

March 2024



# The **VISIONARIES**

**YOUR GUIDE** to navigating a complex and ever-changing global business environment from professional service firms across the globe

## EMBRACING ESG

**“Consumers expect companies to demonstrate commitment to the planet and its people.”**

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**Thomas Wheeler**  
Founder of IR Global

"The group's founding philosophy was based on cultivating a giving mentality and creating a system which is ethical, sustainable and always puts clients' interests first."

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## FROM THE EDITOR

# Developing strategies for developing events



**Charles Scherer**  
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As governments worldwide began to ease their Covid policies over the course of 2021, many in advanced economies spoke about a 'new normal', or desire to 'build back better'. The theory was that the crisis was over, and if we were to take anything positive out of a dire event, it was that we could rebuild in a more equitable, sustainable, and just way.

As it goes, the news cycle shows us stumbling from one global crisis to another, with war in mainland Europe overlapping with erupting violence in the Middle East. National debt, inflation, and tax burdens remain vast as countries, still recovering from the economic body blows of their pandemic restrictions, fund and aid their allies in armed conflict, and absorb the impact of trade disruption.

Even if businesses or markets crave stability, they will be quite accustomed to unpredictability. That might be especially true in 2024, when half of the world's population will be seeing elections. That includes general elections in IR Global members' home countries like the US, the UK, Mexico, and Mauritius. Not to mention state, legislative, or local elections in Portugal, Australia, Malta, Poland, and Germany. What is the response?

It is a myth that the Chinese word for 'crisis' is the same as the word for 'opportunity', but it may be a useful attitude nonetheless. We can't do anything about global events, but we can control how we respond. So, what is there to navigate in 2024?

ESG is high on the agenda, with business practices and environmental impact under the close scrutiny of legislators and customers. It takes a great deal of effort to ensure that environmental damage is minimal, social impact is positive, and corporate governance is unimpeachable. Yet, investing in those goals pays dividends.

Attitudes to AI range from casual dismissal to existential dread, policymakers are still trying to legislate for it, and businesses are attempting to harness it, all while the nature of what 'it' is changes almost daily. Establishing a strategy in that context is tremendously difficult, but promises incredible competitive advantages.

The 'new normal' that people had initially envisioned was a world of flexibility, when we worked how we wanted and where we wanted. However, not every business has found hybrid work to its liking, and inflation has undermined the dream of many digital nomads. Businesses want to attract talent and countries want to attract entrepreneurs and investors, and finding a way to do so affordably can unlock much-desired growth.

To use a cliché, 'Change is the only constant'. Certainty might always be preferable, but it is seldom realistic. In the following chapters, IR Global members offer their unique and deeply qualified perspectives on the challenges at present and in the near future.

"Certainty might always be preferable, but it is seldom realistic."

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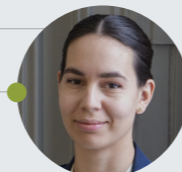
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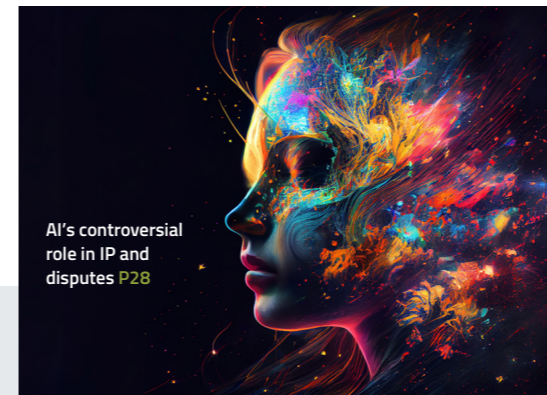
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# Embracing ESG

**ESG (Environmental, Social & Governance) factors profoundly shape corporate behaviour and investment decisions worldwide.** The following articles explore how sustainability is impacting the real estate and accountancy sectors, whether change is being led by client priorities or legislation, and how companies can increase their resilience to ESG.

Steven De Schrijver discusses the transformative impact of these factors on real estate transactions in Belgium. Where previously viewed as risks during due diligence processes, ESG issues are now recognised as opportunities for value creation and industry transformation. He also highlights challenges such as “greenwashing” practices, where companies may falsely portray adherence to ESG goals.

Meanwhile, Kaitlin Flinn and Haley Legg explore the role of ESG in accountancy. They emphasise that, in Oklahoma, reporting is not mandatory but is encouraged to uphold transparency and build stakeholder trust. Client and consumer demands are driving voluntary disclosure and influencing business strategies. Industries with high environmental impact, like Oil & Gas and manufacturing, face pressure to diversify into renewable energy sources but ESG considerations extend beyond environmental aspects to encompass social implications, such as community involvement and equality in hiring practices.



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“While ESG reporting is not mandatory for all Canadian companies, more are voluntarily adopting it.”

Isabella Bertani,  
BERTANI

# Enhancing business resilience through ESG integration

## Isabella Bertani, FCPA, FCA

Founder and Chief Client Strategist,  
BERTANI

In recent years, concepts of Environmental, Social, and Governmental issues (ESG) and how companies are managing them has gained prominence globally. Canadian organizations are increasingly recognizing the importance of integrating sustainability considerations into their operations and that shareholders are interested in the sustainable initiatives they undertake in order to enable them to better understand how companies are managing the risks, opportunities, and uncertainties around these issues. Along with this, regulators have begun to also recognize the impact ESG has on decision making and as a result, have begun to impose reporting requirements and regulations around these issues, particularly in certain industries.

With today’s rapidly changing business landscape, organizations are facing multiple challenges that extend beyond traditional financial metrics. The integration of ESG considerations is emerging as a critical aspect of corporate strategy.

### ESG Reporting in Canada

Although ESG reporting is not universally mandatory in Canada, several developments are shaping the reporting landscape with key regulators the Office of The Superintendent of Financial Reporting (OSFI), the Canadian regulator of financial institutions, and

the Canadian Securities Administrators (CSA), regulator of publicly listed entities moving towards this framework:

- Federally Regulated Financial Institutions:**  
 Commencing with their 2024 fiscal year, federally regulated financial institutions, including banks and insurance companies, will be required to report on ESG performance, in particular OSFI Guideline B-15 on Climate Risk Management which was put forward in March 2023 with a public reporting deadline of September 2024 for Canada’s largest banks and insurers and September 2025 for all other federally regulated financial institutions.

OSFI has also indicated it would align this disclosure requirement to the IFRS S-2 – Climate related disclosure requirements. This move reflects the growing importance of sustainability metrics in financial decision-making.

- Canadian Listed Companies:**  
 While ESG reporting is not mandatory for all Canadian companies, increasingly, companies are voluntarily adopting disclosure. However, certain ESG-related provisions apply to Canadian listed companies. For example, in May 2024, first annual reports are due under the Fighting Against Forced Labour and Child Labour in Supply Chains Act,

Isabella Bertani is the Founder and Chief Client Strategist at BERTANI, a boutique audit, tax, and advisory firm located in Toronto, Canada. With over 25 years of experience, Isabella has worked extensively with both private and public companies in numerous industry sectors including manufacturing, food processing, technology, telecommunications, mining and mining-related industries, biotech, and retail and distribution. She has been named by Practice Ignition as one of the Top 50 Women in Accounting globally for two consecutive years in 2021 and 2022.

Isabella’s practice focuses on inbound foreign investment and Canadian domestic companies with global interests. A recognised leader in foreign direct investment, Isabella routinely advises global corporations with regards to expansion into the North American market and clients include numerous foreign subsidiaries of significant global entities. Isabella is a frequent speaker on topics relating to globalisation including doing business in Canada, trade agreements, global trade and migration, and the impact of geopolitical trends on global foreign direct investment and global trade. She has a particular interest in FDI and its impact on global sustainability.

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## MY ADVICE...

ESG integration is not just about compliance, it is about creating long-term value for organisations, society, and the environment. Some key takeaways for your organisation are:

- **Assessment:** Identify material ESG issues most relevant to your business and prioritise actions based on their impact and significance.
- **Measurement:** Establish clear ESG metrics and regularly report on performance using these metrics.
- **Risk:** Understand and manage your organization's ESG risks and resulting implications of these risks. Once you have a clear understanding, you will then be able to develop strategies to mitigate these risks and seize any opportunities.
- **Governance:** Boards and audit committees should be actively engaged in ESG discussions and understand the impact on

the organisation and when mandatory reporting comes into effect.

- **Culture:** By actively involving employees in your organization's ESG strategy and initiatives, a culture of sustainability and responsibility can develop.
  - **Resilience:** Look at ways to innovate and enhance the organisation's resilience to the ever-changing landscape.
  - **Lead:** As ESG regulations increase, by staying ahead of the curve and integrating sustainable practices, it will contribute to your organisation's long-term success and resilience.
- These recommendations are not all-encompassing, and should be tailored to an organisation's specific contexts and industries, but they provide a starting point for organisations seeking to navigate the evolving ESG landscape in Canada.

### Client and Consumer Demand as Catalysts

Client and consumer demand play a pivotal role in driving ESG expectations and regulations with an underlying theme of transparency. These include:

- **Consumer Awareness and Expectations:**

Consumers are increasingly attuned to the sustainability impact of their purchases. They expect companies to demonstrate commitment to the planet and its people. Priorities include reducing plastic waste and microplastics, improving labour standards, and lowering carbon emissions. Investors are increasingly integrating ESG factors into their investment decisions and recognize that sustainable practices contribute and impact a company's long-term value and risk management. Creating transparency through product labeling and social media and marketing is crucial for meeting diverse consumer expectations which are ever evolving as they become more educated in what is happening around the world.

- **Collaboration and Supply Chain Transparency:**

Achieving meaningful sustainability improvements requires collaboration and information sharing throughout the supply chain. ESG reporting and other channels necessitate transparency on material ESG issues, climate risks, and emissions. How can we successfully monitor and regulate the human impact on the environment? Who will monitor such an impact and how are we going to finance such an undertaking? Consumers are demanding responsible supply chains. Consequently, an important challenge in the coming year is to focus on the monitoring, regulation and financing of climate change impacts and other risks related to labour and environmental practices. This in turn impacts a company's already existing concern for industries and organizations of reliable supply chains. Climate change and labour practices have a significant impact on supply chain systems. Creating sustainable supply chain mechanisms is also necessary for reducing the carbon footprint of an industry or organization. With an expectation by consumers for

## About us...

# BERTANI

**BERTANI** is a boutique audit, tax and advisory firm located in Toronto, Canada. Founded in 2001, BERTANI specialises in inbound and outbound foreign direct investment into Canada and private Canadian companies with growth objectives and global interests.

Through our soft-landing program, we routinely advise and assist foreign corporations with their expansion into and continuing operations in the North American market. As a member firm of IR Global, BERTANI is connected to over 1300 collaborative member firms in over 165 jurisdictions covering 70 practice areas across the globe, allowing our clients to be ideally positioned for their outward global expansion strategy.

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transparency around these issues, the challenge and priority when it comes to sustainability for organizations will be to set climate goals and standards that are congruent with their goals for efficiencies as they face other barriers.

- **Benchmarking and Reputational Risks:**

Companies are increasingly recognizing the importance of telling their sustainability story to consumers. However, there are implications if ESG claims are publicly challenged and risks to investors of company's "greenwashing" i.e. representing themselves as being more environmentally responsible than they are resulting in investor confusion and negatively impacting investor confidence. As a result, accurate reporting becomes more and more important and is essential to maintaining market share and preserving value. This in turn has also led to the increased need for new regulation.

Consumer and investor demand continues to be a significant catalyst for ESG expectations and regulations. In today's "cancel-culture," companies

are taking consumer expectations and demands more and more seriously.

### Accountants' Role in Boosting Resilience

Critical in today's ESG environment is the need for accountants to move beyond traditional accounting roles and become value-added leaders and influencers on ESG matters. Our role has become more complex, and clients are looking to us to be strategic advisors and to understand a company's broader business agenda and strategy. Critical to doing so in ESG is the need to understand and build ESG knowledge to view a client through an ESG lens and identify material sustainability risks and opportunities and how these impact an organization's long-term performance and value.

With the increasing demand by stakeholders for transparency, CPA's can help navigate the complexity of ESG requirements and assist companies in creating and incorporating an ESG strategy into their long-term business strategy.

By actively engaging with ESG issues, CPA's can empower their clients'

which received Royal Assent in May 2023 for organizations that either are listed on a Canadian stock exchange or do business or have a place of business in Canada and meet certain threshold requirements. Among others is the requirement by Corporations Canada to report annually on the diversity of their board of directors and senior management. The CSA is also developing reporting around climate change also expected to be aligned with IFRS reporting standards.

disclosure in Canada and develop Canadian Sustainability Disclosure Standards that are aligned with global baseline standards developed by the International Sustainability Standards Board.

- **Complexity and Gaps:**

The sustainability reporting landscape is becoming more demanding and complex. Rising stakeholder expectations surrounding ESG performance and transparency have led to prescriptive regulations replacing voluntary guidelines. Despite this progress, Canadian companies are challenged with meeting new regulatory requirements, including evolving climate change risk disclosure expectations.

Reflecting Canada's changing landscape in the area of ESG, The Canadian Sustainability Standards Board was established in 2022 to work towards advancing the adoption of sustainability



organizations to thrive sustainably and navigate the challenges of an increasingly evolving business environment.

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# ESG's impact and M&A resilience

**Steven De Schrijver**  
Partner  
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**E**nvironmental, social and governance ("ESG") issues detected during due diligence were once considered risks which could lead to specific indemnities, remediation measures or even a purchase price decrease. Now, they are recognised as one of the most substantial opportunities for value creation and transformative industry shifts in our era. With sustainability and ESG considerations becoming more influential, Belgian companies are facing greater pressure to align their operations with these principles. This marks a clear shift towards integrating sustainability values into the core of business strategies and decision-making processes. Attaining ESG goals can be achieved through M&A activities to further increase customer penetration and accelerate sustainable growth across the value chain.

However, companies also falsely portray ESG commitments. "Greenwashing" includes publishing misleading information about practices or false claims about products. Companies could also associate themselves with environmental issues without taking substantive action, or while continuing environmentally harmful practices.

The EU Directive 2022/2464 on Corporate Sustainability Reporting

(the "CSRD") that came into force on January 5, 2023 represents a significant step in modernising and fortifying environmental reporting regulations. The CSRD aims to promote genuine environmental accountability. The CSRD enhances access to information critical for assessing financial risks and opportunities of sustainability issues, particularly climate change. These rules, effective from the 2024 financial year onwards, underscore the EU's commitment to sustainability, and align with international standardisation initiatives. Before this directive takes effect in Belgium, it needs to be transposed into Belgian law (by 6 July 2024 at the latest).

According to the 2022 M&A monitor report conducted by Vlerick Business School, only 35% of strategic acquisitions consider ESG. Private equity fares slightly better at 49%, but only 38% of surveyed Belgian private equity investors have a formal ESG investment policy. The implementation of the CSRD may shift companies' attitudes towards ESG in M&A, with one participant noting that private equity

firms are still assessing how to integrate ESG into investments. Although the following edition of the 2023 M&A monitor report of Vlerick Business School did not provide any numbers on this evolving trend, it does indicate a surge in M&A deals targeting firms with robust ESG credentials. Companies that can credibly demonstrate those tend to attract substantial market interest and secure higher valuations from acquirers aiming to enhance their own ESG credentials. As a result, provisions relating to ESG commitments feature more prominently in the companies' governance documentation, including shareholders' agreements.

Following an introductory analysis of the opportunities and challenges associated with achieving ESG goals, we explore how the CSRD can help strengthen companies' resilience in the context of M&A.

### Opportunities and Challenges

ESG generates value across various dimensions, assisting companies in cost reduction, enhancing sales, raising prices, attracting and retaining top

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"Private equity firms are still assessing how to integrate ESG into investments."

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## “ESG challenges include company cultures impeding ESG advancements, the underdeveloped nature of ESG in terms of regulations, standards and data availability, as well as the quest for suitable ecosystem partners.”

talent, and augmenting overall company value. Notably, ESG is perceived as an avenue for expanding into new business realms. This expansion might involve reimagining the core business by offering alternative products to the existing customer base, introducing new products in related markets, or establishing entirely new ventures aimed at different customer segments while leveraging existing internal knowledge.

Realising ESG ambitions does not inherently create value and is confronted by notable hurdles. Challenges include company cultures impeding ESG advancements, the underdeveloped nature of ESG in terms of regulations, standards and data availability, as well as the quest for suitable ecosystem partners. Moreover, navigating trade-offs between short-term profitability and long-term objectives is also a hurdle. These challenges are compounded by immediate pressures such as ongoing geopolitical conflicts, high inflation, and constraints within global supply chains.

### The EU Directive 2022/2464 on Corporate Sustainability Reporting (the “CSRD”)

The primary obligation outlined by the CSRD for companies within its scope is the disclosure of sustainability information in conformance with the European Sustainability Reporting Standards (ESRS), which were adopted by the Delegated Regulation (EU) 2023/2772 on July 31, 2023. The ESRS comprises theme-specific standards (Environmental, Social, Governance) tailored to address the most important aspects of these themes (e.g. climate for ‘Environment’, human rights protection for ‘Social’, anti-corruption compliance for ‘Governance’). The ESRS also aims to develop sector-

specific standards tailored to address unique topics within specific sectors. Simultaneously, it includes cross-cutting standards applicable, irrespective of the sector. These cross-cutting standards require a substantial range of information categories to be disclosed, including details such as the description of the business model and strategy, sustainability risks, and transition plans. This encompasses information on sustainability policies, incentive schemes on sustainability issues, as well as measures devised to prevent and mitigate adverse impact on sustainability. Noteworthy is the principle of “double materiality,” necessitating reporting on the impact of sustainability on the company and vice versa. Cross-cutting standards also introduce reporting within the value chain, with a 3-year grace period.

Furthermore, the CSRD introduces two key reporting rules applicable to all companies within its scope. The first emphasises transparent reporting, requiring information to be clear, relevant, verifiable, and comparable. The second, the “materiality requirement,” mandates the disclosure of only relevant information. This principle is especially pertinent for topical standards, necessitating a comprehensive explanation if, after conducting a materiality assessment, a company considers a specific topical standard as not material to its operations,

particularly when the company is not engaged in that specific field.

The CSRD leaves sanctions for non-compliance to member states. Expected sanctions include financial penalties, warnings or correction orders, and criminal sanctions. Many member states are likely to retain similar sanctions from the Directive (EU) 2014/95 on Non-Financial Reporting.

### Strengthening Resilience: Navigating ESG Expectations in M&A Transactions

Besides publicly listed companies, the CSRD applies to EU-based companies that satisfy at least two of the following criteria: 250 employees, a total balance sheet of EUR20m, or a net turnover of EUR40m. It includes certain qualified Small and Medium Enterprises, and exempts certain micro-enterprises. For non-EU companies, it covers EU subsidiaries or branches with a group turnover exceeding 150 million Euro in the last two years, and either an EU branch with over 40 million Euro turnover or a subsidiary meeting the EU-based criteria. In my opinion, companies falling outside the scope of the CSRD could voluntarily adhere to European Sustainability Reporting Standards (the “ESRS”). This would make them more attractive to partnerships and M&A transactions with these large companies and certain qualified SMEs. Furthermore, they may



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be required to do so if their customers fall under the scope of the CSRD and prefer their respective supply chains to accommodate them in their respective CSRD compliance programs.

According to the Belgian 2023 M&A Monitor conducted by the Vlerick Business School, there is a growing emphasis in Belgium on ESG during the due diligence of an M&A transaction and selection of partnerships. This includes the review of material agreements, examination of target companies’ ESG policies and initiatives, a target’s activities and supply chain, and scrutiny of compliance frameworks. Beyond mere legality, there is a growing interest in understanding whether the target’s current business practices align favourably with the expectations of key stakeholders, most notably investors and customers. This scrutiny extends particularly to the intricacies of the supply chain, where the perception of ethical and sustainable practices can significantly impact the overall desirability of a potential transaction. This is exacerbated by the cross-cutting



standards imposed by the CSRD which require sustainability reporting about companies with which they have direct and indirect business relations in the upstream or downstream value chain.

The transformative industry shift posed by ESG necessitates close collaboration not only among different legal disciplines (i.e. environmental, social, corporate, regulator etc.) but also with non-legal experts such as financial

or technical advisers. Furthermore, there is an anticipation that ESG considerations will gain increased prominence in the negotiation of transactional documents, such as sale and purchase agreements. This will be particularly notable concerning representations, warranties and covenants related to relevant standards, akin to how anti-money laundering processes are addressed.



# Cost? Benefit?

## The truth about ESG

**Kaitlin Flinn** Partner  
**Haley Legg** Assurance Division  
 CCK Strategies, PLLC



**Kaitlin Flinn**, Partner at CCK Strategies, holds a Bachelor's degree in Accounting from Oral Roberts University and a Master's in Taxation from the University of Tulsa. Kaitlin is dedicated to empowering entrepreneurs by providing the critical insights necessary for their success, guiding them with tailor-made strategies for growth. Kaitlin offers her extensive knowledge in entity formation and structure, strategic tax planning, transfer pricing, R&D incentives, and multi-state compliance.

Kaitlin's drive to strengthen worldwide connections has led her to serve as the executive board chair of the Tulsa Global Alliance, where she is an advocate for cultural exchange and international business cooperation. Recognised for her significant contributions to the field of accounting, Kaitlin has been honoured with the Trailblazer Award from the OSCP, highlighting her impact and leadership in the industry.

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### Q1

#### Is ESG reporting mandatory or encouraged in your jurisdiction?

Environmental, Social, and Governance (ESG) reporting is an evolving landscape in the United States. In Oklahoma and Texas, ESG reporting is not mandatory but is encouraged to maintain transparency and foster stakeholder trust. However, companies based in Oklahoma and other regions should be aware that if they conduct business in other states, California for example, they may be subject to that state's specific ESG regulations.

Effective in 2024, the Securities and Exchange Commission (SEC) has mandated that publicly traded companies disclose certain ESG factors in a Company's annual report. As ESG becomes part of the disclosure requirements, the scope of financial statement audits has expanded to incorporate these elements as well. This highlights the critical impact of ESG on the financial results of an organisation – the cost of compliance, but also the impact of perception on the shareholder value.

Industries such as Oil & Gas, manufacturing, chemical blending, and others with a high environmental impact face increased pressure to diversify into renewable energy sources. The United States Congress has recognised the need for renewable energy and created renewable energy tax credits and incentives that companies can apply

to their federal tax returns. Some of these credits can be generated or bought and sold like a commodity.

The social implications of ESG are far-reaching. Pressure from consumers to be good stewards plays a significant role in how a company positions their products. This has led to greater involvement in communities and improved transparency and equality in hiring and promoting employees.

As each of the other two aspects of ESG have evolved, the expectation of a company's governance to uphold these values has also increased. More governing bodies are being held responsible for the actions of their company, requiring them to engage more deeply in the operations and broaden their understanding and education.

Although ESG reporting is mandatory only under certain conditions, the evolving nature of this practice is encouraging voluntary disclosure.

### Q2

#### How is client and consumer demand driving ESG expectations?

Consumer and client demands are pivotal in driving ESG expectations. While these demands have not yet translated into explicit regulations, they have influenced business strategies significantly. In Oklahoma municipal governments are transitioning their fleets to more sustainable options, and tribal

communities are taking considerable strides toward sustainability and cost savings. The workforce, attracted to companies with ESG commitments, plays a vital role in meeting consumer demands and driving innovation. In response, accounting services have expanded to include audit, tax, and CFO consulting that are attuned to the overarching issues of ESG.

Responding to workforce demands, an increasing number of companies are adopting eco-friendly practices within their offices. This shift includes substituting Styrofoam cups with reusable water bottles, placing recycling bins in shared areas, and forming committees dedicated to crafting the company's environmental initiatives. The emerging workforce also places high importance on an organisation's philanthropy and engagement with the community, prompting a heightened focus on integrating these aspects into a company's cultural fabric.

Sustaining these initiatives necessitates planning and investment. Public accounting firms, along with internal finance and audit departments, are offering consultancy services to assist in the adoption of these strategies. Their goal is to optimise the company's return on investment while maintaining a transparent approach to financial data for its users.

### Q3

#### What should accountants be doing now to boost resilience, in relation to sustainability, in their clients' organisations?

Accountants play a key role in enhancing the resilience of their clients' organisations in relation to sustainability. They should be advocating for R&D tax credits that support sustainable quality improvements and informing clients about the benefits of Section 179D for energy-efficient commercial buildings. They should also advise on renewable credits, which can offer significant financial advantages.

CCK Strategies works with the non-profit, The Sustainability Alliance, to introduce ESG scorecards to help businesses measure and communicate their performance in sustainability. These scorecards are a method for tracking and reporting on ESG efforts that can be measured.

At first glance, ESG practices can appear costly and provide no long-term benefit. But, when combined with proper marketing and recruiting data, accountants can help analyse the opportunities of implementing the strategies. ESG can attract and retain new customers and members of the workforce.



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### About us... cckcpa.com

**CCK Strategies** is a unique firm that connects globally by working with companies headquartered on four continents with operations in over 25 countries. CCK export revenue from international clients has increased approximately 350% over the period 2013 to 2023. This increase in international sales has been a principal driver in CCK employment rise over the period to over 125 total staff, making CCK one of the largest CPA firms in Oklahoma. The continued growth brings expertise to clients with a variety of business needs in international business consulting and planning, IC-DISC implementation, foreign tax credits, outbound and inbound structure planning, worldwide tax minimisation planning, IRC 965 Transition Tax compliance, Global Intangible Low-Taxed Income compliance, transfer pricing analysis, ASC 740 (FAS 109/FIN 48) and IFRS/GAAP convergence.

CCK Strategies is a non-traditional public accounting and business consulting firm, founded in 1997 by three young partners motivated to build a new type of CPA firm. The CCK Strategies logo reflects the desires of the Partners to focus on international cultures, relationships and business opportunities while making a difference in our local, state and national and global economies. CCK looks for unique lines of business while working to maintain the highest quality in corporate values and client service.

CCK specialises in working with entrepreneurs. With over 125 employees and offices in Tulsa, Oklahoma and Frisco, Texas, CCK's growth mindset creates opportunities to work with a diverse group of clients. CCK's success can be attributed to a few fundamental principles of service, value and care.



Learn more about CCK Strategies at [www.cckcpa.com](http://www.cckcpa.com)

# Commerce, Law, and ESG

**Dr. Jesszika Udvari**  
Partner  
Budlegal Attorneys



**Dr. Jesszika Udvari MBA**, is a dynamic legal professional based in Budapest, Hungary. Since 2023, she has been a Partner and Attorney-at-law at her boutique law firm, the Budlegal Attorneys, overseeing a team of 12 dedicated individuals. Udvari specialises in Labour and Compliance Law, with expertise in Labour law advising, GDPR, Whistleblowing, and ESG matters. Fluent in German, English, and Hungarian, she brings a global perspective to her practice. Her academic journey includes studies in Germany, culminating in a prestigious MBA from ESMT in Berlin in 2022. Udvari is committed to delivering strategic legal solutions, ensuring her clients navigate the complexities of labour and compliance law with precision and foresight.

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**In Hungary, as a member of the European Union**, we adhere to the rules imposed by the EU on its member states. The regulatory landscape has evolved, compelling an increasing number of companies to integrate sustainability-related disclosures into their yearly financial reports, known as non-financial or sustainability reports.

According to "The European Green Deal" the EU aims to transform the Union into a modern, resource-efficient and competitive economy with net zero emission of greenhouse gases by 2050, to protect, conserve and enhance the Union's natural capital, and to protect the health and well-being of Union citizens from environmental risks and impacts. The Green Deal aims to decouple economic growth from resource use, and to ensure that all regions and Union citizens participate in a socially just transition to a sustainable economic system, whereby no person and no place is left behind.

To reach these goals the European Parliament and the Council have adopted a number of legislative acts as part of the implementation of the Action Plan on Financing Sustainable Growth. To realise these goals, the European Parliament and the Council have enacted legislative acts, including the Accounting Directive (2013/34/EU), the Non-Financial Reporting Directive (2014/95/EU), and the recently amended Corporate Sustainability Reporting Directive (2022/2464/EU),

CSRD). These directives establish frameworks for non-financial reporting and disclosure standards. Under the CSRD, approximately 50,000 European companies and around 10,000 non-EU companies will now be impacted, significantly widening the scope compared to the previous NFRD.

These requirements are partly directly binding and partly transposed into national law. Hungary has already transposed the CSRD into national law through the effective ESG Act, operational since January 1st, 2024. The Act places substantial obligations on businesses, including the annual preparation of an ESG sustainability report, establishing risk management systems, implementing complaint-handling procedures (whistleblowing system), developing internal responsibility strategies, conducting regular risk analyses, and fulfilling ESG data provision obligations.

For EU companies, the CSRD officially came into effect on January 1, 2024. The initial reporting obligation applies to companies already subject to the NFRD, necessitating compliance with the amended regulations and reporting for the fiscal year 2024 by 2025. Other large companies not initially subject to the NFRD must commence reporting for the fiscal year 2025, starting from January 1, 2026. Small and medium-sized enterprises (SMEs) will begin reporting on January 1, 2027, for the fiscal year 2026.

## MY ADVICE...

- Sustainability is not a standalone initiative but an integral part of the core business strategy. Aligning sustainability goals with overall business objectives enhances an organisation's ability to navigate challenges and capitalise on opportunities.
- Leading by example is crucial. Rather than resorting to 'greenwashing,' introduce specific actions within your own firm to set a standard. Numerous examples of larger law

firms with exemplary ESG sustainability reports can guide the initial steps toward conscious transformation to sustainable entrepreneurship.

- ESG is a continually growing knowledge area, with many specifics that may not be legally relevant or within the purview of lawyers. However, compliance with requirements and a deep understanding of regulations are vital to effectively assist clients with legal questions in this dynamic and evolving landscape.

For non-EU companies, including private entities, ESG reporting is mandated if they have a net turnover (revenue) generated in the EU exceeding €150 million for two consecutive financial years. Furthermore, these companies must have either a large EU or EU-listed subsidiary or a branch generating more than €40 million in net turnover. The sustainability report produced by non-EU companies covers various ESG topics such as climate change, biodiversity, worker conditions, and human rights.

stewardship, and social responsibility. To navigate this evolving landscape, it is recommended to engage stakeholders comprehensively, including employees, customers, suppliers, and the local community. Understanding their expectations, concerns, and preferences related to sustainability is crucial.

Regulators are responding to this demand by introducing or strengthening ESG regulations, increasingly incorporating ESG criteria into legal frameworks. This regulatory environment reinforces the influence of client and consumer demand on businesses, creating a cyclical dynamic where companies are compelled to meet both market expectations and legal requirements.

## Q1

**How does the client and consumer demand drive ESG expectations?**

The heightened awareness and concern among clients and consumers regarding the environmental and social impact of businesses have catalysed a surge in demand for companies to adopt sustainable and responsible practices. Clients now actively seek products and services from companies demonstrating a commitment to ethical business practices, environmental

## Q2

**What should lawyers be doing now to boost resilience, in relation to sustainability, in their clients' organisations?**

In enhancing resilience related to sustainability in clients' organisations,

legal professionals play a pivotal role. Depending on the client's business, offering comprehensive sustainability audits and developing tailored strategies to enhance resilience are key offerings.

Advisors should guide clients on incorporating ESG factors into their decision-making processes, contracts, and risk assessments.

Given the rapid evolution of sustainability regulations, staying informed about emerging legislation and regulations is imperative.

Proactively guiding clients to adapt to new requirements helps them avoid legal and reputational risks.

Professional advisors can further assist clients in implementing sustainable governance structures. The lack of knowledge and information in many large companies necessitates assistance in building organisational structures, creating documentation, and establishing contracts with ESG auditing.

We often find that large companies lack knowledge and understanding. They do not know, for example, where should ESG Officer should sit in the company. Is it marketing? HR? Compliance? Educating employees and leadership teams is paramount in embedding sustainability into organisational culture. Advisors can provide training programs, including workshops on ESG best practices, legal obligations, and the business case for sustainability.

Considering the obligation to establish whistleblower systems, legal advisors can assist in preparing necessary documentation and information. Acting as whistleblower protection lawyers, they ensure compliance with the ESG Act's requirements.

## About us... [bud-legal.hu/en](https://bud-legal.hu/en)

**Budlegal Attorneys**, based in Budapest, is a leading law firm specialising in a wide range of legal services. Our expertise includes business law, corporate and M&A, civil law, real estate law, litigation, labour law, compliance law, GDPR, whistleblowing, ESG advising, and other comprehensive legal services for clients both domestic and international. With

over two decades of professional experience in international business, our dedicated team prioritises professionalism, secure legal transactions, and the delivery of high-quality, swift, and transparent legal advice. Budlegal is committed to providing exceptional legal support to meet the diverse needs of our clients.



EXPERT VIEW: FORCED LABOUR

# Uyghur Forced Labor Prevention Act: the latest

## Adrienne Braumiller

Partner  
Braumiller Law Group, PLLC

In recent years, the global spotlight has illuminated the grave concerns surrounding human rights violations within China's Xinjiang region, particularly those impacting the Uyghur population. The Uyghur Forced Labor Prevention Act (UFLPA) stands as a pivotal piece of legislation designed to address these concerns and to ensure that products imported into the United States are devoid of forced labour originating from the Xinjiang region. This statute has precipitated substantial developments within the domain of U.S. Customs and Border Protection (CBP), with far-reaching consequences for importers and businesses operating within the international supply chain. This legal article delves into the pivotal advancements associated with the UFLPA and their ramifications on international trade.

### Lawmakers' concerns and CBP enforcement

The bipartisan coalition of House Ways and Means Trade Subcommittee members is gravely concerned about the enforcement of the Uyghur Forced Labor Prevention Act (UFLPA). They stress the importance of CBP ensuring the consistent and robust enforcement of this critical piece of legislation. In particular, they emphasise the need for CBP to provide regular updates to the UFLPA Entity List, which is vital for identifying and excluding products

tainted by forced labour from entering U.S. supply chains. The lawmakers call for a comprehensive strategy to prevent any goods produced with forced labour from infiltrating the U.S. market.

### Ensuring transparency down the supply chain

CBP's enforcement of the UFLPA has faced scrutiny, particularly when it comes to ensuring transparency down the supply chain. To address this, experts recommend that buyers should engage in a thorough assessment of their suppliers, reaching every single tier within the supply chain. This is essential because various products involve raw materials that extend beyond Tier 2. By understanding the full extent of their supply chains, companies can better identify potential sources of forced labour and mitigate the associated risks. It is important to

note that the government's perception of forced labour risk plays a significant role in this evaluation, often taking precedence over a company's independent assessment.

### Precise targeting and flaws in implementation

Nate Herman, Senior Vice President for Policy at the American Apparel and Footwear Association, points out some significant issues with CBP's targeting efforts and the overall implementation of the UFLPA. He emphasises the need for more precise targeting of products and entities that pose a genuine risk of forced labour involvement. The flaws in

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## About us... braumillerlaw.com

Braumiller Law Group, PLLC, is a highly respected boutique law firm focused on international trade compliance and proven strategies to optimise global trade business practices. The attorneys and trade advisors of Braumiller Law Group know exactly how to navigate the intricate maze of global trade regulations and have a successful track record for helping clients save millions of dollars in compliance penalties. For clients around the world, a partnership with Braumiller Law Group extends beyond compliance support to generate measurable business value.



UFLPA implementation have manifested in situations where the enforcement has been overly broad or not consistent. By refining the targeting process and addressing these imperfections, CBP can enhance the effectiveness of the UFLPA.

### Challenges in supply chain transparency

Many corporations acknowledge the inadequacy of their supply chain transparency. While the idea of mapping the entirety of complex global supply chains can be daunting it is essential not to be discouraged by the scale of the task. The key is to start with a risk assessment to identify commodities with the highest risk profile. By beginning with a specific product or commodity category that encompasses such a high-risk item, companies can take practical steps towards improved supply chain transparency.

### Expanding horizons: beyond China

While China has been a major source of UFLPA-related detentions, the scope is expanding to products originating from other countries. Notably, countries like Malaysia, Vietnam, Cambodia, and Bangladesh have come under scrutiny, indicating that the issue of forced labour isn't limited to China. This expansion underlines the need for businesses to maintain vigilance regardless of their country of origin and demonstrates that simply shifting manufacturing operations from China to other nations doesn't eliminate the risk of forced labour in the supply chain.

### Recent additions to the entity list

The U.S. Department of Homeland Security has taken significant steps to reinforce the UFLPA by adding three

Chinese companies to the UFLPA Entity List. These additions create a rebuttable presumption that goods produced or distributed by these companies involve forced labour and are barred from entry into the United States. This adds considerable weight to the enforcement of the UFLPA, particularly for companies engaged in the production and distribution of materials with ties to forced labour.

### Role of the National Association of Foreign-Trade Zones (NAFTZ)

NAFTZ is actively advocating for the use of foreign-trade zones (FTZs) to store detained goods under the UFLPA. However, this advocacy has not been without its challenges. There are ongoing discussions aimed at finding practical solutions for storing goods suspected of being produced through forced labour. The role of FTZs in mitigating these challenges is a topic of importance within the context of UFLPA enforcement.

### Expanding focus: new entity list additions and commodities

Recent additions to the UFLPA Entity List have shifted the focus of enforcement. These new additions include companies that were not previously listed on government-denied party lists, indicating a broader focus on identifying and addressing potential instances of forced labour. Furthermore, the range of commodities subject to scrutiny is expanding, encompassing products beyond the conventional focus areas of cotton, polysilicon, and tomatoes. This expansion reflects the evolving strategy of the Forced Labor Enforcement Task Force (FLETF) and the growing recognition of the need for vigilance in monitoring sectors beyond the initial high-priority areas for enforcement.

### New leadership at the Department of Homeland Security will ensure increased enforcement

As of November 6th, 2023, Dr. Laura T. Murphy's recent secondment as a policy advisor for the Under Secretary in the Office of Policy in the Department of Homeland Security marks a significant development in the U.S.'s efforts to prevent forced labour, particularly in relation to the Uyghur Forced Labor Prevention Act. With her expertise and focus on forced labour policy and enforcement, Dr. Murphy's involvement is expected to strengthen the U.S.'s initiative in combating forced labour.

For those few folks who are unfamiliar with Dr. Murphy, she is a Professor of Human Rights and Contemporary Slavery for the Helena Kennedy Centre for International Justice's Forced Labour Lab at Sheffield Hallam University. This lab continues to concentrate its efforts on combatting forced labour in the Uyghur Region, and all ongoing projects remain on track.

One of her key responsibilities will be to engage with various stakeholders who share an interest in preventing goods made through forced labour from entering the United States and circulating globally. This collaborative approach will play a crucial role in curbing the flow of such products and raising awareness about the issue.

Considering Dr. Murphy's previous commitment to uncovering forced labour practices, her involvement in this initiative is expected to amplify enforcement efforts. Her dedicated contributions and active participation indicate a heightened focus on ensuring that forced labour does not go unnoticed or unaddressed.

### Conclusion

The Uyghur Forced Labor Prevention Act represents the United States' commitment to addressing human rights violations in Xinjiang. Recent updates by CBP underscore both the likelihood of increased enforcement and the importance of due diligence, transparency, and compliance within global supply chains. By staying informed and proactively addressing supply chain vulnerabilities, businesses can navigate evolving trade regulations and support international efforts to eradicate forced labour practices.

# The state of AI

**Artificial Intelligence (AI), is revolutionising industries and daily life, shaping the way we work, communicate, and interact with technology, but its legal implications must also be considered.**

The next chapter explores AI's complex relationship with intellectual property (IP), as well as whether AI should have a place in disputes, with expert advice on how various jurisdictions tackle bias and transparency in generative AI tools, as well as moves to legislate AI-related IP.

With regards to the use of AI in dispute resolution in Massachusetts, Thomas Curran believes that the question isn't whether AI should have a place in disputes, but rather, what can practitioners do to leverage AI efficiencies while avoiding its pitfalls?

Concerning IP, Kenji Kuroda discusses proposals including opt-out mechanisms for copyrighted materials in AI training in Japan, after creators have expressed growing concerns about potential copyright infringements. However, Japan's approach to AI and IP leans towards soft-law mechanisms, favouring guidelines over formal legislation. Conversely, in the EU, efforts are underway to develop a new AI Act focusing on safety, transparency, and non-discrimination. Claes Ottosson highlights how Sweden in particular has positioned itself as an AI adoption leader in public administration, including the judiciary system.



## FEATURING...

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**Thomas H. Curran**  
 Thomas H. Curran Associates, LLC



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**Claes Ottosson**  
 Independia Law Firm AB



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“There is no indication that generative AI is ready to replace the services of mediators, arbitrators, judges or other neutrals.”

**Thomas H. Curran,**  
Thomas H. Curran Associates, LLC

# Does AI belong in dispute resolution?

**Thomas H. Curran**  
Managing Partner  
Thomas H. Curran Associates, LLC

**Instead of debating whether AI should or shouldn't have a place in disputes,** practitioners may be better served by embracing the inevitability that AI isn't going anywhere. The question isn't whether AI should have a place in disputes, but rather, what can we as practitioners do to leverage AI's efficiencies while avoiding its pitfalls? By now, most litigators are likely well aware of the dangers of taking a backseat to generative AI in drafting critical legal documents – none of us wants to end up in hot water with the ethics committee (or worse, our malpractice insurers) for unwittingly relying on mythical case citations fabricated entirely by ChatGPT. However, if properly implemented, AI can be a powerful tool for maximising efficiency and perhaps even streamlining law practice and leading to more efficient dispute resolution.

## Q1

**Is generative AI already being used in dispute resolution in your jurisdiction?**

It's likely safe to assume that other practitioners are utilising some form of generative AI in preparing and

arguing their cases, however there is no indication that generative AI is yet being used as part of the process for presiding over disputes in Massachusetts. That is to say, there is no indication that generative AI is ready to replace the services of mediators, arbitrators, judges or other neutrals in determining the merits or dictating the outcomes of disputes in Massachusetts – nor is AI likely to ever fully replace the need for human neutrals. However, it's not unrealistic to expect that, in the future, generative AI could be leveraged to more efficiently dispose of certain kinds of disputes in Massachusetts.

Court-related online dispute resolution (ODR) platforms have been piloted in other jurisdictions to aid litigants in resolving disputes exclusively online and without the need for interaction with or appearance in the courts. In the United Kingdom, the Road Traffic Accident (RTA) Small Claims Protocol prompts litigants to use the court's online claims portal to attempt resolution of low-exposure personal injury claims arising out of road traffic accidents (<https://www.officialinjuryclaim.org.uk>). If claims can't be resolved on the portal, they may move back and forth between the portal and the courts as necessary until the claim is disposed. Courts in British Columbia have a similar court-annexed

ODR program available in small claims matters as well. Closer to home for Massachusetts practitioners, the New Hampshire Judicial Branch may also be considering whether development of an ODR platform may be viable there (<https://www.mclane.com/insights/ai-a-tool-to-augment-online-dispute-resolution/>).

Although the Massachusetts Judicial Branch does not currently have a court-annexed ODR program, there has been discussion about developing AI chatbots on government websites to aid pro se litigants in navigating the state court system. A feature like this

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### MY ADVICE...

Get used to generative AI and get used to what it can do for law practice, as it isn't going anywhere any time soon. AI is only as good as its training and programming, so always exercise care when relying on generative AI to compose legal documents, and make sure any propositions of law or legal citations it includes are valid and proper. If ODR is available in your jurisdiction, take advantage of it while still ensuring your client's right to appeal to human beings is protected.

has promising implications for access to justice and, if reliably programmed, such an application may improve the quality of self-representation and better equip pro se litigants who may not be experienced in interacting with the court system. With the Massachusetts government expressing goals of positioning the Commonwealth to be a "hub" for the development of AI technology, it would be unsurprising to see a surge of activity in the future along these lines.

technology is only as good as its programming, it will always be imperative to exercise care in its development and deployment. Where courts in the United Kingdom and Canada have had some success in developing ODR processes, there is a promising road ahead as the technology develops that may help to streamline and simplify the dispute resolution process while at the same time reducing the load on overburdened courts. Care should always be taken to ensure that no parties are deprived of access to the courts or resort to human intermediaries, and there will need to be strong failsafe mechanisms in place to ensure accuracy and fairness in dispute resolution processes that rely on generative AI. However, practitioners should remain hopeful at the prospect that, properly harnessed and programmed, generative AI could become a powerful tool to aid not just in faster and more reliable dispute resolution, but in many other aspects of law practice like document review, sorting through voluminous information, and optimising productivity.

## Q2

**How do you feel about generative AI in disputes? Could ChatGPT or related applications pose a faster, fairer dispute resolution process, or does it pose a serious risk to the resolution process?**

The usual generative AI caveats undoubtedly apply in the context of dispute resolution: because this

**"AI is only as good as its training and programming, so always exercise care when relying on generative AI to compose legal documents and make sure any propositions of law or legal citations it includes are valid and proper."**

## Q3

**How is your jurisdiction preparing to tackle bias and transparency in generative AI tools?**

A handful of bills have been introduced in the Massachusetts legislature aimed toward state regulation of generative AI. One in particular, S.31, stands out. This bill was written with the help of ChatGPT, a popular generative AI website. Bill S.31 focuses on three major concerns: preventing bias against groups and individuals, transparency in using AI and preventing plagiarism, and the prevention of unjust data collection from individuals. The bill does not go into detail about what would be considered bias against groups or individuals. It does, however, require large-scale AI companies to be registered with the Attorney General's Office and provide regular risk assessments. Hopefully, the regular risk assessment and reports will be sufficient to mitigate potential bias. Additionally, the bill does take specific measures to ensure transparency, such as the requirement of a distinct watermark that must be generated along with any text. There are several other bills that have recently been introduced to the Massachusetts State Senate regarding generative AI software, but none of them focus as much on bias and transparency as S.31 does. Other bills currently in committee like S2539 and HD4788 tackle infrastructure and training in relation to AI software.

Massachusetts Attorney General Campbell has expressed great concern about generative AI software and the need for regulation. Campbell has urged Congress and the Massachusetts State Legislature to accelerate the creation, passage, and implementation of AI-related bills, which bodes well for the speedy prevention of bias and encouraging transparency in this new and rapidly developing technology.

## About us...

# THCA

THOMAS H. CURRAN ASSOCIATES

With offices in Austin, Boston, & London, **Thomas H. Curran Associates, LLC** represents a wide variety of individuals, businesses, corporate entities, and governmental agencies in litigation and transactional matters throughout the United States and Western Europe. We have navigated a broad range of commercial litigation cases, including cross-border insolvency, institutional creditors' rights, and bet-the-company litigation, and have earned a winning track record throughout the United States.

[thcalaw.com](http://thcalaw.com)

Thomas Curran speaking with IR Global members during a professional networking conference



**"With our innovative approach to complex litigation challenges, we consistently and effectively deliver unparalleled value to our clients."**

# Generative AI in MedTech

**Stuart Hendry**  
CEO  
HecoAnalytics Ltd

**A**t HecoAnalytics we advise on the application of Artificial Intelligence (AI) to MedTech as well as deploying AI to deliver health economic solutions for our clients. AI in MedTech encompasses the integration of advanced computational technologies into medical and healthcare practices. AI encompasses a range of techniques, notably machine learning, natural language processing and computer vision, which enable systems to interpret complex medical data. These technologies are revolutionising MedTech by improving diagnostic accuracy, personalising patient care, and optimising treatment plans. For example, AI algorithms can analyse medical images, such as X-rays and MRIs, with exceptional speed and precision, assisting radiologists in detecting anomalies that might be missed by the human eye.

Whilst AI has been in the public consciousness for some time, renewed interest has surged in generative AI, particularly with publicly accessible platforms such as ChatGPT and Google's Bard, which excel in producing human-like text. Unlike traditional AI systems that are designed for analysis or prediction, generative AI models focus on creation, employing advanced algorithms like neural networks to understand and replicate complex

patterns and styles inherent in the data they are trained on. In medical imaging, generative AI models like Generative Adversarial Networks (GANs) are used to enhance image quality, generate synthetic medical images for training purposes and create detailed 3D models from 2D scans, aiding in accurate diagnosis and treatment planning. Furthermore, generative AI has significant potential in personalised medicine, tailoring treatments and drug dosages to individual patient profiles by analysing vast datasets of medical records and genetic information.

Whilst there is general awareness of the existence of AI and its application

to healthcare, another growing trend in healthcare over the last decade of significance is the move to value-based care. There is never enough money to satisfy society's healthcare needs, and this problem is growing rapidly. In summary, in the foreseeable future it will not be possible to commission health tech products without clear evidence of the health economic benefit that the new product affords. Interestingly, such analyses of health economics such as cost-effectiveness have commonality with the mathematical approaches of AI. At HecoAnalytics we are harnessing cutting-edge AI to allow evaluation of new MedTech technologies to make this

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**“In the foreseeable future it will not be possible to commission health tech products without clear evidence of the health economic benefit.”**

**Stuart Hendry,**  
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## “AI systems require large volumes of high-quality data to learn effectively but healthcare data often involves privacy concerns, is fragmented across different systems or is unavailable due to regulatory constraints.”

an efficient process, giving access to these resources rather than traditional labour-intensive paper-based reports. AI's ability to process and analyse vast amounts of data can help identify the most efficient allocation of resources, predict patient outcomes, and evaluate the cost-benefit of various healthcare strategies. It can also assist in modelling the long-term economic impacts of healthcare decisions, considering disease progression, quality of life and potential healthcare savings. This will lead to more informed, data-driven decisions that balance patient needs with economic sustainability.

The integration of AI in MedTech, while promising, faces several challenges:

- **Data quality and availability.** AI systems require large volumes of high-quality data to learn effectively but healthcare data often involves privacy concerns, is fragmented across different systems or is unavailable due to regulatory constraints.
- **Interpretability.** Many AI models, particularly deep learning systems, are often seen as “black boxes”, making it difficult for healthcare professionals to understand how these models function, which is crucial for clinical decision-making. This lack of transparency can also hinder trust and acceptance among medical practitioners.
- **Regulatory hurdles present a significant challenge.** The healthcare industry is highly regulated, and obtaining approval for AI-based medical devices and tools is a complex and lengthy process. Additionally, ensuring that these systems are compliant with healthcare standards and regulations, like HIPAA in the U.S., is essential but challenging.

- **Bias and generalisability.** AI models can perpetuate biases present in training data, leading to inequitable or inaccurate outcomes for certain patient groups. Collaborative development involving healthcare professionals, AI experts, and patients can enhance the relevance and usability of AI solutions.
- **Integrating AI into existing healthcare workflows** poses logistical and technical challenges, requiring significant changes in the infrastructure and training of healthcare professionals.

Addressing these challenges is critical for the successful and ethical implementation of AI in MedTech. Currently, there are no widespread implementations of generative AI specifically for providing healthcare advice in the UK and Europe. The field is rapidly evolving, however. Generative AI is being explored in the provision of healthcare advice in the UK and Europe, although its usage is subject to stringent regulatory oversight and ethical considerations.

In the UK, for instance, the National Health Service (NHS) has been investigating the potential of AI, including generative models, to support clinical decision-making and patient management. This included pilot projects for AI-assisted diagnosis and personalised treatment recommendations. Similarly, in various European countries, there were initiatives to integrate AI into healthcare systems, focusing on enhancing diagnostic accuracy, patient engagement, and preventive care. However, these applications were usually in controlled environments, often for research or in a limited capacity, rather than being a standard

aspect of healthcare provision. Key concerns such as data privacy, algorithmic transparency, and ensuring the accuracy and reliability of AI-generated advice were central to these developments.

The UK, Europe, and the USA are adopting multi-faceted approaches to tackle bias and transparency in generative AI tools. In Europe, the focus is on regulatory measures, with the European Union proposing the Artificial Intelligence Act, aimed at setting strict compliance requirements for AI systems to ensure fairness and transparency. This includes guidelines for high-risk AI applications, ensuring they are subject to rigorous testing and certification. The UK, while aligning with similar principles, is leveraging its National AI Strategy and the work of bodies like the Centre for Data Ethics and Innovation (CDEI) to address these challenges. This strategy includes developing ethical frameworks and enhancing public-private partnerships for responsible AI deployment.

In the USA, efforts are concentrated on policy initiatives and regulatory oversight, with agencies like the FDA increasingly scrutinising AI-based medical devices for biases. The White House Office of Science and Technology Policy (OSTP) has also emphasised the importance of AI ethics and governance. Across all these regions, there is a common emphasis on advancing research in AI fairness, investing in diverse and inclusive data sets, and fostering collaboration between government, academia, and industry. This is complemented by initiatives to educate and train AI developers and users in ethical AI practices, aiming to integrate transparency and bias mitigation into the fabric of AI development and deployment.

In conclusion, generative AI is gradually being introduced into the healthcare sector, and it is still in a nascent stage as a tool for providing healthcare advice. However, its widespread adoption is an inevitability and those companies and healthcare systems most able to adapt to its specific requirements and benefits will benefit greatly in terms of patient outcomes and healthcare costs.

## About us...



**HecoAnalytics** is committed to supporting healthtech and lifescience companies to gain the health analytics capability needed to robustly assess and sell their products to a global digital health economy. The company provides consulting services to life science companies including health economics, market access, pricing and reimbursement strategy, regulatory, business planning and technical due diligence. Increasingly the company's focus is on Machine Learning, AI and digital health applications where it has particular technical expertise.

To provide ongoing market access support to clients HecoAnalytics provides an easy-to-use health analytics platform supporting companies

on a personalised health economics (HE) journey. HecoAnalytics facilitation sessions start this journey and support companies with a suite of configurable tools that synthesise evidence data, AI pathway and patient models with online health economic models. HecoAnalytics tools are aligned with the requirements of the National Institute of Care and Health Excellence (NICE) technology assessment (HTA) programmes such as the Medical Technologies Evaluation Programme (MTEP), demonstrating the value of a company's product to NICE and other HTA bodies and payers.

[hecoanalytics.com](https://hecoanalytics.com)





# Taming AI: A how-to guide

**Claes Ottoson** Founder & CEO  
**Elaine Gylling** Senior Associate  
Independia Law Firm AB

**I**n August 2023, the Swedish government decided to position Sweden as a leader in AI adoption for public administration, encompassing the entire judiciary system, from district courts to the Supreme Court.

AI is not new. For example, the most prominent online video platform has used an AI to run its search and recommended content since 2016. The recent upswing in popularity comes from Open AI's decision to make AI software publicly available. This means that generative AI is now available in a form that anyone can access. With these tools any person can ask a generative AI program, readily available for free online, to answer a question, code a webpage with buttons with different functions, write a recipe, or write a poem. Not only is text available, but other software can also create images, video, music, sound, and speech.

There are four concerns that should be taken into consideration when using AI: copyright, model collapse, misinformation, and bias.

## Copyright

AI can be instructed to generate content mimicking specific styles, which raises questions about intellectual property and transparency. Generative AI is trained on datasets, often comprising

images or texts sourced without explicit permission, leading to uncertainties about the legality of this practice.

The issue extends to written works, exemplified by a 2020 case in the U.S.A. where Thomson Reuters accused Ross Intelligence of unlawfully copying content from its legal research platform Westlaw to train a competing artificial intelligence-based platform. This likely caused Ross Intelligence's shutdown in January 2021, citing the costs of the "spurious" litigation.

Currently there are ongoing disputes involving many tech companies including Meta Platforms (META.O), Stability AI and Microsoft-backed (MSFT.O) OpenAI. In these lawsuits, the companies are facing authors, visual artists, and other copyright owners over the use of their work to train the companies' generative AI software. The lack of legal requirements for transparency regarding dataset sources further complicates the ethical landscape surrounding generative AI.

## Model collapse

Many generative AI models are released onto the internet for continuous learning post-training on pre-established datasets. However, as generative AI is readily available, the influx of AI-generated content, and the fact that

the AI that steers the search algorithm is also biased towards "click-bait" content, a lot of search results are filled with AI-generated content. AI is now training on AI-generated content, and when this happens it is known to cause "model collapse" where the output becomes nonsensical, and the AI generator is broken.

## Misinformation

Humans can often identify generative works in video, speech, or images. This may be done by noticing odd movements in video, unlikely pronunciation in speech or weird details in images, such as seven-fingered

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**Elaine Gylling** specialises in civil law, focusing on civil disputes, tort law, and contract law. She adeptly handles a range of matters, including business law, contract law, and property law. Elaine consistently provides her clients with a sense of security, with deep committed commitment and a high level of care and attention to detail.

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"Generative AI is now available in a form that anyone can access."

Claes Ottoson and Elaine Gylling,  
Independia Law Firm AB



“The lack of legal requirements for transparency regarding dataset sources further complicates the ethical landscape.”



\$5,000 (£3,935) after the firm submitted fake citations, generated by ChatGPT, in a court filing.

The AI industry proclaims that AI can't "lie", since it has no intention. Instead, falsehoods are called "hallucinations". Not only does this mean that AI can make errors that are hard to spot, but bad faith actors will also have no hindrance to the use of generative AI to create whatever misleading content they wish. This means that bad faith actors can generate thousands of webpages with news articles, blogs, and science publications, all with the objective of spreading specific false information. This may also create a bias in the good faith AI that is trained online, this bias being controlled or at least affected by bad faith actors. Bad faith actors may also use generative AI to create hundreds or thousands of seemingly authentic human profiles to comment on current online events, giving the false appearance of a strong public opinion decided by a single person, faking the voice of thousands.

**Bias**

AI has varied effectiveness within specific subgroups, as biased datasets lead to inaccuracies. For example, facial recognition software may excel at recognising certain demographics, while struggling with others. Even with complete datasets, biases can persist, such as in criminal risk assessment AI trained on historical data reflecting systemic injustices. In medical applications, biased AI poses a direct harm risk, as it may not function effectively for every patient.

**AI in the European Union, Swedish government agencies, and public application**

The European Union is actively addressing concerns related to AI by developing a new AI Act. On January 22, 2024, the pre-final text of the

European Union's Artificial Intelligence Act ("AI Act") became accessible online. This draft was endorsed by all 27 EU Member States on 2 February and a plenary vote is scheduled for 10th – 11th April, meaning that some changes may apply. The AI Act harmonises rules for placing AI systems on the EU market, bans certain AI practices, sets requirements for high-risk systems and operation obligations, mandates transparency for AI systems intended to interact with natural persons, emotion recognition systems and biometric categorisation systems, and AI systems used to generate or manipulate image, audio or video content, and outlines market monitoring protocols.

In Sweden, the Agency for Digital Government promotes AI use by establishing trust through transparency and information. While AI hasn't been proposed to replace judges in court cases, its current applications by government agencies include translating judgments, classifying emails, transcribing speech to text, validating passports, digitising handwritten text, OCR, anonymising documents, classification of incoming e-mail, and other tasks that are suitable for AI. These applications aim to enhance efficiency without compromising public trust.

Individuals or businesses should evaluate available AI services for various purposes. In legal settings, AI may assist in marketing, scheduling meetings, speech-to-text conversion, OCR for handwritten text, and generating suggestions for simple communication, such as Christmas party invitations. However, the current functionality requires thorough editing before anything generated can be used. Even this article was input into generative AI and condensed by half, the results of which you are now reading, after much editing. The full article is available on Independia Law Firm's website, for comparison.

hands. However, distinguishing AI-generated text from human-written text is challenging. There have been several instances in Sweden with disciplinary matters where courts must determine if students used text-generating AI to complete assignments – a very daunting task.

AI-generated text is meant to sound like a plausible sentence. However, the information generated is not meant to be an accurate representation of reality. This means that modern text-generating AI will "imagine" a source of information or a factual answer to a question if it does not have the information. This culminated in a district judge in Manhattan ordering Steven Schwartz, Peter LoDuca and their law firm Levidow, Levidow & Oberman to pay

# About us...



**Independia Law Firm** has accumulated extensive experience in various legal areas, successfully representing and advocating for our clients in diverse situations. We take great pride in the fact that a majority of our clients have been returning to us for many years, seeking our assistance in disputes, litigations, arbitrations, and negotiations related to working life, real estate, and business matters.

Our clients return because they feel secure with our dedicated staff, who are the heart and soul of the Independia family. Our team possesses a wealth of experience and expertise in business, migration, and real estate law. Our clients can always trust that they are in capable hands, be it for family, work, or business disputes.

We are proud to announce our foray into artificial intelligence, as we explore how this cutting-edge technology can revolutionise the legal industry. By embracing AI, we aim to streamline processes, enhance efficiency, and provide our clients with even more comprehensive and effective legal solutions.

[independialaw.com](https://www.independialaw.com)

“Individuals or businesses should evaluate available AI services for various purposes.”



# The tool, not the answer: AI in disputes

**James Conomos**

Founder and Principal Partner  
James Conomos Lawyers

## Q1

**Is generative AI already being used in dispute resolution in your jurisdiction?**

About 32% of Australian employees use some form of Generative AI, but about two-thirds of those believe their manager does not know. Only 9.5% of large Australian businesses (those employing over 200 employees) have officially adopted AI. This drops to 1.4% among all businesses in Australia.

For lawyers, the numbers are even more limited in that:

- Only 15% of Australian law firms plan to adopt AI within a year;
- To date, the use of AI has been limited to processes such as TAR (Technology Assisted Review) in case such as *McConnell Dowell v Santam Ltd (No 1)* [2016] VSC 73, where TAR was used to limit the number of documents on disclosure of documents in litigation;
- TAR has also been used by Qld solicitors in a number of cases including *Parbery v QNI Metals Pty Ltd* [2018] QSC 180; *Santos Ltd v Fluor Australia Pty Ltd (No 4)* [2021] QSC 296 and *Golden Vision Gold Coast Pty Ltd v Orchid Avenue Pty Ltd* [2022] QSC 49, [142]-[143].

It has been reported that many lawyers across Australia have plans to implement the use of AI with some



Jim has more than 30 years' experience, and leads the firm's strategic direction, which has always focused on effective and efficient problem resolution. He is a recognised leader in commercial litigation and insolvency law and has garnered a widely respected reputation within Queensland's legal community.

Jim's impressive career has seen him serve as the Queensland State Chair of the Insolvency and Reconstruction Committee of the Business Law Section of the Law Council of Australia, Queensland State Chair of the Insolvency and Reconstruction Committee of the Queensland Law Society and the National Chair of the Insolvency and Reconstruction Committee of the Business Law Section of the Council of Australia.

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reservations including:

- Some larger firms believe ChatGPT is not ready to provide complex advice but may be able to do case summaries or TAR;
- Allens is reported to have invested in a regulatory tech start-up called Red Marker to automate legal processes;
- In 2016, Corrs Chamber Westgarth were reported as having taken a 50% stake in an AI automation AI start-up that uses technology assisted narrative review to analyse contracts, identify their important clauses and works within company policies and the country's regulations;
- Norton Rose Fulbright is reportedly using an AI chatbot to give basic

answers to clients' questions about changes to law of data protection and privacy (specifically the changes to legislation).

The kinds of Legal Generative AI tools that currently exist include:

- Amica, a government-funded tool that helps with family law disputes: the program is designed for separating couples who are still amicable.
- Spellbook: a website fuelled by ChatGPT4 that purports to have specialised legal knowledge;
- ClauseBase: a drafting software for legal experts that is experimenting with AI and smart templates and full doc automation.

## MY ADVICE...

- Use AI as a tool, not the answer.
- When using AI, remember your legal and ethical obligations.
- Develop an AI usage policy in your firm, so that everyone is on the same page.
- Train all staff on how to use and implement AI.

## Q2

**How do you feel about generative AI in disputes? Could ChatGPT or related applications pose a faster, fairer dispute resolution process, or does it pose a serious risk to the resolution process?**

The advantages of using generative AI in disputes includes:

- Time and cost saving
- Generative AI could be used as a filter, dealing with the less complex cases so judges and other legal professionals have more time with emotionally challenging and factually or legally complex cases
- AI has endless uses in legal practice beyond merely asking it questions of law or predicting legal outcomes
- Unlike humans, AI will not get tired or hungry

The disadvantages of using generative AI in disputes includes:

- The risk of a client information leak – AI will require extensive training and massive amounts of data
- Chat GPT explicitly collects data and may share it with third parties without notice
- 'Hallucination', the phenomenon of AI creating entirely false answers.

## Q3

**How is Australia preparing to tackle bias and transparency in generative AI tools?**

Australia has 8 AI Ethics Principles; they are a voluntary and aspirational framework:

- Human, societal and environmental wellbeing: AI systems should benefit individuals, society and the environment
- Human-centred values: AI systems should respect human rights, diversity, and the autonomy of individuals
- Fairness: AI systems should be inclusive and accessible, and should not involve or result in unfair discrimination against individuals, communities or groups
- Privacy protection and security: AI systems should respect and uphold privacy rights and data protection, and ensure the security of data
- Reliability and safety: AI systems should reliably operate in accordance with their intended purpose
- Transparency and explainability: There should be transparency and responsible disclosure so people can understand when they are being significantly impacted by AI, and can find out when an AI system is engaging with them
- Contestability: When an AI system significantly impacts a person, community, group or environment, there should be a timely process to allow people to challenge the use or outcomes
- Accountability: People responsible

for the different phases of the AI system lifecycle should be identifiable and accountable for the outcomes of the AI systems

AI is subject to existing regulation in Australia including:

- The 2023-24 federal budget provided \$101.2 million for new tech including quantum and AI
- A discussion paper called "Safe and Responsible AI in Australia" was published and the public was called upon for responses that address gaps in the research and legislation. Over 500 responses were received and 447 were published
- The Office of the Information Commissioner created and sent a submission about AI to the CSIRO, demonstrating communication and cooperation between governmental bodies

Of interest is that the Full Federal Court of Australia has decided that AI is not a legal person so is not capable of holding patents.

Australian International Commitments Concerning AI including the signing of a new OECD principle on AI, including:

- To facilitate investment, both public and private in research and development;
- To create an environment for ethical AI to grow
- To support workers through the AI transition
- To co-operate internationally in the creation of standards, in sharing information and in working towards responsible AI

Australia was a founding member of the Global Partnership on AI (GPAI).

## About us... [jcl.com.au](http://jcl.com.au)

James Conomos Lawyers was established by James Conomos in July 1992 as a boutique legal firm offering specialist expertise in commercial litigation and insolvency. The firm came into being because James is passionate about achieving positive outcomes for clients and providing real value for money.

Since then, James has pursued his desire

to help younger lawyers learn the art of law and problem solving. Through his mentoring, James has shaped a team of capable and ambitious lawyers who will adeptly solve your legal problems within a realistic time frame.

Based in modern offices in the heart of Brisbane's central business hub, our team has now grown to a total of 15 staff.

**JCL**  
jamesconomoslawyers

# AI's complex relationship with IP



**Kenji Kuroda**  
Partner  
Kuroda Law Offices

**Kenji Kuroda** passed the National Bar Examination in 1983 at 20 years of age. After developing practical experience as an attorney, he attended law school in China (Fudan University Faculty of Law, Advanced Study Course), Denmark and the United States (Duke University Law School). Following his admission to the bar in New York in the United States, Mr. Kuroda founded Kuroda Law Offices and Kuroda Patent Offices in 1995, later establishing our Shanghai office in 2004 and opening the first Japanese law firm in Taiwan in 2009, specialising in cutting-edge fields, such as Chinese law, information technology, and intellectual property, with the aim of providing strategies tailored to the customer's needs.

In its ranking of leading attorneys, Nihon Keizai Shimbun selected Mr. Kuroda second in the international law section and eighth in the international law section (December 19, 2012). In addition, Nikkei Business selected Mr. Kuroda third in the international matters section of its business attorneys ranking (December 22, 2014) and selected Mr. Kuroda fifth in the China practice section (December 7, 2023).

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## Q1

### Is AI complicating the copyright process in your jurisdiction?

Japan's engagement with AI technologies presents new challenges for copyright law, particularly as generative AI becomes more prevalent. The core issue lies in the ambiguity of applying existing copyright laws to AI-generated content, which raises questions about copyright infringement and the extent of protection offered. Three main areas are affected:

#### Learning/Development Stage:

The use of copyrighted material in training AI typically doesn't constitute infringement under the 2018 amendment (Article 30-4 of the Copyright Act). This provision allows for the use of copyrighted works for purposes beyond personal enjoyment, like data analysis, as long as it doesn't unreasonably prejudice the interests of the copyright owner. Nonetheless, the ambiguity in defining 'unreasonable prejudice' complicates the process of assessing infringement.

**Generation/Utilisation Stage:** To establish copyright infringement,

two key factors are considered: the similarity of the work and its reliance on an existing work. Typically, reliance is deduced from the degree of similarity, with the assumption that significant similarity implies dependence. However, unique aspects of AI-generated content that closely mimic copyrighted works without explicit reliance on an existing work complicate legal judgments. There is also the problem that if pirated or other illegally uploaded copyrighted works are widely used as training data for generative AI, copyright infringement may be encouraged.

**Copyrightability:** The Copyright Act protects human creative expression, often excluding AI-generated content from copyright. However, there is potential for recognising human creative involvement in AI creations, such as in the crafting of prompts or the selection of outputs. Yet, establishing clear criteria for this recognition and the extent of copyrightability remains a challenge. Complicating matters further is the difficulty in distinguishing between content created by AI and that by humans.

## Q2

### Are creators starting to act on copyright infringements, and have any precedents been set yet?

As generative AI technology advances, creators and copyright holders in

## MY ADVICE...

- > **Stay Informed:** Keep abreast of the latest policy developments and legal guidelines regarding AI and IP rights in Japan, especially the outcomes of the Intellectual Property Strategy Headquarters and the Agency for Cultural Affairs' forthcoming reports.
- > **Jurisdictional Compliance:** While determining applicable law is done on a case-by-case basis, the likelihood of the Japanese Copyright Act being applicable is increased by the presence of AI learning, development, or operation servers within Japan, or when AI-generated content is transmitted to users in Japan.
- > **Copyright Compliance in AI Learning:** Japan is sometimes dubbed the "machine learning paradise," but there are limits. Reproducing and using training data provided for a fee, without making the required payment, circumventing technical protections to use data for AI training, and special AI training that aims to output the representation of a particular existing copyrighted work may constitute copyright infringement and should be avoided.

Japan express increasing concern over potential infringements on their intellectual property.

The main issues revolve around the unauthorised use or 'free-riding' of copyrighted materials during the learning stages for AI and the risk of AI replicating creative styles without permission. This has sparked a debate over the sufficiency of current protections under the current Copyright Act, particularly the 2018 amendment (Article 30-4).

A number of creator-related organisations have issued statements expressing their concerns about generative AI, but they are unanimous

in including a request for clarification of the interpretation and strict application of the provisions (Article 30-4).

Proposals include:

- Implementing opt-out mechanisms for the use of copyrighted materials in AI training datasets.
- Enhancing transparency about the datasets AI technologies use.
- Establishing clear guidelines for the creation and use of AI-generated content, including acknowledgment of AI's role in content creation.
- Considering amending the amendment to Article 30-4 of the Copyright Act.

These requests from creators are currently being considered in ongoing discussions on AI and copyright at the Agency for Cultural Affairs and Cabinet Office study group discussed below. However, as of now, Japan has yet to see any precedents specifically addressing these issues, marking an uncertain legal landscape that stakeholders are keen to navigate.

## Q3

### Are there any moves to legislate AI-related IP (e.g. Artificial intelligence policy) in your jurisdiction?

Since the introduction of the "Society 5.0" concept in 2016, Japan has maintained a pro-AI policy stance, favouring a soft-law approach, primarily through guidelines,

with the notable exception being the 2018 Copyright Act amendment.

Following the outcomes of the G7 Hiroshima Summit and the initiation of the Hiroshima AI Process in 2023, Japan has continued to refine its domestic AI strategies, maintaining its preference for soft-law mechanisms. This approach allows for greater flexibility and adaptability, enabling policymakers to respond promptly to the rapidly evolving AI technology sector without the rigidity often associated with formal legislation.

Current discussions within the government, particularly those led by the Intellectual Property Strategy Headquarters and the Agency for Cultural Affairs, are pivotal in shaping Japan's future AI and IP landscape. An interim report by the Intellectual Property Strategy Headquarters is expected around spring 2024, with the Agency for Cultural Affairs' report scheduled for March 2024. These reports are anticipated to have a significant impact on practical aspects of IP management and copyright considerations in the context of AI. Judging from the draft reports and other documents published so far, there appears to be a consensus leaning away from immediate legislative action or substantial legal reform. Instead, the emphasis remains on enhancing existing frameworks through detailed guidelines and stakeholder consultations.

The goal remains to elucidate and address the challenges presented by applying existing copyright laws to AI-generated content, thereby diminishing ambiguities and enhancing legal clarity.

## About us... kuroda-law.gr.jp/en

**Kuroda Law Offices ("KLO")** is headquartered in Tokyo, and delivers a diverse range of legal services in fields such as labour, corporate, IP law, fraud investigation, and dispute resolution to a varied clientele, including local and international companies, and Japanese subsidiaries of foreign corporations. Our offices in Shanghai and Taipei, alongside our affiliate KLO Consulting (Shanghai) Co., Ltd., enable us to offer comprehensive, localised service.

We specialise in maximising client profits through effective IP rights utilisation, strategic

planning for new products and services without infringing third-party rights, and developing methods to prevent litigation and disputes. Our firm is experienced in handling litigation in various IP-related fields, including LED technology.

Utilising our vast experience and expertise, we continually adapt to meet the evolving needs of our clients and the market. At KLO, we are dedicated to providing top-tier legal services, innovating in both established and emerging fields on the world stage.



# Faster, fairer resolutions?

**Chris Niekamp** Partner  
**Andrew Stebbins** Partner  
 Buckingham, Doolittle & Burroughs, LLC

## Q1

Is generative AI already being used in dispute resolution in the United States?

In the United States, the integration of generative AI into dispute resolution is gaining momentum. The use of generative AI is not limited to drafting and research; it is also becoming instrumental in analysing legal documents and even in preparing initial drafts, marking a transformative phase in the legal landscape.

This momentum is supported by initiatives such as the American Arbitration Association's (AAA) AI Working Group. This group's endeavours, particularly with the development of the ClauseBuilder AI (Beta) tool, underscore a significant shift towards technology-driven legal processes. The ClauseBuilder AI (Beta) tool is designed to infuse AI into the existing ClauseBuilder tool to further aid in crafting arbitration and mediation agreements, illustrating the practical application of AI in complex legal tasks.

"This trend is reflective of the broader legal industry's embrace of AI for enhanced efficiency and accuracy," said David Myers, a partner at Buckingham, Doolittle & Burroughs, LLC who focuses on data privacy, cybersecurity and AI governance. "Courts are beginning to grapple with the implications of AI use in legal proceedings. Many courts have

begun to require attorneys to disclose when they utilise AI and verify the accuracy of the information produced."

## Q2

How do you feel about generative AI in disputes? Could ChatGPT or related applications pose a faster, fairer dispute resolution process, or does it pose a serious risk to the resolution process?

The advent of generative AI in dispute resolution heralds a new era of legal processes. AI can speed up dispute resolution by automating routine tasks. With the advent of generative AI, the ability to draft entire documents could truly change how dispute resolution is handled. Disputes could be far quicker to resolve, at a far lower cost. AI also has the potential to reduce the influence of human bias on outcomes.

However, we have all heard the phrase "garbage in, garbage out." The application of this concept to AI is critical. If AI systems are trained on biased data, the results we can get will multiply those biases, rather than eliminate them. It requires a careful balance of technological innovation, oversight, and stringent ethics.

There is also a well-documented risk of AI 'hallucinations.' Hallucinations occur when generative AI creates



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## OUR ADVICE...

- Embrace and Monitor AI: We should cautiously embrace AI for its potential to enhance efficiency and fairness, while staying informed about the inherent risks. We also need to stay aware of legal developments and new regulations.
- Human Oversight and Collaboration: Ensuring human oversight in AI usage is crucial for maintaining balance and accuracy.

Regular evaluation of AI tools for biases and accuracy is essential, as is fostering collaboration between technology and legal professionals.

- Continuous Learning and Ethical Discussions: Advocating for continual training and education on AI in any sector is vital. Encouraging open discussions about the ethics of AI in dispute resolution will help navigate this evolving landscape.

misleading or inaccurate content. When publishing a blog post, the impact could be minor. However, in dispute resolution, this could be devastating. For example, two lawyers were fined by a U.S. federal judge in June 2023 for submitting a filing, written by ChatGPT, that cited completely made-up cases.

## Q3

How is the United States preparing to tackle bias and transparency in generative AI tools?

In the United States, we had a significant moment on October 30, 2023, when generative AI entered national policy. On this date, President Joe Biden issued an executive order on the Safe, Secure, and Trustworthy Development and Use of Artificial Intelligence. In this wide-ranging executive order, President Biden made multiple references to transparency and bias:

- Section 8 of the order specifically states that to protect American consumers, patients, passengers,

and students, regulatory agencies should review regulations regarding AI. In particular, regulations should require regulated entities to "conduct due diligence on and monitor any third-party AI services they use" and to set proper "requirements and expectations related to the transparency of AI models and regulated entities' ability to explain their use of AI models."

- The order makes multiple mentions of the need for many government agencies to take steps to counteract potential bias through the use of AI. In the order, the President calls for the development of policies that protect against AI bias across numerous departments including Labor, Housing and Urban Development, Health and Human Services, Veterans Affairs, as well as the Department of Defense, the Federal Housing Finance Agency, the Consumer Financial Protection Bureau, and the Architectural and Transportation Barriers Compliance Board.

President Biden's executive order also discussed other issues, such as equity, civil rights, privacy, and civil liberties. But, the focus on how

"The advent of generative AI in dispute resolution heralds a new era of legal processes."

important transparency and bias are to the future of AI cannot be overstated.

### AI's Use in Smart Contracts

Another use of AI can be found in smart contracts using a blockchain platform. While this technology has been around for some time, it may become more widely accepted as AI is incorporated into the smart contracts, making the contracts "smarter." This technology employs an automatic system for resolving disputes, with the added advantage that through blockchain-based payment methods the party that wins will be paid automatically.

While this may seem attractive, the technology is new and not commonly used in the States or any other country with an established judicial or arbitration system. The process may employ an appellate process but there is no proven legal track record to ensure that the results will follow any governing law. This technology is more commonly used by rogue traders who prefer confidential transactions, outside traditional jurisdiction. It is unlikely in the near future that these contracts will be used in mainstream transactions unless the AI develops a track record, and the rewards outweigh the risks.

## About us... bdblaw.com

**Buckingham, Doolittle & Burroughs** is a corporate law firm that counsels middle-market executives and business leaders all over Ohio and beyond. Buckingham has served Northeast Ohio for more than 100 years through sophisticated and practical legal services. With 80 attorneys in Akron, Canton and Cleveland, Ohio, Buckingham has extensive experience

working with owners of middle-market businesses in all aspects of their operations. Buckingham's mission is to deliver meaningful experiences through the practice of law, exceed expectations in terms of service, counsel and business sense, and to offer continuous value to the industries, communities and clients they serve.



# Reasons for caution

**Stephen Le**  
 Founder  
 Le & Tran Law Corporation



**Stephen**, a senior trial lawyer and founder of Le & Tran, brings an illustrious career underscored by an impressive background in litigation, arbitration and criminal defence. His expertise, coupled with a mastery of Vietnam's legal system, positions him as a formidable player in the field.

In 2017, Stephen was awarded the prestigious "Disputes Star of the Year" from AsiaLaw Profiles. Since then, he has been consistently ranked in reputable publications such as Chambers Asia Pacific, Legal500 and Benchmark Litigation. Stephen's expertise has also been acknowledged by multinational enterprises such as Petronas (Malaysia), who endorsed Stephen as the Best Trial Lawyer they have ever worked with in Vietnam.

Throughout his career, Stephen has advised and represented 50+ global corporations and 200+ individual clients. His influence also extends to the business community, where he actively contributes to legal discourse through seminars in collaboration with AmCham Vietnam.

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## Q1

**Is generative AI already being used in dispute resolution in your jurisdiction?**

Lawyers in Southeast Asia are a conservative bunch, reflecting a profession and culture that places a high premium on preparedness, sagacity, and adherence to precedent. No doubt, there are plenty of cautionary headlines globally that nudge us in the same direction.

Simply put, we do have plenty of good reasons to be wary - the lack of credibility and transparency of GenAI providers on their training datasets, the glaring bias particularly in areas like race and gender, the real risk of 'hallucination', the lack of privacy safeguards and more. In international arbitrations, the stakes are simply too high.

## MY ADVICE...

At the end of the day, AI is not a passing trend nor an impending apocalypse - rather, it stands as a nascent tool with the potential to significantly reshape the landscape of legal work and redefine revenue streams for law firms. The current state of AI is akin to its infancy, and while it continues to evolve beyond its "teenage" phase into a future state of maturity, it is still wise for us to be cautiously optimistic.

Globally and in Vietnam, GenAI is still in its nascent stage when it comes to dispute cases necessitating the development of existing law, application of the law to novel situations, and the absence of a substantial volume of case law. Factors such as the demand for broader considerations of public policy and local context further contribute to this complexity.

## Q2

**How do you feel about generative AI in disputes? Could ChatGPT or related applications pose a faster, fairer dispute resolution process, or does it pose a serious risk to the resolution process?**

I would hesitate to form a definitive black-or-white position on the use of

GenAI in disputes. I could think of several reasons why it would be helpful and other reasons why it would be damaging.

GenAI platforms such as ChatGPT and Google Bard are essentially predictive text machines that were trained on a gargantuan amount of material from undisclosed sources. They may seem like fact-churning sophisticated search engines but are more accurately categorised as content creation tools that were designed to create new and original content outside the parameters of their original training materials. Their priority is not to be "right", no matter how confident and accurate they sound.

We've seen how ChatGPT can seriously sabotage legal professionals. GenAI tools were never meant to be used in this way without the oversight of thinking, breathing and living experts. Still, I am not a tech-sceptic lawyer who is resistant to change. I truly believe that AI has a place in certain aspects of the dispute resolution process, particularly in handling extensive volumes of documents and data typically handled

by a team of document reviewers, translation/transcription services, predictive analysis for more thorough case preparations, and more. But these are minor roles and we cannot diminish the pivotal role of human input and oversight.

In essence, while we find inspiration in the potential of AI, it has a considerable journey ahead to instil confidence, particularly within the dispute resolution landscape.

## Q3

**How is your jurisdiction preparing to tackle bias and transparency in generative AI tools?**

The use of AI currently remains largely unregulated in Vietnam, and it will be increasingly necessary for the government to implement safeguards to ensure that it can be used reliably and fairly. In the meantime, lawyers will need to be aware of the risks, take a cautious approach to using unknown or new AI tools, make sure that their clients' data is kept confidential and protected against unauthorised use, and take steps to be ahead of the learning curve.

**"We've seen how ChatGPT can seriously sabotage legal professionals."**

## About us... letranlaw.com

**Le & Tran**, distinguished as a premier law firm in Vietnam, has garnered widespread acclaim from both the business community and international legal entities, solidifying their reputation as preeminent legal professionals in the region.

Over the past 12 years, the team's unwavering commitment to excellence and integrity has propelled the firm to prominence, establishing Le & Tran as a formidable presence in the realms of commercial litigation and arbitration in Vietnam. The firm consistently receives international recognition, earning accolades from multinational clients and esteemed organisations like Chambers & Partners Asia-Pacific and Legal500.

Poised for transformative growth, Le & Tran has its sights set on evolving into a leading international law corporation, guided by a

strategic vision built on three pillars: international finesse, unrivalled local expertise, and operational mastery.

Internationally, Le & Tran draws on keen corporate insights from global clients such as QBE, Marvell Technology, Petronas, and others, seamlessly aligning international corporate culture with local governance. Locally, their proficiency in commercial litigation and white-collar crimes is demonstrated through their impressive track record in navigating complex legal scenarios with high levels of precision and dedication. Le & Tran also employs high-tech automation and systems in their processes, underscoring their commitment to excellence in legal service delivery, and putting them at the forefront of innovation and change.



EXPERT VIEW:

# Arbitration versus Litigation

**Michael Einbinder**  
 Founding Partner  
 Einbinder & Dunn LLP

**I**n my practice, I have tried cases in court as well as in arbitration. I am also an arbitrator and have held numerous hearings as both an individual neutral and as a member of a panel. I have often discussed with other lawyers whether arbitration or litigation is the best method for dispute resolution. My experience and perspective as an advocate and an arbitrator lead me to an inevitable answer: it depends. The prevailing perception of arbitration is that it is faster, cheaper, and more efficient

than litigation. This is true, with some caveats. In my experience as a litigator and an arbitrator, commercial cases take about nine months from initiation to completion, with some complex cases taking even longer. Disputes, whether in court or an arbitral forum, can be financially and sometimes emotionally taxing, and given the time differential between the two methods of dispute resolution, the opportunity to minimise this toll by reducing the length of a case

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About us... [ed-lawfirm.com](http://ed-lawfirm.com)

**Einbinder & Dunn's** vision today and since its formation more than 30 years ago, is to offer clients real value by providing personalised, cost-effective legal services. We offer a sophisticated practice closely tailored to the needs of each client. Based in Midtown Manhattan, with offices in White Plains and Millburn, New Jersey, Einbinder & Dunn serves mid-size and larger companies as well as small businesses and entrepreneurs.

Our practice focuses on a range of key areas, including franchise law, commercial litigation, real estate law, business law, fashion law, restaurant law and trusts and estates. This range of highly diverse but interrelated areas of focus represent an array of proficiencies that our firm utilises to conceive unique, interdisciplinary strategies – the likes of which larger firms lack the versatility to employ – which are finely tuned to the individual needs of each client. Our years of experience in the areas in which we practice make us a recognised authority in many areas, such as franchising.

should not be taken for granted.

To proceed with an action in the court system, the parties put themselves at the mercy of the court's overcrowded calendars. Arbitration, on the other hand, offers much more flexibility. Hearings can usually be scheduled in a manner that is convenient for the parties involved. Further, arbitration's rules of evidence are also less strict; these procedural rules can limit costly and time-consuming aspects of court cases, such as motion practice and discovery (for example, depositions). Because arbitration is quicker and is a generally less complicated process, legal fees tend to be lower in cases decided in arbitration. Importantly, arbitration hearings can be conducted privately, and decisions are not public, thereby affording confidentiality on top of efficiency.

Arbitrators are also often experts in the subject matter of disputes they preside over. In fact, some arbitration provisions require arbitrators who have such expertise. This process puts the chosen neutral in a unique position to limit costs and time by guiding a more tailored process.

Finally, parties in arbitration have agency in the arbitrator-selection process (whereas there is none in court, where judges are assigned randomly) even when not choosing a subject matter expert. In arbitration, when a case is filed with JAMS or The American Arbitration Association, these prominent arbitral organisations usually provide a pool of potential arbitrators specific to the case. After that, parties begin the striking process, in which both sides can remove candidates that they see as problematic. Further, this allows (at least in theory) the parties to settle on an arbitrator most likely to leave them comfortable with the ultimate factfinder and decision-maker.

But for all its efficiency and discretion, arbitration also carries

**“Because arbitration is quicker and is a generally less complicated process, legal fees tend to be lower.”**



notable downsides.

To start, despite being generally less expensive than litigation, arbitration can still be costly. Filing fees alone can be very high. The filing fee with JAMS, for example, is \$1,750 for two-party matters, and \$3,000 for matters with three or more parties. For AAA, filing fees depend on the amount disputed in the claim. At a minimum, filing fees are \$1,725; at most, they can be (and often are) north of \$25,000. In many arbitral organisations, the arbitrators are experienced practitioners. At JAMS they are often retired judges. In either case, because arbitrators are paid for the time they spend on a case the costs can quickly escalate. And these costs can triple when a case has to be decided by a panel of three arbitrators. Assume the hourly rate for an experienced arbitrator is \$750 per hour and the hearing is three eight-hour days long. Arbitrators also charge for the time prior to the hearing and after the case is closed (and an award is drafted), which is often equal to time spent at a hearing. In this hypothetical case, an arbitrator will bill for 48 hours of time at \$750 per hour. The total is \$36,000. If there are three arbitrators, the fee is \$108,000. In contrast, there is no cost to having a judge and jury hear a case. Judges are paid by the state or federal government and the jurors don't charge the parties for their time. Even if the estimate is too high, it is easy to see how the costs of arbitration can be extreme. That's true even if the process itself is more streamlined and it may not be, at least not all the time.

There are trade-offs to consider in determining the best place to resolve cases. These choices are usually determined at the time a contract between the parties is drafted. If it has an arbitration clause, the choice is made before any dispute arises. Even when an agreement does not contain such a clause, the parties can agree to submit a dispute to arbitration. In any case, it is important to consider the relative benefits and downsides of each method of dispute resolution. An efficiently run arbitration with an experienced arbitrator (not a panel of three) in a case that is not exceedingly costly to file can be a great approach. That said, in larger cases, the costs can often be as high as a court case.

# Wealth preservation

**High net worth individuals are prioritising wealth protection and strategic wealth management strategies to navigate uncertain economic landscapes and safeguard their financial assets.**

With clients impacted by inflation, compliance, and changing taxation, our experts give their advice on seizing the right opportunities as private clients plan for their future.

In Nevada, inflation and rising costs of living have not significantly impacted high net-worth

clients' spending projections, but they have influenced portfolio management strategies, encouraging a shift towards fixed income investments, according to Lou Robinson. This is mirrored in Poland, where Magdalena Marciniak and Magdalena Dymkowska are seeing investors increasingly turning to long-term solutions like family foundations, which offer tax-efficient wealth management and succession planning.

Phillip Braude has found that compliance

regulations, including anti-money laundering laws and data protection measures, are posing significant obstacles for private clients in Israel. Portugal is also facing the impact of changing regulations and taxation, but Florbela Pires and Vera Figueiredo stress that investment opportunities still exist, particularly in real estate and investment funds, and recommend using transparent investment strategies and conducting thorough due diligence.

## FEATURING...

**P48 ISRAEL**  
**Phillip Braude**  
Braude Wealth



**P50 POLAND**  
**Magdalena Dymkowska** MDDP  
Michalik Dłuska Dziedzic i Partnerzy



**P50 POLAND**  
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**P52 US – OKLAHOMA**  
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**P54 PORTUGAL**  
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CLAREIRA



**P56 US – NEVADA**  
**Lou Robinson**  
Alliance Trust Company





# Wealth management in a challenging climate

**Phillip Braude**  
CEO  
Braude Wealth



**Phillip Braude**, founder & CEO of the Braude Wealth group, is an Investment Marketer licensed by the Israel Securities Authority. He is also a CPA in the US & UK, and a Trust & Estate Practitioner.

Phillip has more than 20 years' experience in wealth management for expatriates in Israel. He has authored various guides aimed at educating and supporting the Israeli resident expat such as The Israeli Tax Guide, Post Aliyah re-structuring Guide, Israeli Regulatory Compliance Guide and many others.

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**“M**ay you live in interesting times” is an English expression that is claimed to be a translation of an ancient Chinese curse. We do indeed live in “interesting times”, evidenced every time we open the newspapers and read the headlines. Added to the uncertainties that we all face on a global level, Israeli resident investors face additional challenges on a local security and political level, which is compounded by complex Israeli tax and regulatory requirements.

Clients of Israeli banks face major obstacles in ensuring that they are able to comply with onerous and ever-changing compliance requirements. Today, the banks will request, as a matter of course, supporting documentation evidencing:

- Source of wealth – How was the money made?
- Source of funds – Where was money held along the way?
- Tax compliance – Have these funds been tax reported in accordance with relevant tax laws?

This article aims to explore the effects of compliance and changing taxation on Israeli resident private clients and their financial decisions, and to illustrate the need that these clients have for the assistance of a knowledgeable and licensed advisor in assisting them in structuring and managing their financial affairs.

New residents in Israel enjoy a generous 10-year post-emigration Israeli tax exemption on non-Israeli assets. This however does present certain challenges:

- These assets are often not tax reported in Israel until after the end

of the 10-year exemption period, which means that there is no supporting tax documentation to satisfy Israeli banks' compliance requirements.

- In recent years, the Israeli shekel has been very strong, and Israeli resident clients need exposure to the shekel as that is their currency of expenditure. By investing in Israeli shekel-denominated investments, they lose the benefits of the 10-year post-emigration tax exemption. (To assist our clients in this regard, Braude Wealth has developed international shekel-denominated investment funds, which would allow the investor to enjoy both the exposure to shekel-denominated investments and the 10-year post-emigration tax exemption).
- There is very often a need to restructure one's financial affairs before the end of the 10-year post-emigration exemption period, before one becomes liable to start Israeli tax reporting. This may also present major opportunities in multi-generational multi-jurisdiction wealth structuring in a tax-efficient manner.

Ex-pat residents in Israel face a more complex scenario, which may include:

- Complying with laws and regulations in their original country (Americans resident in Israel are challenged by dual tax reporting requirements and additional restrictions such as being limited in investing if PFIC's – Passive Foreign Investment Companies).
- International sanctions (such as are faced by Russian expats due to the

- sanctions imposed on Russia).
- Enhanced due diligence (such as are imposed on South African residents and expats due to the FATF grey listing of South Africa due to South Africa not fully complying with international standards around the prevention of money laundering, terrorist financing and proliferation financing).
- Differing tax regimes (such as are faced by Australian expats who are exempt from CGT on assets that they acquired before 20th September 1985 but would be taxable in Israel after the expiry of their 10 years post emigration tax exemption).

## Compliance Regulations and Private Clients

Amongst the various compliance regulations faced by Israeli resident private clients, I would note the following:

### Anti-money laundering laws

- Anti-money laundering (AML) refers to the web of laws, regulations and procedures aimed at uncovering illicit funds disguised as legitimate income.
- Financial institutions combat money laundering with Know your Customer (KYC) and Customer Due Diligence (CDD) measures.

### Know your Customer (KYC)

- Regulatory compliance at financial institutions starts with a process called “Know your Customer” (KYC). KYC determines the identity of new clients, and whether their funds originated from a legitimate source.
- During the KYC process, financial institutions will screen new customers against a list of parties that pose a higher than average risk of money laundering, criminal suspects, individuals and companies under economic sanctions and politically exposed persons (PEPs) which encompass foreign public officials and their family members and close associates.

### Customer Due Diligence (CDD)

- KYC extends beyond vetting a customer in the initial stages of opening an account. Throughout the account's lifetime, financial institutions must conduct Customer Due Diligence (CDD) and maintain

accurate and up-to-date records of transactions and customer information for regulatory compliance and potential investigations.

### Data Protection

- Data protection measures enable a service provider to safeguard and make data available under all circumstances.
- It is also designed to protect sensitive client information.

### Strategies for Private Clients in Israel

We advise the following strategies to assist our clients in navigating the multitude of compliance requirements whilst optimising their financial goals:

- Keep paperwork and supporting documentation.
- Ensure strict compliance with relevant tax reporting requirements.
- Ensure wills and other legal documents are kept periodically up to date.
- Work with knowledgeable & licensed professionals in Israel and country of origin.

Wealth management can be challenging in uncertain economic climates such as the one we are currently experiencing. However, there are steps that one can take that can help individuals navigate these challenges:

- Diversify investments: A well-diversified portfolio can help reduce risk. Consider investing in a mix of stocks, bonds, and alternative investments.
- Diversify currency exposure: Ensure currency exposure to match your long-term spending needs.

- Reassess risk tolerance: The current climate might require reassessing your risk tolerance to ensure your investment strategy aligns with your current financial situation and goals. It is advisable to measure actual performance against identified goals on a periodic basis.
- Stay informed: Keep up to date with the latest economic news and market trends to make informed investment decisions.
- Review expenses: In difficult economic times, it is important to review expenses and ensure you are not overspending or wasting money.
- Regulatory compliance: Ensure your tax affairs and other regulatory requirements are maintained up to date.
- Consult a professional: Consider seeking the advice of a financial professional who can provide guidance on navigating uncertain markets and optimising your investment strategy.

Overall, it is essential to stay focused on your long-term investment goals and resist the urge to make impulsive decisions based on short-term market fluctuations. By taking a balanced and informed approach, wealth management can still be successful even in challenging climates.

The secret of successful wealth management is succinctly summarised in this well known saying “It's not how much money you make, but how much money you keep, how hard it works for you, and how many generations you keep it for.” Let Braude Wealth assist you in achieving your goals in this process.

## About us... braudewealth.com/wealth-management

**Braude Wealth** was founded in 2001. Our specialty is helping English speakers manage their wealth effectively in Israel. We hold terms of business with leading financial institutions in Israel and abroad, providing our clients access to international investment opportunities that are not readily available through Israeli financial institutions. Braude Wealth offers financial planning, investment management, retirement planning, and tax optimisation, and providing US-compliant investment portfolios.



# Family foundations

**Magdalena Dymkowska** Partner  
**Magdalena Marciniak** Partner  
 MDDP Michalik Dłuska Dziedzic  
 i Partnerzy

## ABC of the Polish Family Foundation

A family foundation is an interesting solution for managing private wealth and succession planning, allowing tax-free wealth management and freely structured inheritance.

### General goals

The family foundation serves the purpose of accumulating property, managing it in the best interests of

the beneficiaries, and ensuring the fulfilment of benefits.

The key advantages of a family foundation for the founder include securing the financial well-being of family members, separating business and family affairs, consolidating and safeguarding assets, facilitating effective management and growth of assets, and enabling strategic succession planning over multiple generations.

### Founder and beneficiaries

The founder can be an individual who has full legal capacity, which means, among other things, the right to alienate their property. The founder is expected to provide the family foundation with a minimum initial capital of EUR 25,000.

The circle of beneficiaries of a family foundation and the scope of their rights should be determined by the founder. The beneficiary can be: a natural person or a non-governmental organisation engaged in public benefit activities. The beneficiary can also be the founder.

### Business activity of a family foundation – is it possible?

A foundation can operate a business, be an active entity, and generate income. However, not every conceivable activity is eligible for CIT exemption, which is limited to activities specified in the approved list. A foundation may generate income from renting or providing property, joining companies or partnerships, participating in investment funds, investing in foreign companies, or investing in financial markets. A foundation may also grant loans, but only to companies in which it holds shares or

to beneficiaries. It's important to note that a Polish foundation cannot dispose of property acquired with the sole intention of subsequent disposal.

### A few words about tax aspects

The family foundation is subject to corporate income tax, with specific rules governing taxation. As long as the family foundation generates income from the allowed business, it does not pay income tax. The tax point arises when the foundation transfers the benefits to the beneficiary. In such a case, the market value of the benefit is subject to a 15% flat tax (no costs are deductible).

Benefits received by the founder and his immediate family are not subject to personal income tax. A 10% or 15% PIT rate applies to other beneficiaries.

A Polish family foundation can be dissolved. Those entitled to the foundation's assets are the founder or other persons he or she designates, or, in the event of his or her death, the heirs. And here, too, there will be an income tax of 15%, paid by the foundation. In this situation, however, the foundation is allowed to deduct from the CIT basis the hypothetical tax costs attributable to assets contributed to the foundation by the founder.

If the family foundation engages in business activities not formally allowed, the income generated is subject to a 25% CIT rate.

### Don't forget about transfer pricing

By definition, a family foundation is based on relationships with related entities (or individuals). For this reason, there is a high probability that transactions made between the foundation and, for example, beneficiaries will be subject to transfer

pricing documentation and reporting obligations.

However, transfer pricing needs to be borne in mind for other reasons, including the so-called hidden profits (distributions). If transactions between related parties are established on non-arm's length conditions (e.g. in the case of intangible services, loans, or leases), a 15% flat CIT must be paid by the foundation on the difference to the market value.

### Non-tax benefits

#### Family foundation vs founder's liabilities

A family foundation can serve many purposes, including safeguarding the private wealth of individuals in the event of economic failure. Limiting the family foundation's liability for the founder's obligations, can be an interesting wealth protection tool.

As a general rule, a family foundation is liable for the founder's liabilities only up to the value of the property contributed to it by the founder. Moreover, the condition for accepting the foundation's liability for the founder's obligations is that they existed before the foundation was established.

As already mentioned, the establishment of a family foundation allows for the separation of private and business assets. Very often, Polish entrepreneurs are fully liable for the liabilities of their companies. This is primarily due to the form of business. Many entrepreneurs remain both shareholders and board members of limited liability companies, which can also expose them to liability. This means that most entrepreneurs can be liable for liabilities regardless of whether the



**Magdalena Dymkowska** has specialised in transfer pricing since 2009, and received individual distinctions as one of the best tax experts in the field of transfer pricing in World Transfer Pricing 2023 and 2024. Magdalena is head of Working Group no.7 with the TP Forum in Poland. She is involved in projects related to designing intra-group settlement models (including those based on the profit split method) and defending them during tax audits, preparing transfer pricing policies and filing applications for Advance Pricing Agreements.

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assets are personal or company assets. For this reason, the establishment of a family foundation should be considered not only by those planning succession, but also by those running a higher-risk business.

### Conclusions

Despite family foundations being in force for less than a year, we have witnessed the registration of over 300, and the interest continues to grow. This is understandable, as a foundation allows investors to secure your family business against unplanned division/hereditary succession and provides financial security for the next generation.

**P**olish regulations are considered some of the most challenging. Swift adaptation to these dynamically changing regulations is inherently complex and, as a result, costly. Polish regulations impose numerous obligations on taxpayers, threatening substantial penalties for non-compliance. For instance, in the case of the annual information on transactions with related entities, failure to submit this form may trigger a fine of up to EUR 8 million.

For these reasons, Polish investors are actively seeking long-term solutions to secure their wealth, while staying within the confines of available legal and tax solutions. In recent years, there have been notable advancements in income tax regulations, introducing various measures designed to promote investment. One such solution is the family foundation. It is a novelty in our country.

Countries like Liechtenstein, Switzerland, Austria, Malta, and Monaco already permit taxpayers to establish family foundations. Both in Poland and in foreign legal regimes, the primary purpose of a private foundation is typically not to engage in business but rather to focus on the safekeeping of assets, wealth management and providing benefits – whether in kind or in cash – to the designated beneficiaries.



**Magdalena Marciniak** is a leading expert in Poland according to the "Women in Tax" ranking, International Tax Review (2024, 2023). A recognised expert in transfer pricing, she leads MDDP's team of more than 50 people – one of the biggest and most acclaimed transfer pricing teams in the Polish market. She oversees projects on documenting transaction flows in corporate groups and valuing goods and services transactions among related entities.

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## About us... [www.mddp.pl/en](http://www.mddp.pl/en)

**MDDP** is the leading independent Polish tax advisory firm, with a presence in the market since 2004. Our team consists of nearly 200 experts in VAT, income taxes, transfer pricing, international taxes, domestic taxes, tax and court proceedings, and customs and excise duties. We carry out innovative, groundbreaking tax cases and projects in Poland. We actively contribute to consultations of draft legislation; we are experts for the

European Commission, business organisations, and trade associations.

Our experts have written several books and articles in professional publications. Our transfer pricing team was founded in the same year as MDDP itself. Since then, the team has grown to more than 50 transfer pricing specialists who are ready to answer questions and resolve issues, ensuring a personal approach to each client's needs.



# Wealth, inflation, and the financial climate

**Eric Kunkel** Founding Partner  
**Kaitlin Flinn** Partner  
 CCK Strategies, PLLC

## Q1

### How are inflation and rising costs of living affecting private clients in your jurisdiction?

In the United States, and the State of Oklahoma, inflation and the rising costs of living are having a pronounced impact on private clients, especially entrepreneurs, who represent essentially all our firm's clients. The nature of these economic pressures is two-fold, as they affect not only the personal finances of business owners but also the operational aspects of their enterprises.

One of the direct consequences of inflation is the increase in interest rates as the Federal Reserve attempts to cool the economy. For entrepreneurs, this translates into higher borrowing costs, affecting everything from business expansion plans to everyday cash flow management.

The inflationary environment also impacts the cost of labour and materials. Entrepreneurs are facing a double-edged sword where on one side, the workforce demands higher wages to keep up with the cost of living, and on the other, raw materials and goods necessary for business operations are becoming more expensive. The cost of labour was already at recent high levels in most industries as a result of changes to the workforce post-pandemic.

With the cost of doing business escalating, profits are being squeezed. Entrepreneurs must now navigate the challenging terrain of passing on costs

to consumers, who are also dealing with their own financial constraints, or absorbing the costs, which can erode profit margins. The capital allocation towards growth initiatives or investment in new ventures must be re-evaluated in the face of higher interest rates and uncertain economic forecasts.

The United States and the State of Oklahoma are weathering the economic conditions more favourably than most of their larger international trade partners due to United States Federal Reserve



**Eric Kunkel** is a Founding Partner of CCK Strategies. He is a Certified Public Accountant, Certified in Financial Forensics, Accredited in Business Valuation, and a Certified Valuation Analyst. He is also an appointed member of the Oklahoma District Export Council by the U.S. Secretary of Commerce, and its Vice-Chair, Eric has led CCK's work with clients in export and international services areas. CCK has received the following recognition: 2023 Governor's Award for Excellence in Exporting; 2020 President's "E" Star Award for Export Service Recipient; 2017 U.S. SBA Exporter of the Year State of Oklahoma & Region VI; 2016 President's "E" Award for Export Service Recipient; and 2016 Governor's Award for Excellence in Exporting.

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Policy management and the strength of the U.S. Dollar. A large portion of our firm's clients are exporters, or have multinational operations, so the economic considerations of other jurisdictions have a substantial impact on their overall profitability and economic wellbeing.

Many individuals in the United States have a substantial amount of their wealth in their home. Current mortgage interest rates, which are much higher than they have been for many years, have caused people not to sell their current homes and replace them with a disadvantageous mortgage, which has drastically reduced the inventory of homes on the market and kept many people from being able to buy a first home.

In the State of Oklahoma, the prices of oil and natural gas are a double-edged sword, due to the significant footprint of the industry on the State, as high prices are good for business and the related taxes good for Oklahoma State revenue, but high prices represent a negative for consumers.

## Q2

### What impact is changing financial climate having on their projections for the future: maintaining lifestyle, retirement, wealth preservation, etc?

The changing financial climate is compelling high-net-worth individuals

to reassess their financial projections concerning:

- **Retirement Planning:** Inflationary pressures raise questions about the adequacy of existing retirement savings. High-net-worth individuals may need to boost their retirement contributions or adjust expectations about their retirement lifestyle, particularly dependent on their retirement time horizon.
- **Wealth Preservation:** Traditional wealth preservation strategies are being challenged. Investments that were once considered safe may no longer outpace inflation, leading to a potential decline in real wealth over time.
- **As entrepreneurs,** many of our Private Clients have a substantial part of their cash flow, wealth, and retirement strategy tied to their Private Business Value, which in many cases has been negatively impacted by the current economic conditions.
- **Immediate Wealth Transfer:** With the possibility of lower thresholds for tax-exempt gifts occurring after December 31, 2024, there is an increased urgency to utilise existing tax benefits for wealth preservation. Wealthy clients may have to consider alternative avenues for wealth preservation that offer tax advantages under the new rules.
- **The unpredictability** of U.S. Federal Election results and related Party control over Branches of the Federal Government has created constant uncertainty for U.S. Business including Federal Regulation and effective tax rates that impacts cash flow, wealth, and retirement planning for clients.



**Kaitlin Flinn**, Partner at CCK Strategies, holds a Bachelor's degree in Accounting from Oral Roberts University and a Master's in Taxation from the University of Tulsa. Kaitlin is dedicated to empowering entrepreneurs by providing the critical insights necessary for their success, and guiding them with tailor-made strategies for growth. Kaitlin offers her extensive knowledge in entity formation and structure, strategic tax planning, transfer pricing, R&D incentives, and multi-state compliance. Kaitlin is executive board chair of the Tulsa Global Alliance.

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## Q3

### What support & guidance are you giving to high-net-worth individuals as they manage their future plans?

CCK Strategies' services cater to high-net-worth individuals who are grappling with the operational and strategic challenges posed by the current economic climate. Especially for entrepreneurs, our support is nuanced to address both their personal wealth

## "Prices of oil and natural gas are a double-edged sword."

management and their business financial health. We support our clients through:

- **Tax planning:** Our tax team helps clients optimise their tax positions by employing strategies such as income splitting, income deferral and cross-border strategies to leverage lower tax brackets, opportunities to clarify income streams as long-term investment in nature qualifying for beneficial tax rate treatment, strategies maximising retirement contributions, strategically donating to charities, and setting up trusts for estate planning. CCK works with entrepreneurs to structure businesses to minimise tax impact.
- **Cash Flow Management:** Through our CFO outsourcing services, we give special attention to managing cash flow, which is crucial for business sustainability. We employ strategies that optimise cash reserves and operational profitability, control expenses, and forecast future cash needs accurately.
- **Inflation Mitigation Tactics:** Our CFOs work closely with entrepreneurs to develop and implement tactics that can help mitigate the impact of inflation on their businesses. This includes advising on pricing strategies, cost reduction measures, and investment in inflation-resistant assets.

## About us... cckcpa.com

**CCK Strategies** is a unique firm that connects globally by working with companies headquartered on four continents, with operations in over 25 countries. CCK export revenue from international clients has increased approximately 350% over the period 2013 to 2023. This increase in international sales has been a principal driver in CCK employment rise over the period to over 125 total staff, making CCK one of the largest CPA firms in Oklahoma. The

continued growth brings expertise to clients with a variety of business needs in international business consulting and planning, IC-DISC implementation, foreign tax credits, outbound and inbound structure planning, worldwide tax minimisation planning, IRC 965 Transition Tax compliance, Global Intangible Low-Taxed Income compliance, transfer pricing analysis, ASC 740 (FAS 109/FIN 48) and IFRS/GAAP convergence.



Learn more about CCK Strategies at [www.cckcpa.com](http://www.cckcpa.com)

# The future of private wealth

**Florbela Pires** Partner  
**Vera Figueiredo** Partner  
CLAREIRA

## Q1

### How are compliance and changing taxation impacting private clients?

In terms of investments, we identify two major regulatory trends. The first is the strengthening of anti-money laundering and financing of terrorism (AML/FT) rules, both at the European Union (EU) and at national level. Investors shall expect to disclose their identity, residence, professional activity and of course the origin of funds used in investments. These rules impact in all transactions: from the opening of bank accounts to the acquisition of real estate or investing in funds.

One of the key elements of the system is the mandatory registration of beneficial owners of legal entities. Non-European investors might be startled by the requests of financial intermediaries and fund managers (and sometimes the bureaucracy) but shall know that non-transparent and complex structures will delay investments and bear the risk of targeting the eyes of authorities.

Another relevant trend is the investment in green activities, projects, or securities. The market has well understood the appetite of investors for anything labelled as green. This generated the risk of greenwashing and created difficulties of classification, comparability, transparency, and control. Again, at EU level major steps

were taken. First, the approval of the Taxonomy Regulation which establishes the background for the development of technical criteria for different sectors (through delegated regulations), in order to classify investments as sustainable, and more recently the approval of the Green Bond Regulation with the EU Green Bond standard.

With the European Green Bond Standard, the EU is aiming to set a clear gold standard for green bonds. The labels EuGB or European Green Bond will be reserved for entities that comply with the provisions of the regulation, use of funds must be consistent with the taxonomy rules and projects and information will be verified by external reviewers registered with European Securities and Markets Authority (ESMA). This new standard is consistent with the green bond principles proposed by the International Capital Market Association (ICMA). Another entity working in this field is the Climate Bonds Initiative (CBI), which offers its own Climate Bonds Standard and Certification.

Governments tend to increase tax compliance obligations to tackle tax avoidance and tax minimisation schemes. However, too burdensome tax compliance obligations can actually lead to non-compliance, with taxpayers willing to risk non-compliance, rather than provide too much information or commit to complex procedures or reports. A stable and reliable tax regime



**Florbela Pires** specialises in internal and cross border financial transactions and contracts. She advises credit institutions, financial companies and other clients on regulation and the structuring of securities.

Florbela also advises private and public entities in re privatisation proceedings and clients in insurance matters.

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**Vera Figueiredo** is tax advisor of several group of companies, domestic or multinational, financial institutions, and private equities.

Vera has expertise in advising companies and groups in restructuring operations, domestic or cross-border, covering all phases from feasibility analysis to planning and implementing the operations. She also has expertise in advising clients in tax structuring its investments in Portugal, namely in real estate and other sectors.

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is one of the most relevant conditions to attract (foreign) investment. Often the stability of the tax system is left behind due to political arrangements. In these situations of change, it is of utmost importance to anticipate any adverse impact at the level of private clients.

When dealing with changes in compliance and in tax regimes/policies private clients can be more impacted than corporate clients, since to benefit from more favourable tax regimes private clients frequently redomicile abroad or make important investment decisions that impact their personal life. If these benefits are taken away or revoked, it is not only the financial impact, but also the personal impact that needs to be considered.

## Q2

### What steps can they take to protect their investments for the long-term?

When structuring a long-term investment, private investors should consider all impacts of the three phases of investment: the investment phase, the exploitation phase, and the exit phase. Often, only the two first phases are considered by private clients. It is of utmost relevance to structure an exit route from the beginning of the investment. If the route is structured it will be easier to anticipate changes in the legal and tax environment ahead.

More specifically, on what concerns

## MY ADVICE...

- > Use transparent and simple strategies and structures to invest
- > Count on detailed KYC/Due Diligence procedures that may request documentation and your presence to proof identity and signature
- > Revise annually or bi-annually your investment structure to prevent the impact of any amendments to local laws/ international laws, as well as changes in positions of the tax authorities and impact of court decisions
- > Closely follow recent trends in international/European taxation matters, such as OECD and European Union policies
- > When investing green beware of greenwashing and pick investments that follow reliable criteria, are transparent in the use of funds, disclose information and resort to independent reviewers or certification
- > Seek assistance from a multidisciplinary team of financial and tax advisors, and lawyers to help understand the legal framework and anticipate changes in the financial, legal, and tax environment

AML/FT compliance, investors shall expect tighter controls on opaque ownership structures or the ones resorting to tax heavens.

In terms of green investments, clients shall look at activities, projects or securities that follow strict rules of transparency on the use of funds, that periodically disclose objective, clear and complete information, and that resort to reliable systems of technical and independent certification or review.

## Q3

### How are inflation and rising costs of living affecting private clients in your jurisdiction? How can private clients seize the right opportunities, whether it's through investment, real estate, etc?

As per official data published, inflation rate is decreasing (4.3% in 2023, 7.8 in 2022) but it is not likely that the costs of living will decrease in the next year(s). Such raise of inflation and costs of living are affecting local private clients more than foreigners. Portugal is currently less attractive for digital nomads, due to inflation and costs associated with rents, but it is still very attractive for other private clients. There are still good opportunities for foreign private clients, namely on real estate and investment funds.

For example, investments for at least 5 years of €500,000 in investment funds or private equity funds authorised in Portugal and which policy sets out that at least 60% of the fund will be invested in the capitalisation of Portuguese companies, will qualify for the Portuguese Golden Visa programme, among other investment possibilities.

## About us... clareira.com

**CLAREIRA** is a meeting point, debate, evolution and a vision of the future.

**Agility to get results:** CLAREIRA combats complexity with knowledge and a pragmatic approach to advocacy.

We intend to act on the most important current issues in business and public life. We know how organisations live and function, both in the private and public sectors.

We are experienced and connected. Through our partnerships we are at the centre of the

largest transnational operations.

We work in a variety of industries and approach issues from a variety of angles. Our multidisciplinary understanding of law is an asset to our public and private clients.

Dedicated to providing legal advice to public and private entities from various sectors, Clareira has the right scale.

The one that allows us a close relationship with our clients, the focus and care that legal issues require.

## CLAREIRA

A legal society

# Helping wealth survive



**Lou Robinson** is responsible for the overall vision, strategy, and culture of Alliance Trust Company of Nevada. He is proud to lead a firm that is culturally different from peers, focused on serving others and solving problems for clients and their families.

Lou has significant experience providing tax planning and estate administration to US and global clients. Lou is a graduate of the University of Nevada, Reno, and he is a member of Society for Trust and Estate Practitioners (STEP) and holds the Trust and Estate Practitioner (TEP) designation.

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**Lou Robinson**  
 CEO and President  
 Alliance Trust Company

## Q1

**How are inflation and rising costs of living affecting private clients in your jurisdiction? What impact is the changing financial climate having on their projections for the future?**

To be honest, inflation and cost of living have not had much impact on our high net-worth clients or their projection of spending in the future, however these factors have impacted their portfolio management behaviours. There is a pivot back to fixed income, an investment which has not been in favour since the last low interest rate cycle.

Should the market drop and negatively impact net worth, then we expect to see changes in spending.

## Q2

**Is shareholder activism driving appetite for M&A? What is the buy-side in your jurisdiction looking for in terms of global acquisition?**

In the U.S., trends post-Covid show a decline in overall M&A activity and a decrease in the number of shareholder activism campaigns focused on M&A.

In general, many M&A opportunities are financed, and rising interest rates are making the financing costs relatively high. Predictably, many buyers are waiting to see what interest rates are going to look like in the next 13-14 months. There are still strong Nevada buyers out there looking for opportunities to pick up companies at a bargain.

## Q3

**What guidance are you giving to high-net worth individuals as they manage their future plans?**

At Alliance Trust Company of Nevada, we highly recommend that both U.S. and global clients utilise Nevada trust laws to set up a Nevada Dynasty trust for the benefit of multiple generations. Nevada trust laws allow for this powerful estate planning tool with benefits that include:

- Minimisation or elimination of income taxes, estate taxes, inheritance taxes, transfer taxes, and other future potential taxes.
- An excellent degree of asset protection for beneficiaries for up to 365 years.
- Estate tax benefits for an extended period.
- Accessibility, as both domestic and international families can establish Dynasty Trusts.

The creator or grantor of the Dynasty Trust has significant control over assets, beneficiaries and rights.

## MY ADVICE...

Every conversation about wealth preservation should start with planning. The best laid intentions are sure to go awry without a solid estate plan that checks all the following boxes:

- > Addresses legacy intentions, asset protection, tax mitigation strategies.
- > Is implemented by a financial advisor aware of your goals and portfolio objectives.
- > Is periodically reviewed and updated, particularly after significant life events.
- > Is known and understood by your family/heirs who are PREPARED TO INHERIT.

Our industry does a great job of preparing assets for families, but we need to ask our clients how prepared the family is for the assets. Most of us have seen the statistics that there is \$68 trillion in multigenerational wealth expected to transfer in the next 25 years, and that 70%

of wealth won't survive a second generation. Additionally, studies have shown that 1 in 3 families have done nothing to prepare the next generation to receive the wealth.

We can't underscore enough the importance of communication and preparing heirs to inherit wealth. We absolutely encourage family meetings and conversations about estate planning (e.g. philanthropic goals, family values, fair vs. equal, disposition of assets such as real estate, retirement goals) and get an understanding of the financial acumen of family members.

Many clients are reluctant to discuss money matters due to privacy concerns or concerns that heirs aren't mature enough. We stand firm in our belief that openness and communication lead to solving concerns and in identifying potential issues to address. It is much better to have these conversations up front when times are good, rather than during one of the most stressful events of an heir's life, the death of a loved one.

**“Many clients are reluctant to discuss money matters due to privacy concerns or concerns that heirs aren't mature enough.”**

About us... [alliancetrustcompany.com](http://alliancetrustcompany.com)

**Alliance Trust Company** of Nevada is an independent trust company. We take time to know our clients and are committed to delivering the very best trust administrative services to every client, every time.

The seasoned professionals at Alliance pride themselves as subject matter experts and we recruit the best and brightest in the industry. We have continued to grow our client base due to our long-standing relationships around the world, our ability to deliver on broad trustee services and our client-focused culture.



# Global mobility

**Geopolitical events are vastly impacting global mobility.** Climate concerns and government policy are influencing global migration and employment relocation more than ever before.

Our thought leaders discuss the impact of these factors within their respective jurisdictions, offering valuable insights and practical recommendations on how to stay ahead of the curve.

Global uncertainty prompts individuals to seek safety, security, and opportunities for growth.

Thomas Paoletti describes how immigration patterns have been influenced in the UAE, with the nation's welcoming policies attracting skilled professionals from conflict and non-conflict zones alike. This contrasts emigration trends in Portugal, where economic downturns resulting from sanctions and trade barriers have prompted Portuguese citizens to seek opportunities abroad, according to Rui Esperança and Inês Leitão de Oliveira. This highlights the need for

ongoing attention to legal frameworks governing emigration.

Furthermore, climate anxieties have led countries like Malta to create climate policies and strategies, explains Chris Armstrong. Malta's approach includes a 30-year strategy aimed at achieving a carbon-neutral economy, with initiatives such as promoting low-emission vehicles and enhancing sustainable transport systems.

## FEATURING...

**P62 ENGLAND**  
**Paul Beare**  
Paul Beare Ltd



**P66 MALTA**  
**Dunstan Magro**  
WDM International



**P66 MALTA**  
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WDM International



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**Vimal Damry**  
Premier Financial Services Limited



**P70 MEXICO**  
**Edmundo Escobar**  
Escobar y Gorostieta, S.C Abogados



**P72 PORTUGAL**  
**Inês Leitão de Oliveira**  
Bind



**P72 PORTUGAL**  
**Rui Esperança**  
Bind



**P74 GERMANY**  
**Dr. Gerd Müller-Volbehr**  
Müller-Volbehr Hitzer Rechtsanwälte



**P76 SWITZERLAND**  
**Monika Naef**  
DUFOUR – Advokatur



**P78 UAE**  
**Thomas Paoletti**  
Paoletti Legal Consultants LLP



**P80 ANGUILLA**  
**Nina Rodriguez**  
Webster LP



**P82 MALTA**  
**Chris Armstrong**  
Papilio Services Limited





“Since the UK formally left the EU in 2020, the issue of immigration – both unskilled and skilled – has become a major political issue.”

Paul Beare,  
Paul Beare Ltd

# Moving up

**Paul Beare**  
Founder  
Paul Beare Ltd

**G**lobal mobility rules have become more complex in recent years, particularly in the UK. But with the right advice, you can ensure you stay within the guidelines.

The rules and regulations surrounding work mobility in the UK can – to the untrained eye – appear byzantine. They are also subject to change: since the UK formally left the EU in 2020, the issue of immigration – both unskilled and skilled – has become a major political issue. As a result, the UK government has tended to make changes to the rules to suit the prevailing direction of public opinion.

### The bigger picture

The wider geopolitical backdrop has had an impact on UK policy in this area, with the UK government aiming to boost inward investment but at the same time, clampdown on the unrestricted movement of lower-paid workers. With that in mind, PM Rishi Sunak recently announced some important changes to the rules around eligibility for those looking to come to the UK to work or set up a business.

Migrants coming to the UK on the Skilled Worker route currently face a general threshold (assuming they don't have an exemption) of £26,200, and Brits or settled people who want to live in the UK with their partners must

currently earn £18,600.

However, among the measures set to be introduced in spring 2024 is an increase in the 'general' salary threshold for both long-term work visas and British or settled people applying to bring their partners to the UK. Both will increase to £38,700, higher than the median salary for full-time employees (£35,000), although for workers there are many exemptions.

Clearly, the major change regarding Sponsorship Licences is the increase to the threshold salary for a Skilled Worker. This was announced on the 4th December 2023 when the UK Home Secretary confirmed the threshold would rise to £38,700.

However, workers on the Health and

Social Care Visa route will be exempt from this new salary threshold. The UK Home Secretary also confirmed, more recently, that there will be transitional provisions to be set out in due course to stagger how and when this new salary threshold will be introduced.

However, it has been confirmed that this change to the salary threshold will not be retrospective. So, any migrants who have a visa under the current salary thresholds or those who complete their application before the salary thresholds are implemented, will not be required to increase their salary to match the new policies.

This will have some impacts for those either seeking to relocate to take up a job, or those running a business

Networking opportunities at an IR Global conference



**Paul Beare** has been immersed in the corporate services sector since he was 15 and is still relatively young to be heading up such a business. His vast experience allows him to act as a trusted advisor to clients, taking care of a range of services, from opening a bank account to setting up a payroll system.

He developed his experience of international accountancy services working for his father's business. Having started and grown his own firm in London and the surrounding area, he has since expanded to Australia and New Zealand. He is currently a resident of Auckland but remains a frequent visitor to the UK and still has strong family and personal ties to the UK and has a home in London.

He describes himself as passionate and flamboyant, and committed to helping his clients no matter what they need.

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### MY ADVICE...

- > **Give yourself enough time:** the regime governing working mobility moves slowly. Anyone looking to secure the correct Visa should allow for between three and four months.
- > **Plan long-term:** given the time and cost involved, think carefully about whether bringing in employees from overseas is the right way to go. If you have a short-term issue to solve, employing someone already in the country may be easier
- > **Prepare to pay fees:** the UK government is not shy about collecting its take from the visa process. While the headline cost may appear low, there may be hidden fees to pay along the way.
- > **Get the right help:** This can be an exhausting and time-consuming process, so it can definitely save time and aggravation to get expert help along the way.

and planning on bringing individuals over to fill roles. And while the new regime hasn't necessarily made it more difficult to obtain the necessary visas, the changes to the salary threshold change might.

Certainly for companies looking to employ people on salaries of between £25,000 and £35,000 (a large cohort for growing businesses), they would now see those applications rejected, meaning they'd either have to increase the salary or find another way to get to the UK.

These changes made to the policies are designed to discourage UK Businesses from employing skilled individuals from overseas rather than recruiting from within the UK. It follows the Government's initiative to decrease net migration to the UK. It may seem slightly counter-productive after leaving the EU and claiming the UK is open for business and looking for investment from overseas. Certainly, some would argue more overseas businesses may be discouraged from setting up a UK subsidiary if they are unable to employ the key individuals they require to establish their business in the UK.

#### A wider view

There are other rules coming into play that directly affect those starting or running their own businesses. For instance, from 31st January 2024, the current prohibition on visitors undertaking intra-corporate activities directly with clients will be removed, provided the client-facing activity is incidental to the visitor's employment abroad and

does not amount to the offshoring of a project or service to their overseas employer. This will now be included in the permitted activities for a Standard Visitor.

In addition, visitors will now be permitted to work remotely whilst they are in the UK, but remote working must not be the primary purpose of their visit to the UK. Speakers at conferences will be permitted to be paid (this will be included in the list of Permitted Paid Engagements (PPE)).

**"In some cases, business founders may find it useful to consider applying for an Innovator Founder visa."**

It's worth noting that the provisions of the PPE Visitor route will be moved into the Standard Visitor route (so all visitors will be able to undertake PPE without the need for a different type of visa). However, visitors intending to undertake PPE must still have arranged their PPE activity prior to travel to the UK, and this must be undertaken within 30 days of their arrival in the UK as a Visitor.

#### Special cases

In some cases, business founders may find it useful to consider applying for an Innovator Founder visa. This is a special visa that, while a little more complicated to obtain, can open up a path if you want to set up and run an innovative business in the UK. To qualify for the visa, your business must be different from anything else on the market, must be endorsed by an approved body (also known as an endorsing body), and you must meet the other eligibility requirements.

The authorities will expect applicants to have a business plan, which is scrutinised by one of the endorsing institutions listed and approved by the Home Office, which will act as a semi-sponsor of your business plan, if you convince this institution that your business plan is valid. Under the terms of the visa, founders can stay in the UK for six months and complete business activities as well.

## About us...



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

One element is paramount with every client – they all need support and expert guidance. Paul and his team advise clients on 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 US, and has been heavily involved in IR Global for nine years. He uses the support network for clients when they are focusing on expanding their UK company. Clients will use this as a foundation for further expansion into Europe and beyond. Paul Beare has particular expertise in helping clients decide on the best structures to use when setting up and growing a business in the UK – for instance, guiding clients towards the right choice between using a UK branch or a UK subsidiary.

[paulbeare.com](http://paulbeare.com)

**"We build a relationship with our clients, providing a point of contact, whom they know well. Whom they trust."**





# Mobile futures

**Dunstan Magro** Managing Partner  
**Erika Baldacchino** Tax Manager  
 WDM International

## Q1

### How are global geopolitical events affecting mobility in your jurisdiction?

Over the past few years, global political and economic developments have taken centre stage. Going back to COVID-19, passing through the war in Ukraine right up to the Middle East crisis, and ending with the tackling of climate change and inflation, one can say that many countries, including Malta, continue to face the perfect storm of disruptive forces.

Although Malta's growing economy still outpaces a number of fellow EU member states, the small island nation still faces difficult choices in a number of critical areas, mainly:

- tackling inflation
- avoiding any widening of inequality gaps
- the panning out of an inclusive and sustainable growth path
- balancing energy demands with decarbonisation pledges
- an efficient and effective management of resources.

Historically Malta has always boasted a resilient economy and

despite the seemingly never-ending disruptions, current forecasts continue to show that over the next few years, the country's economic growth is likely to outperform that of the Euro area. Thus there is still a strong labour demand across all sectors, and this keeps pushing for the maintenance of a high pace of employment and eventually population growth. In order to curb any abuse arising from the influx of foreign workers to Malta, as of April 1st 2024, the Government of Malta is introducing rigorous new regulations to target ethical employment. The regulations have been drafted to re-emphasise the importance of maintaining high standards within the industry.

Rated as one of the safest places to live, with excellent healthcare, educational services and a family-friendly environment, Malta is still considered a desirable destination of choice by many HNWIs. Complemented by the carefully drafted residence and citizenship programmes, particularly the Malta Residence Programme, the Global Residence Programme, The Residence Programme, and the Citizenship for Exceptional Services by Direct Investment, amongst others, such individuals are guaranteed the necessary peace of mind should they wish to create a new reality away



**Erika Baldacchino** is an up-and-coming tax manager at WDM International, specialising in VAT. With a keen eye for detail and a passion for helping businesses navigate complex tax regulations, Erika is making a significant impact in the field.

Erika started her journey in taxation in 2015 following seven years providing accountancy services to the firm's clients. Erika has developed a deep understanding of tax laws and regulations, particularly in VAT and international tax, whilst also acquiring expertise in residency and migration.

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**Dunstan Magro** is the Managing Partner of WDM International and is a Masters graduate of the University of Malta. During his early career, Dunstan carried out numerous audits across different industries. Over the past 25 years, he has also advised many local and international clients on tax, corporate and business advisory matters, whilst lecturing on various tax and regulatory compliance topics. He is an active committee member of the Malta Institute of Accountants, a member of the Malta Institute of Taxation, and a member of the Malta Institute of Financial Services Practitioners.

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**“Historically Malta has always boasted a resilient economy, despite the seemingly never-ending disruptions.”**

**Dunstan Magro,**  
 WDM International

from headaches caused by the global political and economic developments referred to above.

Last but not least, Malta's pitch as a hub for financial services, aviation, digital gaming, advanced manufacturing, life sciences, IT and blockchain services does not seem to have been negatively impacted by such events.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

Malta has been recognised by the International Centre for Climate Mobility as a climate mobility champion leader during an activity organised during COP28 in December 2023. Malta's work in the climate change and its impact on small islands have received widespread praise. Eurostat statistics also show that Malta is the EU country with the lowest emissions per working person.

However, these accolades, although indeed positive and welcome, cannot hide the fact that Malta is located right in the centre of the Mediterranean, a region which has been particularly vulnerable to the impacts of climate change. Over recent years, the Mediterranean has seen heatwaves, wildfires, and storms wreaking havoc throughout the region. This has also prompted Med 9 country leaders to recognise the disproportionate impact of the climate crisis in the region.

Yet so far, Malta's climate continues to be made up of mild, rainy winters and dry, hot summers. The mean monthly

## MY ADVICE...

Each global mobility strategy looks different. This is because there is no single template which can be applied, even more so when considering the multiple effects of changes to the geopolitical landscape. So whether it is a company relocating its employees, foreign workers seeking to be employed in a different jurisdiction, or HNWIs relocating to a new country, it is important that one invests both time and resources before considering such a move.

With respect to my recommendations and general tips on the subject matter, it is important that one:

- › clarifies and defines the relocation process
- › considers how to overcome cultural differences
- › reviews local laws, particularly those relating to employment and taxation, so as to better understand your obligations and compliance requirements
- › prioritises effective wellbeing when making the move
- › seeks professional advice to help navigate the complex matters arising from global mobility

temperature for the summer season was 35°C over the past century. The hottest month is July during which, at times, temperatures tend to exceed this value for short periods during the month. On the contrary, temperatures have never reached freezing point in Malta, with the lowest monthly average temperature for the past century being 11°C, in the winter months (January and February). There were instances when air temperatures dropped below 11°C, but only for short periods. Although exceptional extremes of 1.4°C and 43.8°C have been recorded in Malta, on average, the climate is still pleasant, with rainfall precipitation being the highest between November and February and the average number of daily sunshine hours being eight.

From a climate perspective, therefore, Malta still provides the necessary stability required by global migrants when choosing a destination. This is supported by the ever-increasing number of tourists visiting the island, and by the number of foreigners deciding to relocate and settle in Malta.

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly in regard to employment relocation?**

Malta's 2023 attractiveness survey anticipates that over the next 5 years, investors believe that Malta's prominent business sectors will be tourism and leisure, digital gaming and artificial intelligence, a trend confirmed in previous attractiveness surveys. To this end, Malta's migration policy for this decade has been reshaped to cater more for high-level and skilled workers, thus alleviating the need for specific skills in the Maltese labour market whilst consolidating the vision for Malta's economic growth model without putting excessive pressure on the country's resources, infrastructure and primary health care systems.

In addition to this, during December 2022, Malta has also unveiled its Sustainable Development Strategy for 2050. Taking into account the lessons learnt from the 25% increase in the country's population since 2013, mainly through the influx of foreign workers and HNWIs settling in, and the UN's Global Goals and 2030 Agenda for Sustainable Development, Malta's strategy will be focusing its efforts towards ensuring that social cohesion, the protection of the environment, and economic growth

**“Malta has been recognised by the International Centre for Climate Mobility as a climate mobility champion leader during an activity organised during COP28 in December 2023.”**

## About us...



**Founded in 1994, WDM International** is a Malta-based multidisciplinary firm offering audit, tax, legal, corporate, compliance, outsourcing, and business advisory services.

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 on a wide client portfolio over a range of industries, including financial services, manufacturing, leisure and entertainment, food and beverage, aviation and maritime, retail, film, construction, and more. WDM International also assists various business entrepreneurs to internationalise their business and provides advice to high-net-worth individuals on immigration, residence, and relocation.

WDM International delivers a tailor-made service throughout, turning our clients' business dreams into reality. We have the know-how and practical experience to guide clients throughout, whilst taking advantage of all the benefits Malta has to offer.

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move forward in a coherent and mutually beneficial way. The 5 strategic goals identified comprise:

- transitioning towards a climate-neutral green and blue economy
- preservation of sustainable urban development and cultural heritage
- ensuring healthy lives and well-being for all
- acceleration of digital transformation, smart mobility and connectivity
- achieving social fairness and prosperity for all



The principles of sustainable development encapsulated in Malta's strategy document are wide and overarching, and incorporate all the elements that make up the country's environment, economy, and society as a whole. Achieving economic growth and developing a healthy and cohesive society while safeguarding the environment is, however, no easy task and requires a strong concerted

commitment from everyone.

Both Malta's Sustainability Development Strategy and the updated migration policy play a crucial part in having every sector and actor actively involved throughout the entire process to transform the Maltese Islands into a country that can meet current and future needs and one that is capable of successfully overcoming any emerging challenges and threats.

# Mobile Mauritius

**Vimal Damry**  
 Managing Director  
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## Q1

**How are global geopolitical events affecting mobility in your jurisdiction?**

Mauritius as a destination has been always very popular for tourism. We have as many tourists as the number of inhabitants. We are a very open country with visas on arrival for many nationals whether coming as tourists or on business. We are ideally placed between Africa and Asia.

There is a lot happening on the global geopolitical front, with a mixture of different events such as political instability, or changes in government policies, like some neighbour countries pushing some of their residents to migrate elsewhere or looking for a second home. Regionally, we have many southern and eastern Africans who have taken residency in Mauritius. We have also had the COVID-19 outbreak, which has made people go back to their home country, whilst others have taken residency here, so there is 'two-way traffic'.

It is quite interesting to see how people reacted differently to this crisis. This pandemic has created a lot of

## MY ADVICE...

The whole world is now a global village. We have seen how an event in China (Covid-19) got spread to the whole world within weeks. However, the global village also has its benefits, and Mauritius has certainly benefited as well. Our immigration rules are very interesting and flexible. The Government has done a lot to encourage immigration. Entrepreneurs looking to set up their business are very much encouraged to set up in Mauritius. With an investment of only USD 50,000, these entrepreneurs get occupation permits for up to 10 years, together with their dependent families. This measure has attracted a lot of entrepreneurs to relocate to Mauritius. We have very good international educational systems based on the English or French model which does not disrupt the education

of children relocating. Mauritius also gives opportunities to foreign students who have studied in a tertiary education institution in the country to work here. They are eligible for a maximum of 3 years occupation permits. Foreigners are also now allowed to buy local properties (something which was very restricted before). Mauritius is well placed to become an option for foreigners to relocate to Mauritius on a long-term basis. We have everything here to encourage them. We are a robust financial centre with a very good banking and tax system. We have a very busy airport with daily connections to Europe, Asia and Africa. These are what makes Mauritius a star and key of the Indian Ocean and a highly recommended country for relocation.

distortions with unemployment and inflation being the major factors that make people migrate. Climatic changes have affected many small islands and Mauritius has not been spared. We have cyclones and floods every year which is another factor people consider.

Trade policies have created migration such as from India and Africa. We also have the Russia-Ukraine war which has also seen Russians and Ukrainians migrating with families, including to Mauritius.

Needless to say, there are also people moving out of Mauritius to destinations such as Canada, Australia, and Europe. That said, Mauritius is a very open country and many who had emigrated have in fact returned after a few years abroad. It's a constant situation of people moving in and out, which is quite an interesting mobility phenomenon.

floods in different parts of the world. The effects of these can no longer be underestimated. These climate concerns bring with it migration as people move to safer places. Mauritius has accepted migrants from countries who have emigrated due to climate concerns. Our travel and visa policies are, in fact, very good, with no major barriers to such travellers.

That said, we do also have our cyclones and floods every year, but we are used to it. These are not major factors for Mauritians to emigrate elsewhere. However, we can say that in Mauritius we have not seen immigrants settling here due to climate change concerns.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

It is a common fact, that the whole world is impacted by climate change. We can see how countries are regularly affected by tsunamis, cyclones, drought, and

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly in regard to employment relocation?**

Mauritius has always innovated in issuing work and residence permits for foreigners looking for employment on the island. In the past decade, there has been a relaxation of the criteria for employment eligibility. At present, we have what we call 'Occupation Permits' which are residence and work permits issued to foreign employees. Foreigners can take jobs here and the employers will apply for these permits. The application is straightforward, and a lot has been done to make it a hassle-free and streamlined exercise.

Foreign employees need to have the necessary qualifications and experience, commensurate with the jobs they are applying for. There is also a minimum salary for which employers can employ a foreigner which has been lowered over the years. These permits are not only issued to the employee but also to his dependent family members including parents.

A spouse is also eligible to apply for a work permit and get employed. Many families have relocated to Mauritius as a result. The occupation permits can be for up to 10 years which is renewable. A lot has been done to encourage foreign employment and relocation to Mauritius.

**“Climatic changes have affected many small islands and Mauritius has not been spared.”**

## About us... premier.mu

**Premier Financial Services Limited** is a fast-growing licensed and regulated Management Company/Trust Company by the Mauritius Financial Services Commission servicing private clients, listed and private companies. Its group companies and associates are based in Mauritius, Singapore, UK, and Seychelles. Premier's Promoters and Directors have been in financial services for more than a decade and have managed companies and trusts holding assets of more than USD1 billion in aggregate.



# Uniquely strategic Mexico

## Edmundo Escobar

Partner

Escobar y Gorostieta, S.C Abogados

**T**he complexity of global geopolitical events significantly influences mobility patterns in Mexico, especially in light of the intricate migration issues with the United States. Various factors such as changing economic policies, escalating trade tensions, and broader geopolitical shifts critically impact not only trade and economic activities within Mexico but also deeply influence human migration patterns.

Mexico's unique and strategic position as a crucial transit and destination country for migrants from Latin American countries, who are aiming to reach the U.S., places Mexico in a challenging and complex scenario. This situation necessitates a careful navigation between maintaining diplomatic relations, addressing humanitarian concerns, and managing pressures from the U.S. to implement stricter controls on illegal migration. These dynamics are further complicated by economic instability in regions affected by global trade tensions, which can drive individuals to migrate in search of better opportunities, with Mexico serving as both a destination and a transit country.

Moreover, the increasing trend of nearshoring, which is driven by these geopolitical shifts, presents Mexico with significant economic opportunities. However, it also poses challenges in managing the dynamics of migration as it potentially makes Mexico an attractive destination for migrants from various regions seeking employment opportunities. Consequently, Mexico is tasked with the delicate balance

of capitalising on economic growth opportunities through nearshoring, while simultaneously addressing the complex and multifaceted challenges associated with migration in a manner that is both humane and effective.

### Climate Concerns Impacting Mexico

The pressing issue of climate change is increasingly becoming a significant factor in global migration decisions, and its impact on Mexico is particularly notable. Mexico is confronted with its own unique set of environmental challenges, such as severe water shortages, especially in its northern states, which are crucial industrial and agricultural centres.

These environmental issues are aggravating living conditions and could potentially lead to the displacement of communities, thereby triggering internal migration within Mexico. Moreover, the exacerbation of extreme weather events due to climate change, such as intensified hurricanes and prolonged droughts, threatens to disrupt agricultural productivity, further straining Mexico's rural economies. This may result in increased migration towards urban areas or even across international borders in search of better livelihood opportunities. On a global scale, Mexico is increasingly becoming a refuge for individuals from Latin America and



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the Caribbean who are fleeing the devastating impacts of climate-induced disasters in their home countries. This trend is likely to intensify as climate-related disasters become more frequent and severe, placing additional burdens on Mexico's already strained resources and infrastructure.

Given this scenario, it is imperative for Mexico to undertake a strategic shift in its policy framework to effectively integrate considerations of climate resilience with migration management. This approach is essential to ensure sustainable development and to safeguard human security in the face of the escalating challenges posed by climate change and migration.

### Government Policy and Employment Mobility in Mexico

The Mexican government's decree, published on June 5, 2023, aimed at promoting investment in the Isthmus of Tehuantepec, is having a pronounced effect on employment mobility within the nation. By offering substantial tax incentives to key sectors such as electronics, automotive, clean energies, and medical devices, the government intends to attract new investments and stimulate the development of manufacturing plants within the region.

This strategic initiative is expected to drive significant economic growth, create numerous job opportunities, and enhance the competitiveness and efficiency of operations for taxpayers. The targeted focus on these high-potential sectors, coupled with the extensive tax benefits delineated in the decree, including a 100% income tax credit and immediate deductions for investments in new fixed assets, is set to transform the Isthmus of Tehuantepec into a vibrant hub for manufacturing and industrial activities. This aligns with the broader objectives outlined in the National Development Plan and is pivotal in directing employment mobility towards these designated development poles, thereby fostering regional economic development.

The operationalisation of the Interoceanic Train, a significant infrastructure project by the Mexican government, enhances the attractiveness of these investments by providing improved logistics and

## About us...

**Escobar y Gorostieta, S.C Abogados** is a highly specialised legal firm in labour law, offering our clients:

- Preventive counselling
- Corrective counselling
- Litigation

This is based on over 30 years of experience, primarily serving the business sector, governmental entities, or officials. Our team of lawyers operates under the premise of resolving conflicts by adhering to the best practices and recommendations for our clients.

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Our expertise includes:

- Attention to and monitoring of lawsuits
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- Consultation for the implementation of hiring schemes
- Risk analysis
- Training for legal or human resources departments
- Corporate restructuring due to mergers or acquisitions

connectivity across the Isthmus, further bolstering Mexico's position as a strategic nearshoring hub. This development, along with a comprehensive assessment of local infrastructure, energy supply, and labour training capabilities, is essential for ensuring investments are well-positioned to leverage Mexico's nearshoring potential and achieve long-term sustainability.

Additionally, the subsequent act released on October 11, 2023, which extends tax incentives to key exporting industries, further emphasises the government's commitment to leveraging nearshoring as a strategic means to foster economic growth. These policy measures, while instrumental in enhancing Mexico's position in the global marketplace, must be judiciously evaluated against potential challenges such as implications for tax revenue and the need for comprehensive infrastructural development. This underscores the necessity for a targeted approach to reinforce Mexico's export capabilities and to ensure a sustainable economic trajectory in the face of global manufacturing shifts and the imperative for resilient supply chains.

### General Advice for Foreign Investors in Mexico

For foreign investors aiming to relocate or expand their operations in Mexico, the current policy framework offers significant opportunities, particularly in manufacturing sectors earmarked for national economic growth and nearshoring initiatives.

Recent legislative reforms, such as the decrees to foster investment in the Isthmus of Tehuantepec and within key

exporting industries, have established an inviting landscape for foreign investment. It's crucial for investors to align their investment strategies with government-prioritised sectors like electronics, automotive, clean energies, and medical devices, which are bolstered by strong investment support and attractive tax incentives. To fully leverage these incentives, investors must navigate the regulatory landscape with precision and align their investments with the designated development areas and sectors outlined in these new policies.

Additionally, it's vital to address broader infrastructural and logistical challenges that could influence operations, including local infrastructure adequacy, energy supply, and skilled labour availability. Confronting these challenges is essential for the long-term sustainability and success of investments in Mexico. Furthermore, in the context of the competitive strengths of the Mexican economy and potential hurdles, investors should adopt a holistic and informed approach to their investment decisions. This approach should encompass understanding the benefits provided by the United States-Mexico-Canada Agreement (USMCA), especially regarding labour issues, which enhance labour rights protections and could influence supply chain dynamics and labour cost considerations in Mexico. Incorporating insights into nearshoring trends, supply chain resilience, and the broader economic and political climate in Mexico will empower investors to integrate into the local economy, foster sustainable development, and secure enduring success in their ventures more effectively.

# Climate, Immigration and Labour in Portugal

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 Bind

## Q1

**How are global geopolitical events affecting mobility in your jurisdiction?**

In this regard, considering the current situation in Portugal, global geopolitical events have significantly influenced mobility within the country's jurisdiction, impacting both immigration and emigration patterns.

Firstly, the ongoing global geopolitical tensions, such as conflicts and economic instability in various regions, have led to an increase in asylum seekers and refugees seeking safety in Portugal. The country, known for its relatively welcoming stance on immigration, has seen a rise in applications for asylum, influenced by global crises. This increase had legal implications, requiring the Portuguese government to adopt asylum and refugee policies with immediate effect, including the processing of applications, integration measures and guarantees of compliance with international human rights legislation. This also meant an increase in pressure on the government services responsible for processing applications, which had already been felt since the pandemic, and which led to the Portuguese government having to act to extend visas and authorisations already issued, given the services' inability to cope with applications.

The geopolitical landscape has

also indirectly affected emigration from Portugal. Economic sanctions and trade barriers can lead to economic downturns, prompting Portuguese citizens to seek opportunities abroad. Legal frameworks facilitating emigration, bilateral agreements on labour mobility, and the protection of Portuguese citizens working overseas are areas that require ongoing attention and adjustment in response to these global changes.

In summary, global geopolitical events have a multifaceted impact on mobility in Portugal's jurisdiction, affecting immigration and emigration trends. These impacts necessitate a dynamic and responsive legal framework that addresses humanitarian needs, economic demands, and security concerns, while aligning with EU policies and international law.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

Under the lens of Portugal's legal framework, climate concerns as a factor in global migration are increasingly impacting the nation's jurisdiction in several ways.

Portugal, like many other countries, is witnessing an increase in what can be



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termed "climate refugees" – individuals and families displaced by climate-related disasters or the gradual effects of climate change. Although international law does not currently recognise the legal status of "climate refugee", the growing number of these migrants is beginning to lead to proposals from political parties within the framework of these asylum and immigration policies. This may involve broadening the criteria for humanitarian protection or developing specific legal frameworks to respond to the needs of people displaced by environmental factors.

Portugal's relatively mild climate makes it an attractive destination for individuals from regions severely affected by climate change. This is leading to a shift in immigration patterns, with a growing number of migrants from regions experiencing extreme weather events, sea-level rise, or other climate-related issues. The legal system is adapting to accommodate these shifts, potentially creating special visas for those affected by climate change.

From another perspective, climate change is affecting agriculture in various parts of the world, including Portugal. This has implications for the legal framework governing seasonal and agricultural employees. Changes in crop yields and harvesting periods due to climate variations may lead to adjustments in the demand for seasonal labour, which in turn influences immigration policies for temporary agricultural employees.

In conclusion, as climate concerns become a more significant factor in global migration, the Portuguese legal system is still beginning the necessary adaptation to the complex

challenges posed by climate-induced displacement. This involves revising immigration policies, accommodating new migration patterns, ensuring socio-economic integration and participating in international efforts to address the global challenge of climate migration.

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly in regard to employment relocation?**

Currently, government policy in Portugal is significantly influencing mobility within its jurisdiction, especially concerning employment relocation. The government's strategic approach to attracting foreign talent and encouraging internal mobility is reflected in several key policy areas.

For instance, the Portuguese government has implemented incentives for foreign professionals with policies aimed at attracting skilled professionals from abroad. This includes tax incentives, such as the Non-Habitual Resident (NHR) regime, which offers reduced tax rates for new residents for a period of ten years. Additionally, there are streamlined visa processes for highly skilled workers, including those in technology, science, and research sectors. These measures aim to bolster Portugal's workforce with international expertise, particularly in areas facing skill shortages.

On the other hand, recognising the growing trend of remote working, Portugal

has adapted its visa policies to cater to digital nomads. This policy attracts a global workforce that can work remotely while residing in Portugal. It not only diversifies the skill base in the country but also stimulates local economies, particularly in less urbanised areas.

Moreover, the government provides support for start-ups and entrepreneurial ventures, encouraging both domestic and international entrepreneurs to establish their businesses in Portugal. This includes initiatives like startup visas, which facilitate the entry and stay of non-EU entrepreneurs who plan to launch start-ups in Portugal. Such policies attract foreign investment and talent, contributing to job creation and economic growth.

From an internal perspective, to address regional disparities and prevent the depopulation of rural areas, the Portuguese government has initiated policies to encourage internal mobility. This includes incentives for businesses and individuals relocating to less dense regions, such as tax benefits, grants, and support in infrastructure development. These initiatives aim to balance economic growth across different regions of Portugal.

As a member of the European Union, Portugal aligns with EU-wide policies that facilitate labour mobility within member states. This includes adherence to principles of free movement, allowing EU citizens to work in Portugal without the need for a work permit, thus simplifying the process for both employers and employees.

In conclusion, government policies in Portugal are actively shaping the landscape of employment relocation. By creating an attractive environment for foreign professionals, supporting digital nomadism, fostering entrepreneurial growth, and encouraging internal mobility, Portugal is enhancing its position as a dynamic and diverse hub for employment opportunities.

Nevertheless, despite policies to attract foreign talent, the fact is that when it comes to internal talent, there is a high outflow of qualified workers, given the low internal competitiveness and low salaries. This outflow trend contrasts with the inflow trend of unskilled labour.

## About us... bindrl.pt/en

**BIND** - Esperança, Vaz Osório e Associados, Sociedade de Advogados is an independent, medium-sized law firm based in Lisbon, focusing on the following areas:

- Litigation and Arbitration
- Employment Law
- Portuguese nationality
- Medicine, Health and Pharmaceuticals
- Public, Administrative and Regulatory Law

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SOCIEDADE DE ADVOGADOS

# Remote possibilities

## Dr. Gerd Müller-Volbehr

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Dr Gerd Müller-Volbehr studied at the Universities of Munich, Augsburg and Paris II (Panthéon-Assas) and is a founding partner of ACURIS Rechtsanwälte. He advises in labour law, corporate law, commercial law and data protection.

In the field of labour law, he advises international companies on restructuring, designing operational structures and managing work processes. In this context, co-determination (negotiations with works councils) and collective bargaining law are strongly relevant. He also specialises in compliance and data protection, company pension schemes and employee leasing.

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### Covid-19 crisis as a catalyst for mobile working

The Covid-19 crisis was the central event for employee mobility in the years 2020 to 2022. Many employees were given the opportunity to work remotely from home within a very short space of time. Meetings were no longer held in the company, but via video conferencing. This form of working was immediately embraced by many employees, and after the Covid-19 crisis, many companies continued this form of working.

Recently, many companies, especially large companies, have been rethinking their approach, as mobile working also has downsides. Much of the normal communication between employees is lost, and this has considerable consequences for the flow of information within the company, and social interaction, company loyalty, and innovation are weakened. The consequence of this critical view of working entirely from home is that most large companies are calling their employees back to the workplace and only accepting 1-2 days of remote work per week, which is now common practice.

Mobile working also opens up the possibility of addressing the shortage of skilled workers and employing staff whose place of residence is a considerable distance from the company headquarters.

Against this background, the legal requirements for mobile working must be examined for each individual

case, which includes questions of employment, social security law, tax, and residence law, as well as registration and verification obligations.

### Selected Highlights

#### Mobile working in Germany

Mobile working in Germany generally has few special features compared to working at a fixed workplace in the company. In principle, the employee has no claim to be able to work remotely. Rather, the employer can determine whether and to what extent the employee can work on a mobile basis within the scope of its right to issue instructions.

As the employee cannot be obliged to work remotely, the implementation of mobile working ultimately requires agreement between the employer and employee. The question of whether the employer is entitled to order the employee to return to work from the home office against the employee's will or whether a contractual provision is required in this regard has not been clarified.

It is also advisable to clarify whether the employee may use his own work equipment and whether any additional costs incurred, such as for internet, electricity or hardware, are to be reimbursed.

Furthermore, travel costs from the home office to the company or to the first customer or from the last customer back to the home office must be reimbursed by the employer if there are no deviating contractual provisions and the home office is the only contractually agreed

place of work. In the case of alternating work (e.g. two days a week in the home office and three days a week in the company) and mobile work, the employee must bear the costs for the journey to the company himself if there is no contractual provision to the contrary.

#### Mobile working abroad

##### • Applicable law

A supplementary agreement is strongly recommended for mobile working abroad. This agreement should, for example, specify the law applicable to the employment contract. In principle, the employment law of the country in which the employee's usual place of work is located applies. For short stays abroad, the place of work should still be in Germany. In the case of longer stays, the law of the country in which the employee is staying could apply without regulation.

##### • Residence law requirements and other reporting obligations

If an activity has a foreign connection, employers must always bear in mind possible reporting obligations. These exist in almost all countries and vary from state to state. Timely information helps to avoid sanctions!

##### • Right of residence and residence permit

If an EU citizen works in a member state of the European Union, they enjoy the privilege of freedom of movement. This means that EU citizens can travel to and work in any member state. Mobile work in an EU member state is therefore possible under residence law

(at least for a period of three months) without any major obligations to provide proof of residence.

When working in so-called third countries (countries that are not members of the European Union), residence is generally only possible with a corresponding residence permit (such a regulation has also applied to UK nationals since January 1, 2021 as a result of the Brexit).

##### • Social security law

The social security obligation is determined according to the so-called country of employment principle. This means that the social security law of the country in which the employee actually performs the work applies. The only exception is in the case of secondment. This is the case if the employee of a German company works abroad in another member state on the instructions of the employer and this activity does not last longer than 24 months.

Whether the employee's request for mobile work abroad can be equated with an instruction from the employer is controversial. If this is the case, the social security classification in the Member State of residence can continue to apply in accordance with Art. 13 of Regulation (EC) No. 883/2004, provided that 25% of the work activity is carried out abroad during the year.

In addition, the so-called A1-certificate is essential for work in the European Union. It provides information on whether an employee is covered by social security in his home country when working abroad.

The A1-certificate should therefore be applied for before every stay abroad.

##### • Tax law

Taxation is based on the place of employment principle. According to the applicable double taxation agreements, income from non-self-employed work is generally attributable to the country of activity. The OECD Model Tax Convention, for example, stipulates that the country of residence has the right of taxation if

1. the employee does not spend more than 183 days in the host country,
2. the employer paying the remuneration is not resident in the country of employment and
3. the remuneration is not economically borne by a permanent establishment of the employer in the country of activity.

In addition to the 183-day rule, it is essential to ensure that no so-called permanent establishment is created in the respective country of activity. This would not only have consequences for the employee's income tax, but also for the company's other tax obligations.

### Summary

Mobile working is rightly popular with employees and has become an integral part of everyday working life. However, the implementation of mobile working affects a large number of legal areas and raises numerous questions, particularly in the case of foreign assignments. Employers must examine and approve each individual case to ensure that their employees' activities abroad are legally compliant.

## About us... [mvh-law.de/#uber-uns](https://mvh-law.de/#uber-uns)

Müller-Volbehr Hitzer is a law firm specialising in labour law, based in Munich. We have many years of outstanding expertise in this field and represent companies, supervisory boards, board members, managing directors and executives. We advise our clients in all matters of individual and collective labour law and represent them in court throughout Germany and out of court.

Our clients include corporate groups and medium-sized companies from the information technology, automotive, metal and electronics

industries, medical and laboratory technology, finance, media, education, fashion, wholesale and foreign trade, as well as the construction and gastronomy sectors. We also advise charitable institutions and NGOs.

We maintain a long-term, trusting cooperation with our clients. Together with our clients, we develop individual solutions that take into account the business environment, the strategic scope and the situation of the people affected.



# The Law and Politics of Swiss Immigration

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**Monika E. Naef** is Partner & Owner of DUF0UR Advokatur AG (Dufour Attorneys). Her focus areas are employment and business law, business development and M&A, international business relations and trade law. After earning her law degree from the University of Basel and passing her bar exam in Basel-Land, Monika became in-house legal counsel for a multinational pharmaceutical and chemical group, with global leadership responsibilities. She also headed the multifunctional M&A review team as well as the Trademarks Department. In 2005, she moved into private practice by establishing DUF0UR Advokatur together with other partners at its current domicile. Monika attended INSEAD (International Executive Programme) and is a Certified Global Negotiator (CGN-HSG).

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## Q1

**How are global geopolitical events affecting mobility in your jurisdiction?**

Switzerland is the highest ranked country in terms of average wealth per adult, surpassing even the USA. Its unemployment rate is low, less than 2.5% in 2023. In addition, the average tax wedge on labour income in Switzerland for individuals is quite low in comparison to the OECD average. Switzerland has opted for permanent neutrality as a guiding principle for its foreign policy. However, recent geopolitical events are challenging this.

With the outbreak of the war in Ukraine, Switzerland registered a spike in the number of asylum seekers. As a rule, refugees are not permitted to work until their request for asylum has been granted. However, in 2022, more than 75,000 refugees from Ukraine were granted special status "S", allowing them to enter the workforce immediately. This special status was introduced into legislation in 1998 as a reaction to the refugee flows from the wars on the Balkans, but has never previously been activated. The current special refugee status "S" will expire in March 2024.

According to the UN Refugee Agency, in mid-2023 more than 110 million people have been forcibly displaced, including for reasons of climate change. Half of these displaced persons originate from just three countries: Syria, Afghanistan and Ukraine. The number of displaced

persons is on the rise and were expected to reach 130 million by the end of 2023. In total, in the year 2022, Switzerland registered 100,000 new refugees in total. 2023 figures are not yet available.

In addition to the migration of displaced persons, Switzerland allows the free movement of EU or EFTA nationals, though these agreements are currently being renegotiated. The number of immigrants is a contentious matter in Swiss politics. Being an attractive country to work and live in, with high incomes, low tax rates, a well-functioning infrastructure and political stability, many people chose to live here. Of the approximately 9 million people living in Switzerland, about one quarter are foreign nationals, two thirds of which are EU/EFTA nationals (about 1.59 million). Roughly 700,000 have nationalities from other countries, so called third countries. Post Brexit, UK nationals are now also considered as nationals from third countries and require a work and residence permits to live and work in Switzerland. UK nationals residing in Switzerland prior to Brexit, benefit from the safeguard of their prior rights under the EU freedom of movement agreements. Strong immigration has led Switzerland to become very restrictive in issuing residence and work permits, with fixed quotas granted by the Swiss federal government every year.

Since the Covid-19 Pandemic, home working has flourished. Foreign employers are employing Swiss or EU/EFTA nationals and sometimes third country nationals living in Switzerland who work remotely. There are a number of challenges in this arrangement that an employer needs to be aware

of, which could lead to tax and social security issues, where there are no treaties in place. Switzerland has not yet passed specific legislation for digital nomads, but there are certain visa options available for high-net-worth individuals or entrepreneurs.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

Certain parties contend that millions of climate refugees will migrate to Europe in the next 25 years. They argue that the population explosion will lead to a Swiss population of 10 million, negatively affecting quality of life, straining infrastructure and supplies, and leaving locals alienated. Those parties are pushing for more restrictive rules, and campaigning against the renewal of the bilateral treaties.

Others are more relaxed and do not believe that Europe will be severely affected by climate refugees, because those most affected by climate change do not usually have the financial resources to flee over long distances to Europe.

Currently, climate change is not an accepted reason to grant refugee status. Given the rise in popularity of conservative politicians through-out the world, this will not likely change in the short term. Thus, in Switzerland, the normal immigration restrictions for third country nationals remain in

## MY ADVICE...

In general, Switzerland is still quite liberal in terms of employment laws and immigration, despite the restrictions outlined above. However, legislation and its implementation are becoming stricter, particularly with regard to international mobility of the workforce, with protectionist tendencies on the rise.

Any relocation, whether by a company as a whole or for an individual, needs to be carefully planned. Particularly, legal and tax advice should be obtained prior to deciding and implementing such measures and ensure that any permits required are obtained in time prior to setting up shop.

force. Individuals from these countries require a residence, a work permit and a visa. The residence and work permits are divided into different categories and are of varying duration. They are restricted in number by annual quotas allocated to the individual twenty-six Cantons by the Federal Government. To obtain a work permit for a third country national, an employer needs to show and document that despite their best efforts, no suitable Swiss, EU, or EFTA national could be found to fill the vacant position. There are detailed regulations regarding the type of documents need to be submitted to obtain a valid permit, and processing time is usually between four to eight weeks.

up operations and for people to want to live. One of the current issues that the country is facing is a shortage of skilled workers and specialists. This has led to the use of cross-border workers for individual assignments for projects. To avoid salary dumping, undercutting the high salaries in Switzerland, legislation forces such providers to abide by minimum salary and minimum working conditions. Foreign providers of services and goods who do not comply can be fined and blacklisted.

Additionally, high labour, material, and energy costs in Switzerland have also forced many industries, particularly in the manufacturing space, to outsource their operations to more affordable third countries. When restructuring or downsizing, there are several legal challenges, such as the rules on mass dismissals, which require negotiations with the employee representatives.

Current legislative changes are affecting the high cost base in Switzerland even further. As of January 1, 2024, the VAT rate has increased to 8.1% (from 7.7% in 2023) in order to finance the state social security for old age and survivors' pensions. Several Cantons have introduced minimum wages above those set out in any collective bargaining agreement.

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly in regard to employment relocation?**

Switzerland boasts a stable political environment, a reliable tax regime, and good infrastructure, which make it an attractive venue for companies to set

## About us... [dufour-advokatur.ch](https://www.dufour-advokatur.ch)

**DUF0UR Advokatur AG** wanted to offer more than just legal advice from the beginning. We created a quite unique consulting culture – with unconventional ideas, an excellent team spirit and competence that extends beyond the legal view to include the social and emotional aspects of a mandate.

Today DUF0UR successfully advises many companies, private individuals, foundations, non-profits, and pension funds. In the field of pension

funds, charitable funds, foundations and NPOs, DUF0UR has established itself as the top specialist in Switzerland. We offer comprehensive legal advice and have a team of recognised experts with core skills in employment, corporate, licensing and trade law as well as matrimonial property and inheritance law. In addition, DUF0UR has excellent knowledge in the legal aspects related to the following industries: pharmaceuticals, chemicals, medtech, trade & logistics, construction and the art market.



# Destination UAE

**Thomas Paoletti**

Founder & Managing Partner  
Paoletti Legal Consultants LLP

## Q1

**How are global geopolitical events affecting mobility in your jurisdiction?**

Geopolitical instability generally influences mobility. However, emigration does not come exclusively from conflict zones, and can be purely economic.

The immigration policies of the UAE intend to attract skilled professionals. The policy has helped the UAE attract exceptional talent.

The UAE has a safety index of 84.9 and is considered one of the safest countries in the world. Three of its cities are in the top five safest globally. The major attraction that immigrants find in the country is its openness and commitment to pluralism, and it is home to a 90% foreign population, and over 200 nationalities.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

The entire GCC region is likely to face a climate crisis as many climate-related studies have pointed to the fact that there shall be an increase in temperature

up to 5 degrees in the GCC region by the end of this century, meaning that local populations, including in the GCC, will face major health and livelihood challenges in the coming future. As many as 400 million inhabitants of the Middle East will be at risk of exposure to extreme heat waves that may also stoke social and political tensions.

The UAE's government has been very keen to address global concerns over climate change and has acted to reduce its carbon footprint and the dependence of its economy on fossil fuels. The same is evident from the UAE hosting the recently held COP28

(United Nations Climate Change Conference or Conference of the Parties of the UNFCCC).

The UAE has been at the forefront of acting on climate policies and has set the target of 2050 for the goal of net zero emissions. However, resource-rich countries like the UAE will experience an increase in the rate of immigration from poorer regions despite their own forecasted climatic challenges. The GCC could potentially receive some of the 143 million climate migrants from Southeast Asia, Sub-Saharan Africa, and Latin America, that the World Bank expects could be displaced by 2050.



**Thomas** began practising law in Rome. After a client requested assistance with a matter in Dubai, he began visiting the city regularly and soon discovered there was a unique drive for innovation and forward-thinking leadership that embraced globalisation.

After working with a local law firm for five years, Thomas founded the Paoletti Law Group in 2014. Initially licensed in Ras Al Khaimah, Thomas soon moved his operations to Dubai, eventually opening a branch in Abu Dhabi.

Thomas believes legal representation is more than just providing advice and documentation – it's a supportive relationship that empowers a business throughout its entire lifecycle. His own extensive experience working with companies from across the globe has shown him how vital the right legal support system can be for businesses to thrive in any market.

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## MY ADVICE...

For those thinking about moving to the UAE, the country's thoughtful immigration policies and efforts to attract skilled professionals make it an attractive choice. Recent global changes, combined with the UAE's reputation for stability and openness, make it appealing to those seeking security and business prospects.

When it comes to climate concerns, recognising the UAE's commitment to addressing environmental issues is also important. The government's actions to reduce carbon emissions and host international climate conferences (COP28) show a strong dedication to environmental sustainability. Indeed, while there might be climate challenges, the UAE's proactive measures contribute to its long-term viability.

Looking at government policies affecting mobility, especially in employment relocation, it's essential to stay updated on recent law changes. The UAE's modern labour laws, visa rules, and programs like the Golden Visa and Green Visa offer diverse opportunities for various individuals, from skilled professionals to entrepreneurs and investors.

In terms of taxes, understanding the benefits of the UAE's tax structure is an important key for managing finances well and deciding where to invest. While it's not entirely tax-free with the introduction of a 9% corporate tax, the country's tax rules offer advantages that can positively impact lifestyles and financial well-being.

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly regarding employment relocation?**

The UAE government has introduced massive changes to its labour laws through Federal Decree Law No 33 of 2021. The new law aims to enhance the nation's labour market's elasticity, resilience, and sustainability and promote a flexible and competitive business environment for the next 50 years.

Additionally, with these new laws and visa regulations, the UAE is working to create a welcoming environment for foreign individuals and investors, further solidifying the UAE's position as an attractive destination for living and conducting business.

The law prohibits discrimination, forced labour, harassment and bullying; some of the other new developments in the labour laws that shall apply to private sector employees is the introduction of temporary and flexible work models to allow flexible hiring and working practices.

Furthermore, recent legislative changes have seen an increase in maternity leave provisions, reflecting the government's commitment to supporting family life and gender equality. Additionally, other initiatives, such as enhanced quality-of-life measures, have

been introduced to create a holistic and inclusive environment, making the UAE an even more desirable destination for individuals seeking not only professional opportunities but also a higher quality of life.

Further, the UAE government has made it easier for freelancers to migrate to the jurisdiction by introducing Freelancer Visa. This Visa allows self-employed individuals to sponsor themselves. Workers in the UAE and overseas in specialised fields such as blockchain, AI, and digital currencies can access the freelancer visa.

The new labour law also lays certain obligations on employers, which include providing accommodation, training and other means to ensure the safety and welfare of the employees through insurance, healthcare costs and other entitlements to the employee's

family upon his or her death. Workers are also expected to maintain good behaviour, observe the health and safety instructions and constantly develop their skills. The law has fixed ordinary working hours at a maximum of 48 hours per week and 8 hours per day. An employee can only work two hours' overtime per day, and the total working hours shall not exceed 144 hours in three weeks.

Among the several schemes announced is the newly introduced Green Visa, which allows residency for five years for individuals aiming to build a future in the country. The Green Visa will be available to investors, entrepreneurs, highly skilled individuals, top students, and graduates. Green Visa holders can sponsor themselves, their parents, and children under 25.

The introduction of the Golden Visa in the UAE represents a significant milestone in the country's efforts to attract global talent and investment.

The Golden Visa initiative allows foreign individuals and their families to obtain long-term residency in the UAE, providing them with the opportunity to live, work, and invest in the country. This strategic move is designed to enhance the UAE's appeal as a hub for professionals, entrepreneurs, and investors, fostering economic growth and diversity.

All of these reforms to the labour law, along with the introduction of easier visa norms to attract not just skilled employees but also freelancers, businessmen, etc, have promoted the immigration of exceptional talent to the country.

The UAE's tax structure is also attractive, with advantageous regulations with which individuals can optimise their financial resources.

## About us... paoletti.com

**PROTECTION FOR GROWTH:** We deliver pre-emptive legal solutions to prevent disputes from negatively impacting your business.

**CONSISTENT AND ACCESSIBLE SUPPORT:** We use our knowledge and experience to provide practical legal assistance and open, accessible support our clients rely on for their businesses' success.

Clients depend on our specialised knowledge and expertise to support their businesses around the world.





# Anguilla's ".ai" domain and Anguillian Mobility

**Nina Rodriguez**  
Associate  
Webster LP

## Q1

**How are global geopolitical events affecting mobility in your jurisdiction?**

### AI Sector Development

The development of ChatGPT and other technological advances has the potential to contribute significantly to global mobility and economic growth. In particular, the ownership of the ".ai" domain, in the context of Anguilla, can play a role in positioning the country as a hub for AI-related activities.

The ownership of the ".ai" domain by Anguilla can serve as a unique identifier and brand for the country in the global AI landscape. This can attract attention to Anguilla as a player in the AI sector and may encourage the establishment of AI-related businesses and initiatives within the country.

### COVID-19 Pandemic

The COVID-19 pandemic had a profound impact on global mobility. Travel restrictions, lockdowns, and health protocols significantly disrupted international travel and migration patterns.

As the world gradually recovers from the pandemic's effects, there is a resurgence of enthusiasm for travel. People are embracing a renewed sense of wanderlust, eager to explore and experience new destinations. This surge in travel excitement signals a positive rebound for Anguilla's tourism industry.

### Brexit

The United Kingdom's withdrawal from the European Union has resulted in changes to immigration policies and regulations. These changes have implications for the mobility of individuals between the UK and EU member states, directly affecting Anguillian nationals due to Anguilla's status as a British Overseas Territory.

## Q2

**Climate concerns are increasingly becoming a decision-making factor in global migration – how is this impacting your jurisdiction?**

Climate concerns are increasingly becoming a pivotal factor in global migration, and this phenomenon is notably influencing our jurisdiction. While not tied to a single event, the impact

of climate change is emerging as a significant driver of migration. Factors such as rising sea levels, extreme weather events, and environmental degradation are compelling populations to seek safer living conditions.

In the context of Anguilla, an island heavily dependent on marine resources, climate change presents a serious challenge for the fishing industry. Rising sea temperatures, ocean acidification, and extreme weather events disrupt fish habitats and diminish fish stocks, affecting the livelihoods of local communities dependent on fishing. As the traditional fisheries sector faces a decline, the economic strain and reduced opportunities may drive migration among these populations.

This highlights the complex interplay between environmental changes and human mobility in the face of climate-

**Nina Rodriguez** is an associate at Webster Legal in the Property and Private Client Departments. She completed the Legal Practice Course at BPP Law School in London with Distinction. She was admitted to the Roll of Solicitors of England and Wales in 2018 and was called to the Anguilla Bar in 2022.

Specialising in real estate, she has a breadth of experience advising clients on the acquisition, disposal, leasing and development of commercial and residential property.

Her practice also includes offshore private client and trust services. She is involved in the creation of trusts, estate planning and advising on general matters of trust law.

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## MY ADVICE...

Organisations can navigate the complexities of global mobility in a changing geopolitical landscape, ensuring resilience, adaptability, and sustainable practices by embracing the following recommendations:

- Understand how political shifts, conflicts, and international relations may impact mobility trends on both a global and local scale.
- Leverage technology to enhance the efficiency and adaptability of global mobility processes.
- Consider and mitigate the environmental impact of global mobility and strive to adopt sustainable practices.
- Foster strong networks and collaborations with international partners, governmental agencies, and industry peers to navigate challenges collaboratively.
- Stay well-informed about immigration regulations and policies in different regions and adapt swiftly to regulatory changes.
- Invest in talent to create a resilient and adaptable workforce.

related challenges.

Moreover, the increased risk of severe hurricanes in the summer adversely impacts Anguilla's tourism sector, limiting its growth to the winter and spring. This has a significant effect on our economy, given that tourism is the main industry on the island of Anguilla.

## Q3

**How is government policy influencing mobility in your jurisdiction – particularly in regard to employment relocation?**

Government policies play a pivotal role in influencing mobility in our jurisdiction. Several key initiatives highlight this influence:

### Residency by Investment Programmes:

The Government of Anguilla has recently introduced two Residency by Investment Programmes: Residence for Tax Purposes and the Residence by Investment Programme for Permanent Residency. These initiatives are appealing to high-net-worth individuals seeking a tax-efficient residence or for those desiring relocation to a secluded, tropical paradise.

The Residence-by-Investment Programme provides a mechanism to establish a second home in Anguilla as well as a pathway to British nationality. The Residence for Tax Purposes Programme serves as a tax planning solution for globally successful citizens, international investors, and entrepreneurs.

In addition to offering one of the most attractive tax regimes, Anguilla is a regulated offshore jurisdiction with modern and flexible financial planning

solutions for both businesses and individuals such as the creation of trusts, foundations, investment funds or international companies.

### Mobility in the local workforce

In a deliberate effort to safeguard the interests of its nationals, the Government of Anguilla has implemented stringent policies regarding the issuance of work permits to foreigners. These measures aim to ensure opportunities for the local workforce. Acknowledging Anguilla's small size, the Government is also mindful of the need to attract global talent. There is a renewed focus on fostering a dynamic working culture and enhancing the economy by actively seeking skilled individuals globally.

Striking a delicate balance between protecting local opportunities and embracing international talent, the Government is committed to creating a robust and competitive workforce, contributing to the nation's growth and prosperity.

### Digital Nomad Visa

In response to the prevailing trend of remote working, Anguilla is embracing digital nomad visas. The jurisdiction is increasingly open to attracting skilled remote workers. This initiative aligns with the evolving nature of work and facilitates the influx of diverse talents contributing to the growth and vibrancy of Anguilla's workforce.

## About us... websterlp.com

**Webster LP** stands as a leading law firm in Anguilla and Nevis, distinguished by its global reach through esteemed associations worldwide and an unwavering commitment to delivering the highest standards of advice and service.

The firm specialises in a comprehensive array of legal domains, including international commercial litigation, corporate and commercial law, real estate, estate planning, governmental and constitutional affairs, intellectual property, and offshore finance and also provides registered office facilities through its affiliate Registered Agent.

Webster LP provides cross-border advice to Anguillian, Nevisian and international clients. Its approach to problem-solving and strategic

planning is marked by creativity, ensuring that its services are crafted to meet the unique needs of each client, regardless of the nature of their matter or transaction.

As the exclusive Anguillian member firm of prestigious global networks, such as Lex Mundi, the State Capital Group, IsFin, World Services Group, and the MSI Global Alliance, Webster LP recognises and deeply appreciates the value of cross-border cooperation between professional service firms.

Webster LP is uniquely qualified to assess the political and constitutional forces that may impact its clients' commercial activities in Anguilla. The firm is dedicated to safeguarding clients' interests and providing unparalleled legal expertise.



# Mobility in Malta

**Chris Armstrong**  
Director  
Papilio Services Limited

**I**n today's interconnected world, global mobility is an ongoing challenge. The solution to this is complex and involves many factors that have an impact on businesses and governments. Global mobility is significantly impacted by geopolitical events on a global scale, which leads governments to implement policies aimed at mitigating and overcoming their effects. Migration patterns are being increasingly impacted by the worldwide issue of climate change.

Global mobility is, therefore, both a challenge and an opportunity that is more readily available to companies and individuals now than it has ever been.

## Global Geopolitical Events Affecting Mobility in Malta

Malta is an English-speaking, small island republic in the Mediterranean Sea with a population of approximately half a million people. It is a member of the European Union (EU) and the Schengen Area, which means that people and goods enjoy the freedom of movement. Due to its pleasant temperature, fascinating history, varied culture, and alluring residence and tax plans, Malta is a well-liked destination for both tourists and expats.

However, Malta's global mobility has also been affected by some of the recent global geopolitical events, such as:

- The COVID-19 pandemic has disrupted the global mobility of people and goods, as many countries imposed travel restrictions, lockdowns, quarantines, and testing requirements to contain the spread of the virus.

- Over the past few years, several global conflicts and controversies have arisen or intensified. These conflicts have exacerbated the region's challenges for international collaboration and engagement on a variety of problems, including migration, trade, energy, security, and human rights.
- Brexit, or the UK's decision to quit the European Union, had wide-ranging effects which were felt on business and mobility, especially with regard to migration and job relocation.

These geopolitical events amplify the importance of global mobility and highlight the need for businesses and individuals to stay abreast of the changing global landscape.

Malta has also seized some of the opportunities that emerged from global mobility, such as:

- Positioning itself as a flourishing digital island, to attract high-value-driven industries and harness technological prowess, by creating a favourable environment for innovation, creativity, and digitalisation.
- Promoting its tax and residency schemes, to appeal to international companies and individuals who are looking for a stable and competitive jurisdiction for their investments, by offering various benefits and incentives, such as advantageous corporate tax rates, global residence and retirement programmes.
- In Malta, the impact of Brexit



Chris started his career in London working for several blue chip and FTSE-listed companies which harnessed his strong financial and commercial background. Relocated to Malta in 2008 and worked for international companies that specialised in financial planning and taxation advisory for international clients, high net-worth individuals and entrepreneurs advising on a variety of compliance, corporate, residence and tax issues.

Chris has a strong understanding and knowledge of financial accounting and reporting standards; taxation and compliance matters in a variety of different industries. He is a chartered certified accountant and holds a Diploma in Fund Administration. He also holds qualifications in Trusts and Estate planning including the use of foundations.

He is a member of the Institute of Financial Services Practitioners (IFSP), the Association of Chartered Certified Accountants (ACCA) and The Society of Trust and Estate Planners (STEP).

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## MY ADVICE...

**Stay Informed.** Keep abreast of the latest geopolitical events, climate change developments, and government policies. This will help you anticipate changes and adapt your business strategies accordingly.

**Understand Local Regulations.** Each jurisdiction has its own set of regulations and policies, and also you need to factor in the cultural differences. Understanding

these can help you operate more effectively and avoid potential pitfalls; therefore, always seek advice from local experts with multilingual and multicultural experience.

**Leverage Government Initiatives.** Many governments offer incentives for businesses that contribute to sustainability goals which creates unique opportunities and a competitive entrepreneur edge.

has been felt in sectors such as finance, fintech, e-commerce, and gaming, where many companies have traditionally relied on the easy movement of the workforce between Malta and the UK and utilised the opportunity to mitigate the impact of Brexit by registering a company in Malta, used as a stronghold to oversee business activities within the EU market.

## Climate Concerns Are Increasingly Becoming a Decision-Making Factor in Global Migration

Climate change is now an important factor that affects global migration decisions. Malta has taken climate concerns into account when shaping its policies and making decisions. The influence of climate change on migration patterns cannot be ignored, as various global factors such as climate change, conflict, and demographic changes play a role in shaping future migration trends.

One of the key strategies is Malta's first 30-year strategy leading towards a carbon-neutral economy. This strategy includes a green paper titled "Towards Cleaner Vehicles on our Roads". The aim is to encourage the use of low-emission vehicles, thereby reducing Malta's carbon footprint by developing and improving its sustainable transport systems, reducing its carbon emissions and enhancing its regional and local mobility, by investing in electric vehicles, multimodal links, smart parking, and urban mobility plans.

In addition, Malta is shifting from a linear to a circular economy. This involves implementing tangible reforms in sensitive sectors such as construction and planning, with measures and incentives that will push the necessary change. This shift is expected to reduce waste and promote the efficient use of resources, which are key aspects of climate change mitigation.

Furthermore, the Maltese government has developed the "2030

National Energy and Climate Plan". This comprehensive plan outlines the country's commitments to reducing greenhouse gas emissions, increasing energy efficiency, and promoting renewable energy.

## Government Policy Influencing Global Mobility

Malta is a significant player in the global mobility scene, especially with its recently updated tax regulations to support digital nomads and its renowned programmes such as the Malta Global Residency Programme (for non-EU citizens), The Residence Programme (for EU citizens), the Malta Highly Qualified Person Rules, the United Nations Pensions Programme (UNPP) and The Malta Retirement Programme (MRP). These policies aim to attract investors, retirees and remote workers to the country, fostering the local economy and promoting diversity.

## Papilio Services Limited: Your Partner in Global Mobility

Papilio Services Limited, a leading international corporate service provider, offers essential business support and corporate solutions, specialising in corporate, tax compliance and residency. With a holistic approach, Papilio provides local expertise where it matters, assisting with corporate service matters including company formation, re-domiciliation, branch establishment, mergers and acquisitions, trusts, and foundations.

## About us... papilioservices.com

Papilio was founded in 2012 and has grown to become a trusted partner to international clients from all over the world. As a leading service provider, we develop and maintain business relationships with our clients by offering essential business support and corporate solutions and specializing in corporate, tax, residency, and compliance. We offer a holistic approach with a personal touch providing local expertise where it matters.

As an international company, we provide a wide range of solutions that fit your business requirements. From company formation and registration to mergers and acquisitions or business re-domiciliation through to trusts and

foundations and branch establishment, we help businesses wherever they are in the world, from start-ups to international enterprises, across a range of sectors. Our specialists, highly qualified teams of professionals, made up of accountants, lawyers and tax advisors across key strategic locations, including Malta, the Netherlands and the Czech Republic, offer expert local knowledge and 'on-the-ground' support to help clients establish business operations or corporate structures, whilst ensuring that the complex legal and compliance requirements, in each jurisdiction, are adhered to.

Therefore, when consulting with Papilio, you can trust that we will find the best answer for you and your business.



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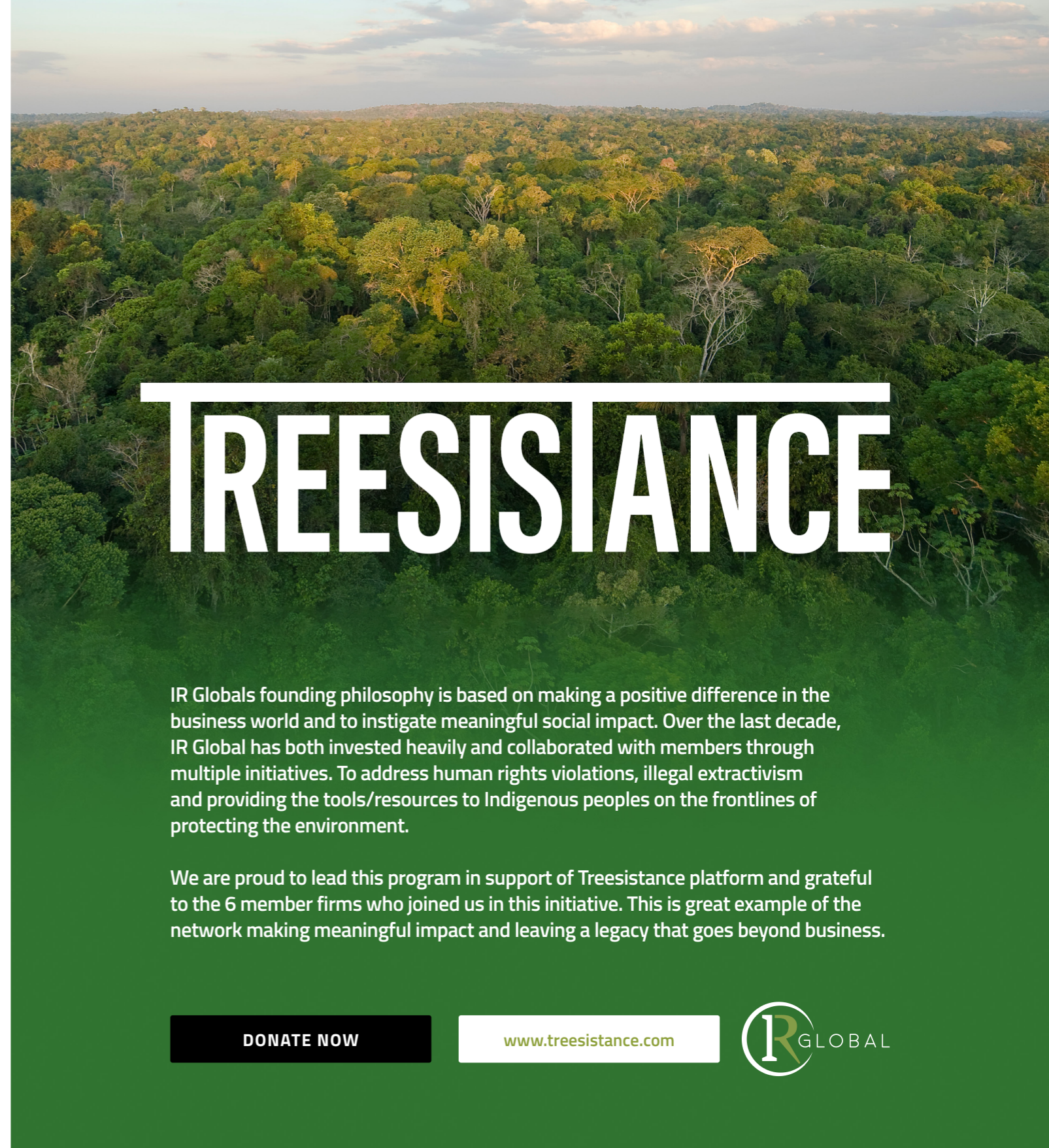


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# TREESISTANCE

IR Globals founding philosophy is based on making a positive difference in the business world and to instigate meaningful social impact. Over the last decade, IR Global has both invested heavily and collaborated with members through multiple initiatives. To address human rights violations, illegal extractivism and providing the tools/resources to Indigenous peoples on the frontlines of protecting the environment.

We are proud to lead this program in support of Treesistance platform and grateful to the 6 member firms who joined us in this initiative. This is great example of the network making meaningful impact and leaving a legacy that goes beyond business.

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In collaboration with



