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Protecting your business from cybercrime

The internet has become the essential infrastructure for most businesses around the globe. But with increased connectivity comes unprecedented risk of fraud, theft and abuse.



The digitised world is growing at a phenomenal pace, transforming the economic, political and social landscape around the world. The falling costs of technology have fuelled rapid digitisation of developing economies in Africa and other regions, bringing huge benefits to disadvantaged people, including to those without bank accounts or access to electricity.

However, businesses and government organisations in Africa and other developing regions are often highly exposed to cyber attacks in which viruses are used to access valuable data, disrupt activities and blackmail those whose defences are inadequate

A growing threat

The use of ransomware – malicious software that shuts down computer systems and then demands money to fix the problem – is a growing trend, as demonstrated by the recent Petya ransomware attack. This crippled firms initially in Ukraine, UK, Spain, Russia and India, with security experts expecting it to lead to even more widespread attacks in the future. This attack used a new ransomware variant, dubbed XData, believed to be spreading faster than WannaCry, which has already affected hundreds of thousands of businesses in more than 150 countries, including many in South Africa.

There is a common misconception that hackers only target large companies. On the contrary, most businesses affected by hackers are small. Many are ill-equipped to deal with these cyber security threats and rely on outdated protection strategies, leaving them highly vulnerable.

Personal blogs and company websites are popular targets for hackers looking for an opportunity to spread malicious software or steal information. Ransomware and malware are concepts that all businesses must familiarise themselves with, as incidents of cybercrime continue to increase and fundamentally change the threat landscape.

Guarding your business against cyber risk

Cyber security should be top of your management agenda as all companies have a responsibility to put measures in place to keep their employee and customer information secure. Formal processes need to be implemented in order to identify and prioritise cyber risks and to create mitigation strategies.

Companies need to shift from a mindset of 'if we are hacked' to 'when we are hacked'. The best-prepared companies are switching their cyber security strategies from focusing on outright prevention, to implementing techniques to quickly detect breaches and limit the damage once a breach has been confirmed.

The trick is to make sure you have layers between your systems. If your customer data is behind another wall, it's safer. Make sure your most valuable information is hidden – even from your own employees.

Awareness and adherence to local rules and regulations in all areas of operation are also critical. The EU General Data Protection Regulation (GDPR), due to come into effect in 2018, requires every organisation operating in Europe to abide by a number of regulatory provisions. This also applies to companies offering goods or services to EU markets in a way that involves processing any European-owned data. Cyber challenges are global, and each region will have its own regulatory responses.

Above all, remember that senior management teams can't do everything themselves. Businesses need to build security awareness into their culture by making it part of everyone's role. Staff throughout the business should be given specific responsibilities and encouraged to speak up if they think something is wrong. If everyone thinks about security, they'll ask the right questions.

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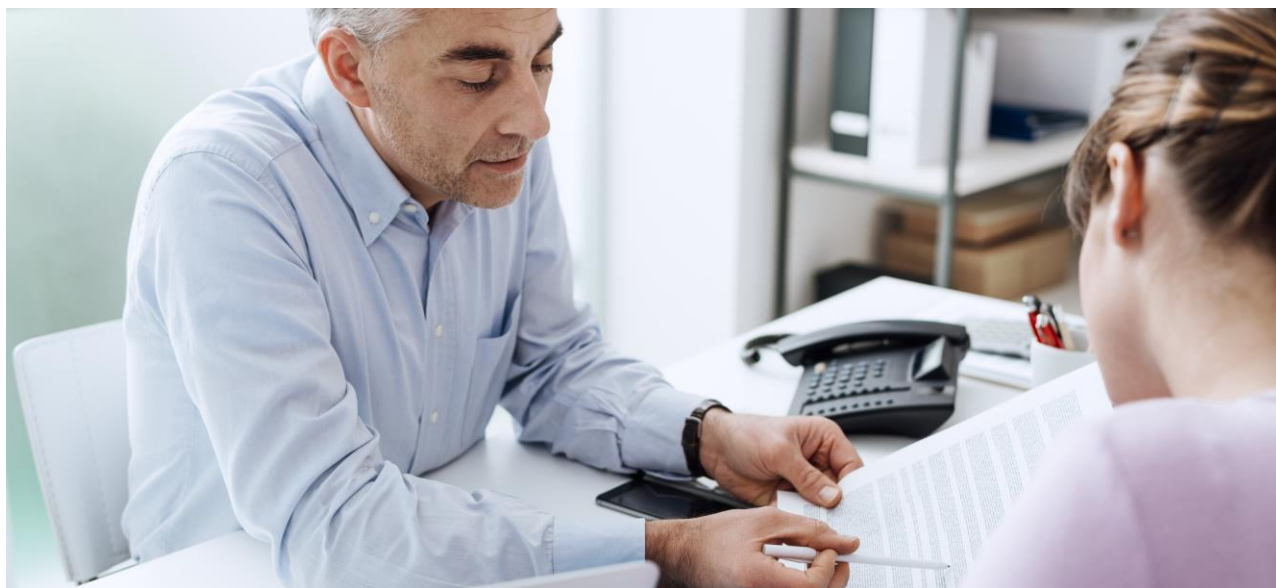
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Guarding your business against third-party risk

Business partner compliance – also known as business partner due diligence or third-party risk management – can help avoid reputational and financial damage.



Companies increasingly interact with business partners around the globe. As a result, they often need to trust suppliers, clients, partners or other third parties, without having any detailed background knowledge of the organisations concerned.

So how well do you really know your business partners?

Business partner compliance is about protecting your company from possible business risks arising from dealing with a third party. Without such an examination of existing and potential business partners, companies face the risk of loss of reputation or violation of regulatory requirements such as the Foreign Corrupt Practices Act (FCPA), the UK Bribery Act (UKBA) or the fourth EU Money Laundering Directive.

Categorising risks

Before doing business with a third party, potential risks can be classified on the basis of a number of different factors, including:

- personnel and company history
- products and markets
- the countries in which the third party is located and does business
- planned transactions.

Companies can then allocate their various business partners to different risk categories, according to these risk factors. For example, a business partner located in an offshore tax territory might be categorised as high risk – or ‘red’, according to a ‘traffic light’ system.

Solutions

The good news is that there is a range of different providers offering technical solutions to mitigate business risks by monitoring third parties in a simple way. These enable any company to determine the potential business risks of working with a prospective business partner with just a few clicks.

These technical solutions typically rely on monitoring of sanctions on political exposed persons (PEPs), ‘blacklists’ and watch lists, complemented by further sources like LexisNexis, info4c and Google.

This type of automatic business partner check can offer reliable protection against corruption or payment default, significantly reduces the workload involved in fulfilling the monitoring obligations of the management team and provides appropriate documentation that can help to limit the company's liability in the event of something going wrong. Furthermore, it enables a transparent and traceable process and prevents multiple checks of the same person or company. Depending on the setting the tool can automatically check your already approved business partner on a regular basis.

The best tool for your company will mainly depend on the number of business partners you have. After a risk assessment you can then decide who to screen initially and then on an ongoing basis. You will also need to consider data protection issues when selecting the right tool. Some business partner compliance tools are cloud solutions, such as GAN Integrity and other tools are able to run on a company's servers, for example Compliance Solutions.

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Singapore set to benefit from China's One Belt One Road

China's One Belt One Road policy could become the single biggest economic development exercise in history. Singapore is ideally positioned from a strategic, economic and cultural standpoint to play an important part.



Encompassing more than 68 countries, 4.4 billion people and more than 40% of global GDP, China's One Belt One Road is staggering in its scale and ambition – on a par with the huge post-war reconstruction effort undertaken to rebuild Western Europe through the Marshall Plan.

One Belt One Road, more often referred to now as the Belt and Road Initiative (BRI), is in fact a collection of interlinking trade deals and infrastructure projects throughout Eurasia and the Pacific designed to smooth the passage of goods and services across borders.

The result will be a China-centric economic and trading area that can potentially rival the existing American-dominated transatlantic and transpacific ones.

BRI presents China with an unprecedented opportunity to achieve some of its most pressing objectives, most notably the opportunity to export its excess industrial capacity overseas while extending the global reach of its currency. It will create new markets for enterprises such as China's high-speed rail firms and more profitable opportunities for its vast foreign exchange reserves.

BRI is ultimately a flow of people, goods, trade, capital and ideas. It offers tremendous opportunities for financial institutions and private enterprises across Asia.

Asia will require vast infrastructure spending over the next decade – in excess of US\$1.7trn annually. With the Asian Infrastructure Investment Bank (AIIB) committing US\$100bn of capital in conjunction with a separate US\$40bn Silk Road Fund, there is a good chance that the regional infrastructure funding crunch may at long last be alleviated.

Singapore's role

Singapore could play a vital role in this initiative. Its strategic location makes it an ideal Asian infrastructure hub, with a strong cluster of companies in the infrastructure development space. Key to this is its leading position as a global financial centre – the world's second largest wealth management centre, third largest financial market and a thriving commodities hub.

This puts it in a unique sweet spot for intermediating capital and trade flows linked to BRI.

Singapore hosts many financial institutions and specialists with the expertise to undertake infrastructure project structuring and financing. They are in a strong position to complement and augment the funding being provided by multilateral organisations like the AIIB.

Singapore companies have also developed niche expertise across the infrastructure value chain such as in master-planning, engineering, design, procurement, construction and operations.

Singapore companies can provide a proven international track record and market knowledge to complement the Chinese companies spearheading the envisaged infrastructure projects.

Given the complex geopolitical dimensions to BRI, Singapore can also put its strong credentials as an impartial intermediary to use. In a world of changing international alliances, Singapore is ideally suited to play the role of honest broker, using its reputation for clean, efficient and corruption-free governance to ensure that these same standards of transparency and accountability are engendered within the initiative.

Support framework

There are strong measures in place locally to support and encourage the participation of Singapore firms in BRI. The S\$600m International Partnership Fund announced in this year's Budget aims to help Singapore firms to scale-up and internationalise, particularly in Asian markets, by co-investing. The existing International Finance Scheme (IFS) has been enhanced to provide project financing and promote risk sharing to enable enterprises to take on more overseas projects. The Global Innovation Alliance (GIA) aims to deepen and diversify Singapore's international links.

In addition, enhancements to existing tax measures such as the Mergers & Acquisition (M&A) Allowance for share acquisitions of up to S\$40m are a timely boost to companies pursuing internationalisation efforts.

All of this places Singapore firms in a strong position to capitalise on any opportunities arising from BRI.

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India's structural reforms paying off

Recent initiatives such as Make in India and the introduction of the Goods and Services Tax are already improving the business environment and making the country more attractive to investors.



Major structural reforms have taken place in India over the past year, including the introduction of the Goods and Services Tax (GST), a relaxation of foreign direct investment (FDI) rules and the dissolution of the Foreign Investment Promotion Board (FIPB).

These changes are aimed at making it easier to do business in India, complementing the Make in India initiative. Accordingly, in Financial Year (FY) 2016/17, there was a corresponding rise of nearly 10% in FDI to US\$43.5bn compared to US\$40bn in FY 2015/16.

FDI reforms

Approximately 90% to 95% of all FDI proposals are now permitted through the automatic route and do not require the Government's approval. All FDI proposals requiring Government approval previously had to be channeled through the FIPB, which acted as the gatekeeper for foreign investments into the country. Investment proposals in 11 sectors, including telecoms, broadcasting, civil aviation, defence, retail and private sector banking, must now be approved by the relevant ministry instead.

Make in India

The Union Cabinet, the body responsible for macro-economic decision-making in India, has approved a policy that gives preference to Make in India in Government procurements. The new policy will give a substantial boost to domestic manufacturing and service providers, helping to create employment. Another crucial effect is the increased flow of capital and technology into domestic manufacturing and services, which is expected to attract investment into these sectors.

The Make in India initiative continues to be a cornerstone of the Government's investment promotion strategy and has helped improve the investment climate of the country. Make in India has acted as a platform to promote these investment activities and highlight both the achievements and the potential of each sector.

Achievements in many sectors of the economy over the past two years, including growth in FDI, new policy initiatives, fiscal incentives, infrastructure developments, ease of doing business reforms, skills initiatives, innovation and R&D projects, have been widely recognised around the world.

For the first time, India now features among the top countries in terms of investment attractiveness and policy reform (according to the Ministry of Commerce and Industry). The country also features among the top three prospective FDI destinations for multinational enterprises in 2017 to 2019 according to UNCTAD (United Nations Conference on Trade and Development).

Bright future

These reforms and the decision to dismantle the FIPB are expected to continue to boost India's FDI landscape. There are a number of other key decisions still to be made by the Union Cabinet, which may open investment opportunities in previously restricted sectors such as the plan to issue a standard operating procedure, which ensures that the government will clear all FDI proposals requiring approval within ten weeks after the receipt of an application.

At the same time, other factors such as an increase in literacy and a relatively young and large workforce are serving to enhance the country's reputation as a place to do business. If the Government continues to adopt positive structural reforms and tackle the challenges of excessive bureaucracy India will become an even more attractive and lucrative destination for investors.

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Winding up a foreign invested company in China

When a foreign investor or parent company decides to shut down the operations of a wholly foreign-owned enterprise (WFOE) subsidiary in China, it is crucial to follow the formal legal process for liquidation and deregistration.



Failure to properly liquidate and deregister a foreign-owned company in China can have dire consequences for the parent company, and for the Legal Representative of a WFOE. There are three phases to terminating a WFOE, including liquidation, tax clearance, and deregistration, which in total require a minimum of nine months to complete.

Liquidation

The liquidation process for a solvent WFOE requires many steps that must follow a precise timetable. Firstly, the WFOE's board of directors must draft a resolution to terminate the operations and appoint a liquidation committee. Following notification to local authorities and creditors, a pre-liquidation audit will determine the WFOE's assets and liabilities, from which a liquidation plan is created. Where liabilities exceed assets, the WFOE must enter into bankruptcy liquidation, which is controlled by the courts. A solvent WFOE may sell its fixed assets and use proceeds to pay off liabilities. Finally, a second audit and completed liquidation report must be submitted to authorities for approval.

Tax clearance

During tax clearance, a considerable amount of documentation must be submitted, including the current year tax return, the liquidation tax return, a VAT settlement for liquidation activities, previous statutory audit reports, and other documents as requested. Tax officials may scrutinise up to ten years of tax filings and supporting documents, especially regarding related party transactions and transfer pricing practices. It is therefore extremely important that a WFOE maintains complete and accurate records throughout its operational period.

Deregistration

After tax clearance, the WFOE proceeds to cancel registrations with a variety of government agencies. As part of this process, the originals of the various registration certificates must be returned, so it is critical that the originals be safeguarded during the operational period. When this process is completed, remaining WFOE assets/funds may be remitted back to the foreign investors.

Severe penalties for failure to follow the legal process

Winding up a WFOE in China is a complicated process, strictly governed in accordance with the relevant laws. The foreign investors of a WFOE are strongly advised to follow the laws and proper liquidation procedures rather than attempting to abandon the investment. If a WFOE fails to do so, the Legal Representative can be pursued for all outstanding debts and/or taxes, penalties and interest owed to the government, while the foreign investors can face penalties and be banned from conducting any business in China for lengthy periods.

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The UK post-election tax landscape

The recent UK general election has resulted in a minority Conservative Government, and uncertainty about what this means for future tax and economic policy.



The UK Conservative Party's 'confidence and supply' agreement with the Democratic Unionist Party (DUP) will allow the Government to win key votes – including on Budgets and Finance Bills – but this does not necessarily mean it will be able to push forward its pre-election fiscal agenda. Instead, the UK is likely to see both changes in policy and, where previously announced measures are taken forward, some delays in implementation.

A balancing act

There are already signs that the new minority Government will have to soften its stance on austerity, and a number of manifesto pledges, including proposed changes to funding social care, have already been dropped. This is likely to put increased pressure on government finances; one response to this could be an increase in taxation. The Government, which is likely to want to protect its reputation both for fiscal responsibility and for maintaining a low-tax environment for individuals and businesses, will face a delicate balancing act. Tax changes may well take the form of revenue-raising tweaks, rather than changes to headline tax rates.

In terms of the practicalities of tax law-making, a host of measures were dropped from the Finance Bill (now Finance Act 2017) as it was pushed through Parliament ahead of the election. These included significant changes for companies – in the form of both a corporate interest restriction and significant changes to loss relief – as well as changes to the domicile rules for individuals, all scheduled to take effect from April 2017 and the legislation underpinning the Government's Making Tax Digital programme, due to come in from April 2018.

Timings unclear

Ministers indicated at the time of the election that if a Conservative Government was re-elected, a further Finance Bill would be introduced early in the new Parliament to legislate for these dropped measures. Such a Summer Bill has been promised, but not yet published. It is unclear whether, once it is, it will include all the dropped measures or just a selection. Even where legislation is included in the Summer Bill, there could now be a delay in implementing measures, including those that had been due to take effect from April 2017.

Anyone contemplating transactions that might be affected by proposed, but not yet enacted, changes should take advice on the consequences of any such delay.

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Snap UK election leaves non-doms and investors in UK residential property in a spin

UK resident non-doms were anticipating significant changes to their UK tax position from 6 April 2017, but the recent general election has left the situation uncertain.



A number of changes affecting non-doms and investors in UK residential property had been expected to take effect from 6 April 2017, including a proposed new deemed domicile concept for UK income and capital gains tax, potential rebasing of assets and cleansing of mixed funds. Also from April 2017, the UK inheritance tax net was to be extended to include all UK residential properties owned through non-UK companies, regardless of the domicile of the beneficial owner.

However, the snap general election held on 8 June resulted in these and several other anticipated new rules being removed from the Finance Bill before the Finance Act 2017 became law. Taxpayers who would have been affected by the new rules suddenly faced uncertainty as to what the new rules would be.

UK election result: clarity at last?

There are growing fears among taxpayers and commentators that the UK Government may not reinstate some key tax changes dropped from the Finance Bill 2017, including the non-dom reforms, after the Conservative Party lost its majority in the election.

The election resulted in a hung parliament with no political party gaining sufficient seats to form a majority government. Consequently, the British Prime Minister, Theresa May, was forced into negotiating an arrangement with the Northern Ireland Democratic Unionist Party to allow her to stay in office with a Conservative minority government. It may be several months before the political wrangling settles down and changes may be required to the proposed new tax rules in order for them to pass through parliament.

Given that the UK 2017/18 tax year is already well under way, this raises questions about the date from which any new rules will apply – from 6 April 2017 as previously stated or perhaps from 6 April 2018?

Many non-doms will have taken action in advance of the anticipated new rules coming into force on 6 April 2017. If further changes are made to the new rules, or if they are delayed a year so that they take effect from 6 April 2018, it could adversely affect taxpayers who acted in good faith. For the time being, taxpayers can only wait for the final position to become clear at last.

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New audit reports bring greater transparency for users

New international audit report requirements now apply to financial statements for periods ended on or after 31 December 2016 and bring significant changes in format and content to make them more relevant to users.



Various research papers and market surveys have shown that the users of audit reports increasingly expect more informative and less general reports with more information about the company and audit process.

In response to this, a number of changes have been made to International Standards on Auditing (ISAs) relating to the auditor's report, aimed at providing greater transparency of information on the financial health of companies. The changes apply to any company that has audited financial statements.

These changes are now being implemented in the accounting standards of many countries around the world. For example, in Brazil the accounting standard dealing with the new auditor's report is almost an exact transcription of the International Standard. The European Union has introduced similar requirements from 2017.

The standards have been applied by some countries for some time, for example in the UK since 2013. However, it should be noted that UK standards include specific matters that are not included in the International Standards on Auditing in order to comply with UK financial market regulations, such as a requirement to include the materiality used in the auditor's report.

It is also important to note that although the standard for drafting the auditor's opinion has been modified and the report format reorganised, there is no change in the requirement to report on audit scope.

Main changes

The principal change in the new auditor's report relates to the main auditing issues (PAAs). Listed entities are obliged to include a paragraph in their reports on this topic, and other companies may also want to do this.

PAAs are matters that are, according to the professional judgment of the auditor, the most significant in the audit of the financial statements. These may be similar to the issues communicated to those responsible for corporate governance, such as:

- events or transactions that significantly affect the financial statements
- areas that involve significant management judgment
- areas with a high risk of relevant error.

As one of the major objectives of the new auditor's report is to bring more transparency, it is important that PAAs are specific to each company, are based on fact, and include sufficient detail to inform the decision-making of the users of the financial statements, as well as providing relevant, clear, concise and comprehensible information, free of technical jargon.

However, the standards identify two situations where a PAA may not be disclosed:

- when the law or regulation prohibits the public disclosure of the matter
- in extremely rare cases, where the negative consequences of such disclosure could outweigh the benefits of communication in the public interest (using the auditor's judgment).

Other changes for all companies

While inclusion of PAAs in the auditor's report is only mandatory for listed companies, other changes affect audit reports for all companies, regardless of size:

- auditors' reports have been reordered so that the opinion is the first section of the report
- the auditor should draw a conclusion about the company's operational continuity and whether or not there are significant doubts about its ability to operate
- sections dealing with management and auditor responsibilities have also been reviewed.

The new report should also include an explicit statement of the auditor's independence in relation to the relevant ethical principles and compliance with other applicable requirements of the Code of Ethics, a description of the work performed by the auditor and their conclusions.

All of these reporting changes will have an impact on the relationship between the auditors, the company's management and its corporate governance bodies, requiring greater interaction.

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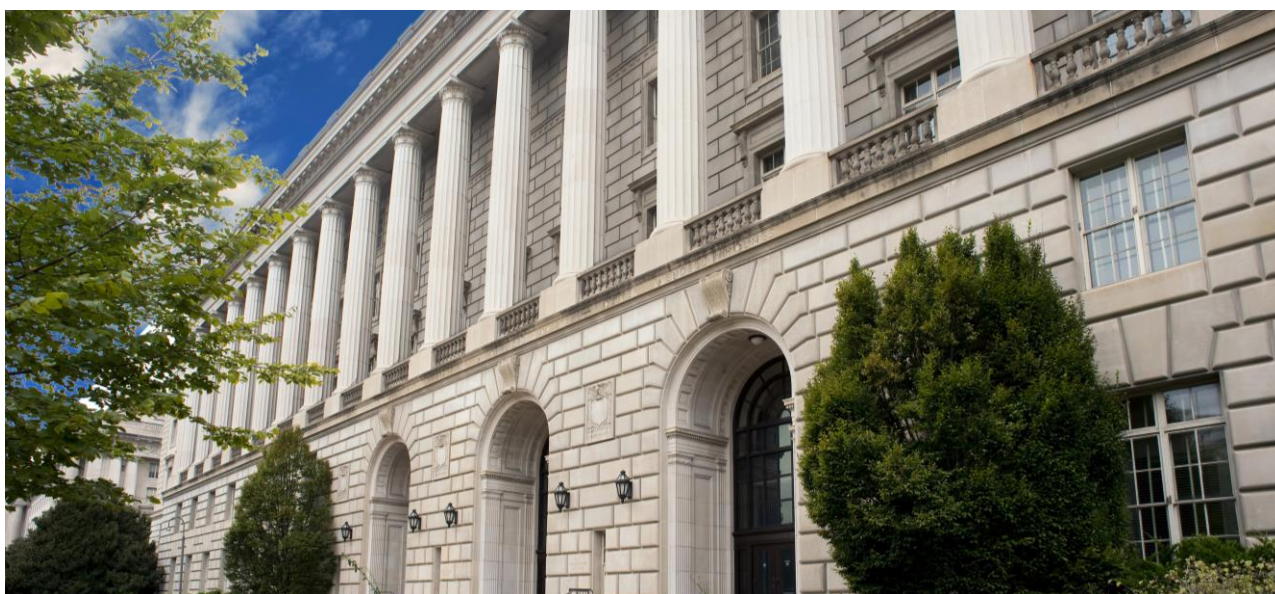
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Global companies with a disregarded entity in the US face new regulations

Expanded IRS tax regulations now apply to a larger number of foreign corporations and include bookkeeping requirements. There are stiff penalties for non-compliance.



If your international company has a domestic disregarded entity (DRE) in the US, you may need to file IRS Form 5472 going forward. Failure to comply could result in a fine of US\$10,000, suspension of the statute of limitations on your entire tax return for the year at issue, and possibly even criminal penalties.

Who's affected?

The US Treasury and IRS issued final regulations in December 2016 under IRC Section 6038A. These expand the category of 'reporting corporations' subject to Form 5472 reporting and record maintenance requirements to include all foreign-owned domestic DREs. Previously, a reporting corporation was a 25% foreign-owned US corporation or a foreign corporation engaged in US trade or business that entered into reportable transactions, i.e. transactions that impact the computation of taxable income. Those most likely affected by the new regulations include:

- Foreign corporations that hold their US branch operations in a domestic DRE
- Foreign corporations and individuals that hold passive-type assets (e.g. stock in a foreign subsidiary, foreign-issued corporate bonds, etc.) through a domestic DRE
- US corporations and individuals that hold domestic DREs through controlled foreign corporations (CFC)

What's changed?

The new regulations treat your foreign-owned domestic DRE as a reporting corporation for the limited purpose of reporting related-party transactions on Form 5472. They also require the DRE to maintain a permanent set of books and records that establish the correctness of the information reported on the form.

It is worth noting that under the old Form 5472 reporting regulations, a foreign owner would report related-party transactions of its domestic DRE only if the DRE conducted a US trade or business, i.e. the US DRE had to be a branch. The new regulations represent a significant departure from prior rules. Essentially all related-party transactions involving a foreign-owned domestic DRE must now be reported on Form 5472, including transactions affecting the computation of taxable income and capital-related transactions. These transactions include capital contributions, entity liquidations, and distributions of cash and property.



In addition, Form 5472 should be filed by a domestic DRE even in cases where the DRE is owned by a CFC and the CFC's US shareholder reports its ownership interest in the foreign corporation using Form 5471.

The new filing requirements apply to taxable years of foreign-owned domestic DREs beginning on or after 1 January 2017, and ending on or after 13 December 2017.

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IFRS 17 – the new standard for insurance contracts

The International Accounting Standards Board (IASB) issued IFRS 17, the new standard for insurance contracts, in May 2017.



IFRS 17 Insurance Contracts sets out a comprehensive methodology applicable to all insurance and reinsurance contracts, both long- and short-term, as well as investment contracts with discretionary participation features.

IFRS 17 replaces interim standard IFRS 4 Insurance Contracts, which was introduced in March 2004. IFRS 4 was supposed to limit changes to existing insurance accounting practices. It allowed insurers to use different accounting policies to measure similar insurance contracts written in different countries but it was difficult for investors to compare and contrast the financial performance of similar companies.

IFRS 17 addresses the comparison problems created by IFRS 4. It provides consistent principles in accounting for insurance contracts, which will benefit both investors and insurance companies. Insurance obligations will be accounted for using current values, not historical cost. The information will be updated regularly, providing more useful information to users of financial statement and giving a better understanding of insurers' risk exposure, profitability, financial position and cash flows.

IFRS 17 is effective from 1 January 2021. A company may choose to apply IFRS 17 before that date but only if it also applies IFRS 9 Financial Instruments and IFRS 15 Revenue from Contracts with Customers.

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Romania adds to business incentive programmes

A number of incentive programmes are available to Romanian businesses to help them develop and boost the economy both regionally and nationally.

‘Start-up Nation’ Romania

This is a new programme aimed at encouraging the establishment of new small and medium-sized enterprises (SMEs). Ten thousand SMEs will each be awarded a maximum of 200,000 Romanian lei to fund 100% of eligible expenditure.



Grants for microenterprises under the Regional Operational Plan

To enhance the competitiveness of SMEs, Measure 2.1A offers grants of up to €200,000 to microenterprises, to promote entrepreneurship, in particular by facilitating the economic exploitation of new ideas and fostering the creation of new enterprises, including through business incubators.

Competitiveness Operational Programme (COP)

This EU-supported programme invests in research, development and infrastructure (RDI) and information and communication technologies (ICT) in Romania. For RDI, a budget of €952.57m is available to support economic competitiveness and the development of businesses. An ICT budget of €630.2m is available to help develop a competitive digital economy.

Large Infrastructure Operational Programme

This programme is aimed at promoting sustainable economic growth as well as the safe and efficient use of natural resources as the national level in terms of transport infrastructure, sustainable urban transport, environment, energy and risk prevention.

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