework. Thus for example, Malta does not levy withholding tax on dividends, interest and royalties paid to non-residents, subject to certain criteria being met. Upon receipt of a dividend, shareholders of a Malta company may claim a refund of all, or part of the Malta tax paid at the level of the company on such income. Qualifying investments may also have related income or gains exempt from tax in Malta under the Participation Exemption regime. With more than 70 double taxation agreements with countries around the world, mean that Malta may in certain cases also offer relief on foreign source income or gains. Nevertheless, caution must be exercised when considering the impact, of for example, the OECD's BEPS initiative and the EU's Directives on Anti-Tax Avoidance and Tax Intermediaries, on business planning.

### I QUESTION THREE

## What due diligence is required to be undertaken by company formations agents under anti-money laundering laws in your jurisdiction?

The requirement to launder the proceeds of crime through the financial system and through other means is vital for the success of criminal operations. Those involved, seek to exploit the facilities of the world's financial institutions if they are to benefit from the proceeds of their criminal activities. The increased integration of the world's financial systems, the removal of barriers to the free movement of capital and technological developments have enhanced the ease with which criminal money can be laundered, thereby complicating the tracing process.

Under Maltese anti-money laundering legislation, the client due diligence measures that subject persons (such as company formation agents) are required to carry out are the following:

1. identification and verification of the applicant for business;
2. identification and verification of the beneficial owner, where applicable;
3. identification and verification when the applicant for business does not act as principal;
4. obtaining information on the purpose and intended nature of the business relationship;
5. conducting ongoing monitoring of the business relationship;
6. establishing the source of wealth and source of funds;
7. setting up of a customer acceptance policy and ensuring that the applicant for business meets the requirements set out in such policy.

Depending on the overall risk posed by the client in terms of customer risk, product/service risk, interface risk and geographical risk, the subject person would either seek to carry out the standard due diligence or the enhanced due diligence on the applicant for business and/or the ultimate beneficial owner.



Founded in 1994, WDM International is a Malta-based multidisciplinary firm offering audit, tax, legal, corporate and advisory services. Truly entrepreneurial in character and form, the firm offers its services to a local and international clientele.

WDM International strives to create value through focused excellence and constantly aims to continue growing, not only organically, but even by attracting new clients who could benefit from our approach.

The firm prides itself of a wide client portfolio spread over a broad range of industries, from financial services operators to entrepreneurs and high net worth individuals.

WDM International provides a tailor-made service throughout, dedicating its energy to turning clients' business dreams into a successful reality. We have the know-how and practical experience to guide clients throughout their business needs, while taking advantage of all the benefits Malta has to offer.

## Doing business in Malta

Despite being the EU's smallest member state, Malta is one of the most exciting countries to watch and invest in. Driven by the island's reputation for stability, predictability and security, together with a robust, EU-compliant regulatory framework, diverse ecosystem and deep talent pool, investors and entrepreneurs from around the world find opportunities to carry out business in Malta.

Behind Malta's ascent as a jurisdiction of choice to incorporate companies, there is a combination of sound policy making and a pro-business environment, and its development has largely been attributed to its focus on knowledge and value-added industries. While financial services have become a key pillar of its economy, Malta also boasts a thriving tourism industry, is home to a large maritime service cluster and supports a host of other sectors including ICT, advanced manufacturing and life sciences.

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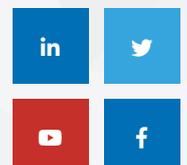
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