Morison KSi

H1 2018

Global Opportunities Bulletin

Editorial

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I am pleased to present the H1 2018 edition of the Global Opportunities Bulletin. This is my first issue as an editor and I want to thank Liza Robbins and the GEO team for giving me this opportunity. We have an interesting blend of articles in this issue, which I am sure will be of interest to you and your clients. Please consider contributing an article that informs Morison KSi member firms about the economic and regulatory changes in your country, and in turn keeps their clients abreast of global policies.

The past year has underlined the change and uncertainty globally with the impact of Brexit, the increasing rhetoric of protectionism from nationalistic governments and the ongoing conflicts in the Middle East. The result is a level of uncertainty that has hampered strategic decision making for global businesses. Regardless, the global economy is enjoying a strong, broad-based recovery and will grow even faster in years to come with the IMF projecting world growth increasing from 3.2% in 2016 to 3.7% in 2017, largely driven by high growth in the Asian economies.

Rapidly advancing technologies such as Blockchain, Artificial Intelligence and Physical-Digital Integrations are allowing companies to do business in new ways and allowing innovation to flourish like never before. As industry boundaries blur, there is competition from all quarters: right from startups with new ideas and disruptive business models to established companies in untapped sectors. This rapid pace of change is demonstrated by the fact that more than half of the companies on the Fortune 500 have disappeared in the last 17 years, and estimates are that 4 in 10 companies could be displaced by digital rivals in the next 5 years.

Yet, the uncertainties in the global markets place a premium on our value as advisors. Many of our clients are looking to us for insights and advice as they navigate disruption and search for growth. This also creates a fantastic opportunity for Morison KSi firms to attract new clients as well as cross-sell services.

As we move ahead to a new year, I ask each one of you to set aside time to create cross-border opportunities with other partner firms. Our robust association has tremendous potential to generate collaboration opportunities. I would also urge you to maintain an active dialogue with member firms in your local regions. To share an example, Bhuta Shah and Co. LLP has taken a lead to create a Corporate Finance Focus Group in Asia for cross-border collaborations in corporate finance, while ILV SILVER and NSG Morison have done the same in Europe. If you have an active corporate finance practice or are interested in creating one, please join these groups.

Do continue to share your thoughts on global events and opportunities that help our clients and strengthen our businesses.

For more information on this newsletter and its contents, please contact the authors or me.

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Blockchain: The profession will never be the same again thanks to new technologies

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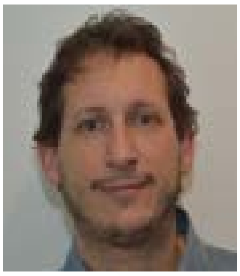

Technological advances are reshaping companies' business strategy from one day to the next and they must be ready to face this shifting situation. Accountants are not oblivious to this process.

One of the new economy's tools that are beginning to appear in companies' agendas is the blockchain, a chain of blocks or a decentralised accounting ledger. Although it is known for being the technology upon which the Bitcoin is based, these days the most famous cryptocurrency has—and will have—different uses, such as registering not only money transactions, but also deeds, contracts and possibly even votes.

It is worth noting that the United States' FASB (Financial Accounting Standards Board) has plans to include in its agenda specific accountancy standards to be developed for dealing with digital currencies. The AASB (Australian Accounting Standards Board) has already recognised the need for specific accounting standards due to the lack of clear guidelines in the IFRS (International Financial Reporting Standards).

According to Wikipedia (in Spanish), a blockchain is "a continuously growing list of records, called blocks,... inherently resistant to modification of the data... Once recorded, the data in any given block cannot be altered retroactively... Decentralized consensus...makes blockchains potentially suitable for the recording of events...and other records of management activities..."

The use of blockchains will have great impact in the field of accountancy and above all in auditing companies, since it is especially capable of safely accounting for and controlling huge numbers of transactions. Thus, much

This could be a revolution, a change of era as happened in the 15th century when Friar Luca Pacioli introduced the double entry system

of the manual work associated with bookkeeping will be removed, making it unnecessary for the accountant to do checks to avoid mistakes. In the auditing profession, the change will be even more radical. Will we still need the auditor to attest to the reasonableness of the account statements? Why will an auditor be necessary if a blockchain can ensure the security and veracity of the transactions?

At the same time, this tool will allow us to make headway in developing triple entry accounting by generating more and better information, and not only quantitatively but qualitatively. For example, we could obtain information linked to cash flows quickly and simply, and thus directly relate the cash flow statement to the general journal.

Obviously, this new technology's usefulness does not stop here; we have mentioned just a few examples.

This could be a revolution, a change of era as happened in the 15th century when Friar Luca Pacioli introduced the double entry system. Indeed, it is hard to believe that even today we still use a system devised more than 500 years ago.

Another point to consider will be the cost involved in applying the new technology in all kinds and sizes of companies. Nevertheless, it is expected to be accessible in the relatively short term because the costs of technology, according to Moore's Law, tend to go down systematically.

The convulsive, shifting scenario posed by the arrival of the blockchain brings with it some fears, some of which are founded while others are not. Will accountants and auditors become victims of this new technology? Will the profession as we know it today disappear?

Clearly, the answer to both questions is "yes". While this does not mean we should panic, we cannot get complacent and continue to make our living by simply working the way we have been doing until today. The profession is going to change radically and we must be prepared.

Our work will not disappear, nor will we will be replaced by machines, but it will surely change a great deal. As an example of the approaching changes in our country, the tax authorities have created an "innovation centre" in order to manage "big data analytics" so as to anticipate taxpayers' behaviour.

Our work will not disappear, nor will we will be replaced by machines, but it will surely change a great deal

In fact, the next stage will be to implement pro forma affidavits, where the tax authority will be the one that processes the tax based on all the information it has at the time. This is another task that accountants will soon no longer be doing.

The challenge will be how to adapt to the new technologies, concentrating on the half of the glass that is full, since these technologies will allow us to simplify repetitive tasks and add value while maintaining security, hence generating new forms of revenue.

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New US financial reporting rules, and how they will simplify accounting on some transactions

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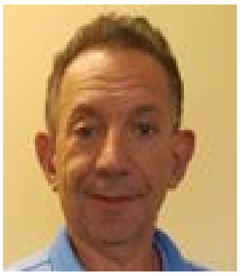

After what seemed an endless flow of new accounting rules in the United States that have made the audits of micro- and small-capital companies more complex and difficult, the Financial Accounting Standards Board (FASB) has updated two areas of accounting that may offer reporting relief for such companies.

Recently, the FASB simplified accounting requirements for US-listed companies that issue equity-linked financial instruments (e.g. convertible debt or convertible preferred stock, or warrants) with down round features, which will substantially reduce the number of derivative liability instruments that have become commonplace on the balance sheet of small-capital companies. The FASB also narrowed the definition of a business, providing a new framework for making reasonable judgments about whether a transaction involves an asset or a business. This is important because it should simplify the accounting for certain acquisitions that were formerly considered a 'business'.

Determining derivative liabilities

Under current US Generally Accepted Accounting Principles (GAAP), when an equity-linked financial instrument with down round features is issued, the embedded conversion feature is usually required to be separated and recognised as a derivative liability, with changes in the fair value of the derivative recorded in earnings each reporting period, making the measurement of these derivatives complex and costly. In addition, many users of financial statements have suggested that this accounting does not reflect the true economics of a down round feature, and that the volatility in earnings caused by the change in the fair value of derivatives is inconsequential to most readers.

The FASB update will allow companies to exclude a down round feature when determining if a financial instrument (or embedded conversion feature) should be recorded as a derivative. Companies will instead recognise the value of the down round feature when it is triggered (that is, when the strike price has been reduced). This is great news as it now will eliminate one of the most complicated – and some will say most distortive – aspects of accounting currently faced by companies.

While some of the analysis required under current accounting will be eliminated, preparers will still be required to perform a detailed analysis to determine whether instruments are to be classified as equity or liabilities (e.g. sufficient authorised shares, fundamental transaction clauses, etc.).

Definition of a 'business' clarified

This FASB change affects the definition of acquisitions, disposals, goodwill, and consolidation. Generally, in an acquisition of a business, assets and liabilities acquired are recorded at fair value and goodwill is recognised for any excess consideration. Assumed contingencies are typically recognised and measured at fair value. In an asset acquisition, the acquired asset is recorded at cost, goodwill is not recognised, and contingencies assumed are recorded only if probable.

In January 2017, the FASB narrowed the definition of a business and provided a new framework for making reasonable judgments about whether a transaction involves the acquisition of an asset or a business. The FASB clarifies that when substantially all the fair value of the gross assets acquired (or disposed of) is concentrated in a single identifiable asset or a group of similar identifiable assets, the set is not a business. The new rule also requires that a set (of assets and activities) cannot be considered a business unless it includes, at a minimum, an input and a substantive process that together significantly contribute to the ability to create output.

This change to the definition of a business is likely to result in more acquisitions being accounted for as asset acquisitions in all industries. This is extremely important, as it makes the accounting for these types of transactions much simpler. It could also eliminate the costly expense of employing an outside valuation firm in assisting with the purchase price allocation in recording the initial purchase, and could also eliminate the need for continuing impairment testing of the acquired goodwill and intangibles going forward that is required under the old rules.

One potential issue worth noting is that the US Securities and Exchange Commission (SEC)'s definition of a business is not affected by the change in the FASB's definition of a business. An asset purchase under GAAP that is deemed a business by the SEC may require the company making the acquisition to submit past audited financial statements of the 'business' in a Form 8-K, whereas if it were an acquisition of an asset, audited financial statements may not be required. It remains to be seen whether the SEC will adopt the same position as the FASB. If it does, then this may significantly reduce the need for the costly presentation of prior year audited financial statements of the acquired asset.

The impact of the change to the definition of a business will be significant to non-US companies for acquisitions of US businesses or assets if they report financial statements under US GAAP. Likewise, non-US, cross border companies issuing equity linked financial instruments will be affected by the change in determining derivative liabilities if they report under US GAAP.

Accounting and disclosure rules are complex, cumbersome and often difficult in application. Weinberg can assist, and be a resource to Morison KSi members with clients needing to comply with complicated financial reporting requirements in the United States.

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R&D: Collaboration with Israel

By Ariel Zitnitski, Zitnitski Weinstein & Co., Israel

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Country focus: Israel – Canada

The Minister of Economy and Industry in Israel and the Governor of Quebec have signed a US$ 12 million research and development (R&D) cooperation agreement for a period of 5 years. As part of the agreement, the Ministry of Economy and Industry will allocate US$3 million through the Israel Innovation Authority for 5 years to support joint R&D projects that will receive the same investment from the Israeli and Quebec companies participating in the programme, which will support small and medium-sized businesses and academic institutions that promote technological cooperation and innovation.

The programme will finance joint projects in a wide range of sectors included in the agreement, including:

- infrastructure and construction
- electrical equipment and the field of nanotechnology
- agrotechnology and water management
- environmental technologies
- biotechnology, medical technology and the pharmaceutical industry
- chemical and fuel industry
- space and vehicle industry
- information and communication technologies
- marine technologies
- services industry (mainly software and transportation)
- banking and finance.

Country focus: Israel – Brazil

A fourth call for cooperation in the field of R&D with Brazil was signed on 26 June 2017. Its objective is to fund bilateral R&D projects of Israeli and Brazilian companies, to strengthen and promote technological cooperation between the two countries.
The level of assistance is up to 50% of R&D expenditures and applications should be submitted by 15 December 2018.

Country focus: Israel – Karnataka (India)

Israeli and Karnataka-based companies engaged in collaborative R&D projects are invited to apply for financial support through the Karnataka–Israel Industrial R&D programme (KIRD).

The Israel Innovation Authority, together with the Karnataka Science and Technology Promotion Society (KSTePS) and the Karnataka State Council for Science and Technology (KSCST), autonomous organisations under the Department of Science and Technology, Government of Karnataka, in India, invite Israeli companies and Karnataka-based companies to submit joint proposals for industrial R&D or product adaptation projects under the third KIRD Call for Proposals, launched in August 2017.

KIRD provides partner-matching assistance and access to funding of up to 50% of R&D expenses in the form of a soft loan or conditional grant for Israeli companies and Indian companies based in Karnataka. Phase one applications, made via the Bilateral Cooperation Form (BAF), were due no later than 17 November 2017.

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How much is artificial intelligence worth?

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Recent breakthroughs and disruptive technologies have made the valuation of emerging companies challenging. The one 'looming' question from founders of these companies is: 'What is my company really worth?' Or, from investors: 'What will I pay for a slice of the multi-trillion-dollar tech sector?' A third perspective might reflect a strategic partner evaluating an acquisition or joint venture opportunity.

Take, for example, one of the fastest-growing, yet arguably least understood, areas of the tech sector today: artificial intelligence (AI). Noted physicist Stephen Hawking made headlines when he declared that 'Artificial intelligence research is now progressing rapidly. Recent landmarks such as self-driving cars, or a computer winning at the game of Go, are signs of what is to come. Enormous levels of investment are pouring into this technology. The achievements we have seen so far will surely pale against what the coming decades will bring'.[1]

Explosive growth for AI is on the horizon

In recent years, US tech giants realised the importance of AI for their services and began pouring money into startups. The pickup in mergers and acquisitions began in 2014. Tech giants – including Google, Twitter, Salesforce, Apple, Intel, Yahoo, IBM, and AOL – bought nearly 30 AI startups in the last 5 years.[2] Five of these acquisitions occurred in 2016. One of the most notable deals was the acquisition of deep-learning startup, DNNresearch, by Google in 2013 from the computer science department of the University of Toronto. This acquisition helped Google improve its image search features. Other notable deals include the $600 million acquisition of the UK-based DeepMind Technologies in 2014 by Google; and the $150 million acquisition by Twitter of the 14-person startup UK-based image-processing startup Magic Pony.

Venture capital (VC) interest in AI boomed in recent years as well. The boom began 2 years ago as '2014 marked a banner year for VC investment in US-based AI startups, with capital invested and deal count increasing year-on-year by 183 percent and 41 percent, respectively'.[3]

Forrester Research estimates that 'Cognitive Computing Technologies' business will be worth $1.2 trillion by the year 2020, with investments in AI tripling by then.[4] Accenture defines the AI sector as 'IT systems that sense, comprehend, act and learn' and predicts that by 2035, it will be worth $8.3 trillion in the United States alone.[5] These are order-of-magnitude numbers that should make just about everyone sit up and take note.

The AI valuation challenge

The valuation debate starts with understanding the difference between two opposing valuation methodologies and two opposing interests – the entrepreneur/founder/owner's, versus the investor's – and taking a *strategic* versus *operational* view.

Some tech companies have services, some have new technology, some have great strategic partners, some have an established client base, and some have a vision. It is 'vision' in places like AI that can get a startup company noticed, but it is a murky area for intellectual property (IP) and more general investment valuations. Proprietary technology can come into play here as well – and patents need to be tracked carefully. Founders in the AI space know they need to focus their pitches on strategic valuation, not on operational valuations based on more standard sales/profit growth formulas or even if the company is simply growing its customer base exponentially or value based on a team of engineers (i.e. team value).

Operational valuation works in favour of investors and acquiring companies. It's one of the oldest discounting tactics around. It seems unfair to assign zero premium to AI technology, or to whip-smart founders/technology team with a vision.

As an example, I recently had a conversation with the founder of a revolutionary AI company who had been involved in AI for the past decade and hit a home run by developing a technology that would become the equivalent of Siri or Alexa for the retail and consumer sector. The founder spoke about his vision to create technology that would mimic human interaction. One of the first uses of his technology is in retail, replicating the experience of having a sophisticated advisor helping to curate the customer experience. The founder provided his vision for the company, his thoughts about the future of AI, the balance between AI innovation and AI safety, as well as a variety of other visionary and business strategy topics.

At the flip side of this was a discussion with one of the prospective investors who was focused on the AI company's revenue growth momentum and accelerating earnings and cash flow. Secondary considerations included the tremendous value of its proprietary AI technology platform, and the team of prized technology engineers behind it.

Today, investors have rushed to the 'disrupters' – which, just like the internet stocks of the late 1990s, are promising out-of-this-world growth. In this context, 'out-of-this-world' is not just a figure of speech: three companies are vowing to go to Mars. Meanwhile, the average forecast earnings growth rate of companies here on Earth is more than 20% (based on the constituents of the MSCI All Country World Index [ACWI; https://www.msci.com/acwi]).

'Operational' valuation methods: Merits and challenges

Acquisitions of AI companies are largely or entirely based on the AI company's teams and capabilities. Their employees are traded much like professional athletes.

According to an analysis done by Magister Advisors, the median price paid to AI startups per employee is $2.4 million. However, the buyers do not use this metric to value the AI startups; they will only use it as a cross-check to avoid overpaying.[6]

The challenge in the valuation of startup technology companies stems from a lack of historical information, versus what's available from a more mature company. The big questions include: 'Do we have a good cash flow forecast?', 'Have we developed a reasonable weighted average cost of capital (WACC)?', 'Are we getting the right market comparable EBITDA multiples?' and the like.

Instead, with startup technology companies or AI companies you're focusing much more on the potential that may exist for this investment 12 months, 18 months, to 5 years down the road and whether their exit strategy might be through an initial public offering (IPO); sale to a strategic partner; or, in some cases, sale to another financial sponsor.

Establishing reasonable parameters around exit scenarios can be extremely challenging, not only with respect to the magnitude (i.e., what value might the company command from an IPO at some point in the future), but also the probability and timing of various exit scenarios, as well as the dilution that may occur between the valuation date and that eventual exit.

Methods of valuing AI companies: Is there a 'right' way?

There are many methods of valuing startup tech companies, including the option pricing method (OPM), probability weighted expected return method (PWERM), venture financing and current value method.

There are varying camps of thought as to what the 'right' valuation method is. The primary inputs that are unique to startup tech companies require establishing supportable and reasonable inputs to the valuation models. Appropriate market data to support some of the inputs, outside of some sectors – such as biotech – can be truly challenging. Valuation will require frequent reliance on either future forecasts or third-party transactions in the securities of the startup company. Which also means you can get to whatever valuation number you want!

In some cases, it is better to go back to a fundamental analysis or stick to a method favoured by auditors, such as OPM. The OPM is a powerful tool, but it may not be the right valuation method – as it depends on normal distribution of returns and, frequently, returns are not normalised and unpredictable at best for disrupter companies. It goes back to the inputs and assumptions used and the flexibility to calibrate the model for changes in the business.

However, audit firms would like to see an approach that is documentable and replicable.

There is an important need to recognise that the valuation process is not a simple formula. Judgement plays a critical role in the discipline.

Understandably, the alluring feature of the OPM from both a valuation and audit perspective is that it's more structured and input-driven.

The third perspective: Calibration and judgment

The different operational valuation methods may not be as straightforward as they might seem, which highlights the importance of calibration to the valuation analysis. Trends in the industry can get easily and quickly subsumed by company-specific events, which differ with more mature non-technology-related companies. There is judgement involved beyond the formulaic models and, while calibration is a critical part of measuring the fair value of venture companies, unknown variables will remain.

Overall, valuing technology companies is a challenging exercise and operational valuation methods introduce structure and agreement to the valuation discipline. However, there is an important need to recognise that the valuation process is not a simple formula. Judgement plays a critical role in the discipline.

The valuation specialist's role truly includes assessing both strategic vision and the effectiveness of operational value; finding the middle ground between the founder and the investor and bridging the gap; and establishing a linkage between operational and strategic valuations.

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Investing in Bulgaria

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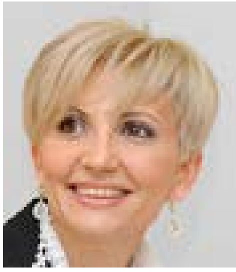

Why Bulgaria?

- As a European Union (EU) member, the country has fully adapted its legislation to the European legal framework and has adopted a number of practices and policies, to ensure that they support foreign investors in Bulgaria
- Bulgaria is preparing for its first EU Presidency from January 2018
- Its major cities Plovdiv and Varna were elected, respectively, as European Culture Capital 2019 and European Youth Capital 2017
- The country offers the lowest tax rates in EU: corporate income tax 10% flat, dividends withholding tax 5% flat
- Strategic geographic location
- Rich history and culture
- Available human and natural resources
- Incentives promoting investments and innovations
- Access to EU project financing.

Key factors for successful investment in Bulgaria

Nature, culture, history, geography – some of our most precious assets

'Grows, but never grows old' – this is the motto of Sofia, nowadays capital of Bulgaria. Sofia is one of the most ancient European capitals; its history can be traced back to the Neolithic age (5000 BC). In the seventh century BC, to the north of a hot mineral spring, was established an ancient Thracian city, documented later by the Romans as Serdika – named after a local Thracian tribe, the *Serdi*.

Later, Emperor Constantine I the Great – who ushered in a new era, characterised by the rise of Christianity – made the city his home for many years to rest and recuperate, declaring 'Serdika is my Rome'.

More recent centuries have also left their mark on the place – notably the stunning architecture of the Tsar's Palace, the Military Club, the National Assembly building, the Court Palace, the Ivan Vazov National Theatre, the Central Market, the Sofia Mineral Baths, the National Library and the University of Sofia.

Nowadays, Sofia's rich cultural diversity is evidenced by medieval religious monuments such as the Russian Church, St Nedelya Church and one of the biggest synagogues in Europe. The monumental St Alexander Nevski Church dazzles the city with its majestic gold-plated cupolas.

The coastal town of Nesebar (Mesembria) was inhabited in the sixth century BC. During the Bronze Age it was one of the most developed cities on the Black Sea, and today enjoys status as a UNESCO World Heritage site.

The oldest settlements in Europe have been discovered near the town of Provadia, which developed as the area's apparently inexhaustible salt resources began to be exploited.

Bulgaria has a powerful strategic location, situated on the major transport routes connecting Europe and Asia, and providing access to markets in the EU, Commonwealth of Independent States (CIS), and the Middle East and North Africa (MENA). Its small territory allows fast and easy cross-country travel, enabling efficient use of available resources.

The country's natural environment is another precious asset – with high mountains, golden beaches, a favourable climate and a wealth of resources; for example, Bulgaria ranks second in Europe (after Iceland) for the number of mineral springs and the quality and variety of water they supply.

Bulgaria is world famous for its rose oil, and was the world's largest producer and exporter of lavender oil in 2011.

Political, macroeconomic and financial stability

Bulgaria is member of the EU and NATO. As an EU member the country adopted a number of practices and policies, and revised its laws to support foreign investment in Bulgaria. The country ensures a stable and predictable business and political environment.

The currency board prevents current risk: the Bulgarian lev (BGN) is fixed to the Euro at a rate of €1 to 1.95583 BGN.

Global rating agencies have noted the country's positive credit ratings and investment climate.

Very low business operating costs

- Corporate income tax rate is 10% (flat), 0% in areas with a high unemployment rate – now officially the lowest rate in the EU, since Cyprus raised its income tax flat rate to 12.5%
- 10% income flat tax for individuals
- 10% withholding tax
- 5% flat tax on dividends and liquidation quotas (0% for EU companies). Dividends are subject to 5% withholding tax when distributed to either individuals or resident non-profit entities or non-residents, except for EU/EEA entities
- Lowest operating expenses in Europe (office rent, equipment, accounting and legal services)
- Free movement of capital, without restrictions on the export of profit in the investor's country after taxation
- 2-year VAT exemption for imports of equipment for investment projects over €5 million, creating ≥50 jobs
- Possibility for R&D expenditure write-off
- Reimbursement of wages (minimum), social and health insurance for 1 year if disadvantaged or young people are employed through the Employment Agency
- 61 treaties for avoidance of double taxation and over 60 agreements on mutual protection and promotion of foreign investments. Bulgaria has joined the Multi-Lateral Instrument (MLI), a joint agreement for avoiding double taxation with the participation of 68 countries and jurisdictions in the field of amendment of tax treaties, covering 1100 tax treaties
- VAT – value added tax has a standard rate of 20% except for certain hotel services, which are levied with a VAT of 9%. There are also zero-rated supplies specified in the law. A number of major transactions are exempt from VAT
- The government is currently developing measures for decreasing the administrative burden, which are expected to be implemented effectively in 2018
- Easy establishment of new business: based on our experience with numerous newly established companies, it typically takes from 2–3 to 15–20 days to establish and register a new company in Bulgaria (depending on shareholder citizenship and relevant supporting documents required for each registration case). The minimum amount of capital (about €1 for a limited liability company) and easy registration procedures (electronic applications, standardised forms) facilitate the process, while also providing security and transparency of registration
- VAT registration of a newly established company takes about 2 weeks
- EU companies may make VAT registrations under the same conditions as local companies; no accredited representative is required.

Human resources

> *'Bulgaria stands for a critical mass of highly-qualified, well-educated professionals who bring together proven practical understanding of business with high-level theoretical skills to deliver efficient, cost-effective international solutions.'*
> *A. T. Kearney*
>
> *'If you want first-class mathematicians, try looking in Bulgaria.'*
> *William Fitzsimmons, Dean of Admissions and Financial Aid, Harvard College*

Bulgaria has 51 universities (medical, technical, economic, business, chemical, civil construction, mining, etc.), resulting in over 60,000 students graduating each year – mostly with higher or specialised education and an excellent command of English, German, French, Italian, Spanish and other languages.

Bulgarian high school students win first place in international maths and information technology (IT) competitions regularly.

Bulgaria offers the most competitive cost of labour in Central/Eastern Europe, with an average employers' social security cost of about 17.4%. The minimum salary amounts to €210 for employees with the lowest qualification, while the minimum salary for employees with higher education reaches €500 to €1,000, depending on the industry.

Having supported many young graduates embarking on their professional careers, we can confirm that they are well prepared, highly motivated and flexible.

IT infrastructure

Bulgaria is well known for having one of the fastest internet services in Europe, even in the world. This, combined with a highly qualified workforce in the field, has led to a fast growth of the IT sector.

Investment incentives

Bulgaria's political and macroeconomic stability ensures a good credit rating and secure business environment for making investments. Comparing the economic profile of 189 countries for the year 2015, the World Bank ranked Bulgaria in the first category (top 38 countries) for ease of business.

Innovation technologies

Bulgarian government encourages technological innovations in a number of economic sectors:

- Mechatronics and clean technologies
- Information and communications technology (ICT) and informatics
- Healthcare and biotechnology
- Creative and recreational industries.

To support innovation in these areas, funds are envisaged under two operational programmes for the period 2014–2020: 'Innovation and competitiveness', and 'Science and education for smart growth'.

Most attractive sectors

The Bulgarian economy is among the fastest growing in the EU, with certain sectors providing more opportunities. Based on our direct experience with clients

Bulgaria offers unique climate conditions and a combination of both modern sea and mountain resorts, unspoilt wild nature and well-preserved ancient cities

and our evaluation of various projects in recent years, we are confident that an investor can find a successful project in all main areas of the economy (tourism, energy, construction, machinery, production, education, advertising, etc.). Below, we offer some suggestions for some particularly promising sectors that may be of interest.

Healthcare, wellness and tourism

As already mentioned, for its wealth of mineral springs, Bulgaria ranks second in Europe after Iceland and is well ahead of countries with a proven tradition in balneology in terms of existing, developed and registered (certified) mineral water resources.

Bulgaria offers unique climate conditions and a combination of both modern sea and mountain resorts, unspoilt wild nature and well-preserved ancient cities.

Some of the most successful investments in our practice are in the tourist industry, one of the most dynamic industries in Bulgaria. It offers a variety of opportunities due to the favourable geographic and nature resources, as well as the availability of an experienced and well-qualified workforce.

Food and agriculture

This sector offers exciting prospects because of Bulgaria's unique climate conditions, environmentally clean and fertile soil, very high-quality organic products, low land prices and a low-cost workforce in the sector.

IT

The 2013 Bloomberg report ranked Bulgaria 8th in the world and 5th in Europe for internet speed. Bulgarian software developers have gained a renowned reputation for their talents and the IT sector is one of the fastest growing in the economy. The excellent internet infrastructure, together with government incentives, makes the IT sector an attractive investment opportunity.

Business process outsourcing

Many world-famous companies have chosen Bulgaria for outsourcing, which represents some of the most successful investments in our economy in recent years.

Electronics and electrical engineering

Bulgaria has welcomed the investments of European and Asian companies in this sector, proving that it can ensure the necessary resources to comply with the quality requirements of world leaders in the field.

Mechanical engineering

The country has well-established experience in transport equipment and mechanical engineering, with a workforce of over 205,000 in this sector.

Transport and logistics

Bulgaria is ideally located to provide easy access to the markets in the EU, CIS countries and MENA. Every year sees the introduction of more convenient transport links, for both passengers and loads. The biggest transportation companies have representative offices and warehouses in Bulgaria, facilitating connections between North and South, West and East.

Chemical industry

The country has rich reserves and fields of salt, sand, clay, limestone and kaolin, in proximity to existing industrial areas and complexes. Bulgaria has the biggest soda ash plant in Europe and the largest oil refinery in the Balkans.

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Malta's tax system – beneficial, yet raising the bar

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Characteristics such as being a small island – a continuously sunny one, at that! – and surrounded by various sandy beaches could easily invite comparisons of Malta to an ultimate tax haven; even more so when the island offers a number of tax incentives. It is, however, important to remember that Malta is a full member of the European Union (EU), where tax standards are very high; and Malta has always honoured its principles and obligations in this regard.

Notwithstanding, Malta's tax refund system – whereby in certain cases the corporate tax rate is lowered to an effective 5% – has attracted much attention. This system has been subject to detailed discussions and reviews over a number of instances by the European Commission, the EU's Directorate General for Competition (due to the possibility of state aid) and the European Council's Economic and Financial Affairs Council (Ecofin). Despite having full sovereignty to structure its direct tax system, Malta has always ensured that its system does not infringe basic EU principles, that it complies with the various EU tax directives and that it is in line with the Code of Conduct for Business Taxation agreed to by Ecofin. In addition, Malta is a Base Erosion and Profit Shifting (BEPS) associate, and as such is fully committed to the Organisation for Economic Co-operation and Development (OECD)'s efforts in combating tax malpractices through international convenient structuring. Even Malta's private client programmes are deemed of the highest standards by the *Financial Times'* Personal Wealth Management publication,[1] which recently praised Malta's citizenship programme for the level of professionalism, transparency and scrutiny applied during the programme's due diligence process.

If there have been any doubts about Malta's standpoint in favour of fighting tax avoidance, this surely should no longer apply in view of the fact that as a full EU member state, Malta has approved and accepted the EU's Anti-Tax Avoidance Directive (ATAD-1) to be transposed into local laws by 2018 and the subsequent ATAD-2 to come into effect later. The ATAD comprises five operative components that Malta will naturally adopt. While the provisions of the ATAD will affect Malta's tax system for cross-border operations, the directive does present some options as to its implementation; the bottom line remains that Malta surely cannot be regarded as an advocate for BEPS measures. Below are some annotations on how the five ATAD provisions are expected to render Malta's tax system anti-abusive.

Interest limitation rules

These seek to combat the use of artificial loan arrangements resulting in highly geared companies deducting a high level of interest expense for tax purposes. The rules will limit the deductibility of net interest expenses (how much interest expense exceeds interest income) to only 30% of the EBITDA. While currently Maltese law does not apply such a definite percentile limitation, abuse has always been prohibited through arm's length provisions within the law. In addition, even with the introduction of such limitations not all is lost since the Directive seems to be giving member states some alternative routes for implementation:

- The introduction of a cut-off date (probably some date during 2016) whereby loan arrangements entered into before that date would not be subject to such limitations
- Interest on loans (existing and new) for the purpose of funding long-term public infrastructure projects will not be subject to such limitations
- Standalone entities and financial undertakings (mainly banks, funds and investment companies) should not be affected by the limitations
- The possibility of carrying forward or backward exceeding borrowing costs, particularly the notion of carrying back, has never yet featured in Maltese tax law
- The possibility of introducing carve-out provisions in case of group companies
- The possibility of this limitation applying unilaterally for all companies, irrespective whether passive or not, and henceforth

creating a prospect for tax deductibility in cases of non-trading companies.

Controlled foreign companies (CFC) rules

Maltese law (Article 43 ITA) already provides for circumstance whereby should the tax authorities be of the opinion that a resident Maltese company has not distributed all or part of its profits by way of dividends in order to avoid or reduce tax otherwise payable by the shareholders, a 'deemed distribution order' may be issued. The shareholders would then be assessed on such profits deemed to have been distributed. This notwithstanding, the CFC rules being proposed in Article 7(2) of the ATAD are somewhat very specific, allowing member states to levy the CFC taxation either on undistributed passive income or on undistributed income derived from non-genuine arrangements.

Exit taxes

To date, exit taxes do not exist in Maltese tax law and therefore Malta will be introducing complete new provisions in line with Article 5 of the ATAD. These rules are expected to affect transactions of company migration or transfer of assets/businesses to different jurisdictions. What's positive here is that this is expected to be the last part of the ATAD to be implemented (by 2020) and as such, businesses have more time to consider the impact of these rules.

General anti-abuse rule (GAAR)

The ATAD requires that any arrangements not deemed to be genuine but that simply exist for the purpose of obtaining a tax advantage, are to be ignored. Maltese tax law already provides for a GAAR with a very similar object, and as such no particular changes are expected in this regard.

Anti-hybrid rules

The ATAD also addresses cross-border differences in tax treatment and in the recognition of certain arrangements. These shall seek to remove the possibilities of double deductions (in two member states) and deductions in one state with no recognition of income in the other state. Nevertheless, these rules are expected to affect all EU member states and as such should not necessarily put the Maltese tax system at a disadvantage.

While the adoption of the Anti-Tax Avoidance Directive will mean that Malta will have a tax system that is fully compliant with the OECD's BEPS action plan, and even takes things further by including the GAAR and exit taxation (which are not mandatory under the BEPS), it is clear that at present, the Maltese tax system already prevents abuse. The actual implementation of the ATAD in Malta envisages an even stricter Maltese tax system while still offering potential for fair tax planning, especially in cross-border operations, raising the bar for other EU member states.

Reference

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India's new tax residency rules: Place of effective management

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Background

Taxability of income in one jurisdiction is dependent on the residential status of a person earning such income. The residential status in turn is determined on the basis of the applicable domestic tax law. The concept of 'place of effective management' (POEM) is one such internationally recognised test for determination of residential status of any foreign company in the host country.

In India, Section 6 of the Income Tax Act, 1961 ('the IT Act') determines the residential status of any person. The provision specifically states the conditions to be satisfied for a company to be treated as a resident in India in any previous year. However, the Finance Act, 2015, amended provisions for determining tax residency for foreign companies in India with effect from 1 April 2016. It provided that a foreign company shall be considered as a resident in India if its place of effective management is in India.

The objective of such a proposal was to plug a loophole in earlier provisions that allowed companies to escape Indian tax residency status in cases where partial control and management were situated outside India. Seen as an anti-avoidance measure, the POEM concept seems to target foreign operations of Indian companies and foreign companies having operations controlled from India. The concept of POEM replaces the erstwhile parameter of 'control and management of affairs wholly in India' to 'place of effective management in India'.

'Place of effective management' means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance, made.

The Central Board of Direct Taxes (CBDT) has released set of guiding principles to be followed in the determination of POEM (Circular No. 06 of 2017 F. No 142/11/2015-TPL), as outlined below.

Guiding principles for determination of place of effective management

Qualitative parameters were laid down for two types of company:

- Foreign companies fulfilling the test of active business outside India (ABOI)
- Foreign companies not fulfilling the test of active business outside India.

Foreign companies fulfilling the test of active business outside India

For foreign companies fulfilling the test of active business outside India (ABOI), the POEM of such companies shall be *presumed* to be outside India if most of the board meetings are held outside India.

However, if it is established that the Board of Directors is not exercising its powers of management and such powers are being exercised either by the holding company in India or by any other person resident in India, then POEM shall be considered to be in India.

A foreign company shall be said to be engaged in ABOI if all the following conditions are satisfied:

- Passive income is ≤50% of its total income
- <50% of its total assets are situated in India
- <50% of total number of employees are situated in India or are resident in India
- The payroll expenses incurred on such employees is <50% of its total payroll expenditure.

For the purpose of answering these points, the average data from 3 years (i.e. previous year and the 2 years that preceded it) are to be taken into account. However, if the company has been in existence for less time than this, then all available data shall be considered.

Foreign companies not fulfilling the test of active business outside India

For foreign companies not fulfilling the test of ABOI, the guidelines provide for a two-stage process to determine POEM:

- First stage: Identifying the person(s) who actually make the key management and commercial decisions for the conduct of the company as a whole
- Second stage: Determine the place where these decisions are, in fact, being made.

The guideline further provides that the place where management decisions are taken would be more important than the place where such decisions are implemented.

The guideline has also set out primary and secondary parameters to identify the place where commercial and management decisions are made.

Primary parameters

Place/location of...	Important factors to be considered
Board of Directors (BOD)	• The location of BOD shall be POEM if BOD retains and exercises its authority to govern the company, and in substance takes the key management and commercial decisions necessary for the conduct of the company's business as a whole • Mere formal holding of board meetings is not conclusive for determination of POEM. If the key decisions by the directors are taken in a place other than where the formal meetings are held, then such other place would be relevant for POEM
Senior managers and other decision makers	• If the BOD has *de facto* delegated the authority to senior management/any other person and the BOD only ratifies the decisions taken, then POEM will be the place where senior management/other person(s) take those decisions
Executive committee	• In case of delegation of authority to an executive committee, the location where members of the committee are based – and where it develops and formulates key strategies and policies, just for approval by the Board – will be considered to be the POEM
Head office (HO)	• Points that needs to be considered to determine the location of HO: — Location – where senior management and their support staff are based; the location that is held out to public as the company's principal place of business or headquarters — In case of decentralisation, location where senior managers are primarily or predominantly based; or meet when formulating or deciding key strategies and policies for the company as a whole; or normally return to following travel to other locations — If members of senior management operate from different locations and participate in meetings via telephone or video conferencing, then HO would normally be the location where the highest level of management and their direct support staff are located • If it is not feasible to determine a company's HO with a reasonable degree of certainty, then the location of its HO would not be of much relevance in determining POEM
Residence of most directors and decision makers	• In case of use of modern technology for making key decisions (absence of physical presence), the place where directors or persons taking decisions, or most of them, usually reside may also be considered relevant

Secondary parameters

If the primary parameters do not lead to clear identification of POEM, then the following secondary factors are to be considered:

- Place where main and substantial activity of the company is carried out; or
- Place where the accounting records of the company are kept.

Quantitative parameters

POEM guidelines shall apply to companies having a gross turnover higher than INR 500 million (about US$8 million).

Conclusion

The POEM guidelines are based on internationally prevalent practices. While they provide guidance on the test of POEM, this is highly subjective and fact based. The risk of litigation has significantly increased in cases of applicability of Indian residency to foreign companies, due to the interplay of POEM. In an internationally competitive economic environment, such a move might impede the Indian government's vision of introducing well-defined tax practices in line with ease of doing business in India.

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Business opportunities in Greece

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The high growth rates of the Greek economy observed between 2000 and 2008 resulted in a significant increase in gross domestic product (GDP). However, this growth was driven mainly by public spending, which in turn was financed by foreign capital flows. At the same time, labour costs increased, rendering Greek exports less competitive, whereas no serious measures were taken against tax evasion and tax avoidance. As a result, when the Greek government's debt crisis started in late 2008, everything altered dramatically. It was the first of the sovereign debt crises in the Eurozone, triggered by the Great Recession, the structural weaknesses in the Greek economy and above all, by a sudden loss of confidence among lenders.

This provoked widespread anxiety, indicated by a broadening of bond yield spreads and rising cost of risk insurance on credit default swaps compared with other Eurozone countries, particularly Germany. Since 2010, five governments have enacted more than 12 rounds of tax increases, spending cuts and reforms.

Despite these efforts, the country required bailout loans in 2010, 2012 and 2015 from the International Monetary Fund, Eurogroup, and European Central Bank, and negotiated a 50% 'haircut' on debt owed to private banks in 2011.

The haircut of the Greek public debt was a strong blow to the banking sector, and private investors forced the banks to look for fresh capital.

Further, in July 2015, after the extensive negotiations of the Greek government and facing sovereign default, capital controls were imposed to avoid a collapse of the banking sector and an exit from the Eurozone.

All the above resulted in a dramatic recession of the Greek economy (the GDP has shrunk by approximately 35% over the last 10 years), which, in conjunction with the unstable political environment, had a great negative impact on the Hellenic capital market and real estate market.

Given these conditions, one might think that business opportunities in Greece are rather limited. However, Greece is an EU member and its economy is the 47th largest in the world, with a nominal GDP of $194.559 billion per annum. It is also the 55th largest in the world by purchasing power parity, at $287.830 billion per annum. As of 2016, Greece is the 16th largest economy in the 28-member EU. Greece is ranked 38th and 47th in the world at $17,901 and $26,669 for nominal GDP per capita and purchasing power parity per capita, respectively.

Hellenic capital market current valuations

The Greek banking sector literally went bankrupt three times, with over 50 listed companies meeting the same gloomy fate. The imposition of capital controls was the nail in the coffin for even more companies.

Under these dramatic conditions, it would not be surprising if all Greek shareholders had been ruined. On the contrary: the Greek market offered in some cases astonishing returns of over 500%: the competent management of some companies managed to circumvent the prevailing adverse conditions by gaining market shares in the domestic market, implementing cost-cutting programmes, and expanding abroad.

The Athens General Index (AGI) is currently trading at 750 points, having hit a historical low 5 years ago of 470 points. However, the AGI distorts the total image, as in recent years the Greek banking sector was recapitalised three times (a fourth recapitalisation is underway), rendering inappropriate such an analysis of the AGI, whose composition was amended proportionately.

We have closely examined the valuations of all listed companies and picked out 25 that offer the prerequisites for satisfactory to astronomical returns. Based on basic-fundamental data:

For those who believe that Greece's risk remains high, investment in the Greek economy through the Athens Stock Exchange (ASE) is an easier and more direct way of investing.

- In many cases, it is better to buy shares of a well-established listed company with a good track record, as it is far more expensive to set up a new one.
- There is a significant number of export-oriented Greek companies, whose shares are listed in ASE and are trading with P/Es in the area of 6-10X, P/BV ratios ranging from 0.3 to 0.8, with very small debt and strong cash flows.
- Despite the adverse economic environment their orientation to international markets renders them an extremely promising investment, even in the case of currency problems.

In some cases, there are listed debt-free profitable companies that are being traded close to or even below their cash position.

Real estate market

The dramatic recession of the Greek economy (when GDP shrank by about 35%), the significant increase of taxation and property taxes, and the absence of new investments has resulted in a collapse of the Greek real estate market since 2009. It should be noted that a significant part of the GDP was based on the real estate market in the years before the crisis.

The current general characteristics of the Greek real estate market are as follows:

- Oversupply of houses
- Oversupply of industrial property
- Rise in property taxation
- Decline in number of housing transactions and building permits.

All studies assessing the Greek real estate markets have concluded that it will recover at a slower rate than the Greek economy. However, these studies are based on the assumption that no policies will be implemented to increase demand and reduce oversupply. Given this, it is worth noting that:

- The Greek government offers residence to non-EU investors purchasing or renting property worth over €250,000.
- The Greek economy returned to growth from 2016. The economy was expected to grow by 2.5% in 2017 and by another 3% in 2018.
- Rental yields in urban areas (especially in Athens) started to improve.
- The tourism industry has grown significantly during the last 3 years, not only in traditional touristic areas during summer but also in urban areas like Athens and Thessaloniki throughout the year.
- Many hotel properties are offered at attractive selling or rental prices, making them a promising investment.
- Apart from the general characteristics of the Greek real estate market, certain properties are offered at low prices and have very promising returns.

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Tunisia: New investment law

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Tunisia has been witnessing few important changes in recent years. Among them is the newly presented Investment Law, which came into force on the 1st of April 2017. Its main focus is to encourage foreign investments in Tunisia, and to establish more opportunities and benefits to the already existing businesses.

Liberation of the legal framework

With the new investment law, Tunisia would like to offer equal opportunities to local and foreign investors, without any discrimination or priority to the former or the latter, as well as ensuring access to public information.

Furthermore, the new law insures the free transfer of funds abroad and the permission to employ foreign management. In fact, foreign business owners used to be allowed to recruit up to 4 foreign managers, while with the new law in action, their management team can be made up to 30% of foreign employees during the first three years of operating.

There are many advantages for the foreign investors in the legislation, in addition to those mentioned above. For instance, offshore companies have absolute freedom of foreign ownership of shares in a company. Moreover, the number of authorisations and reviews of specifications are diminished. Finally, the investors have now full freedom to access non-agricultural land for the realisation of the investment.

Financial and tax incentive

Apart from general advantages, there are also financial and tax encouragements for foreign investors: they are exempt from value-added tax and custom duties on inputs to products to be re-exported and the income tax rate is reduced to 10% for totally exporting companies. Additionally, businesses which operate in regional development zones are exempted to pay any kind of tax on business-generated revenues or profits.

In 2018, we could say that the greatest encouragement may be a total exemption of taxes on income and profits of the newly established companies in the years of 2018 and 2019. The exemption is valid for the first 4 years of the activity of the business.

In addition, the corporation tax was reduced to 20% for the small and middle-sized trading or processing companies, as well as businesses with service activity or non-liberal professions.

Conclusion

Tunisia is welcoming new investors by encouraging the new and existing businesses with fairer chances and shorter administrative work, as well as financial opportunities. It's safe to say that the investment benefits have never before been so attractive, at least in regard to the law.

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Don't risk facing AML/BSA violations in the US

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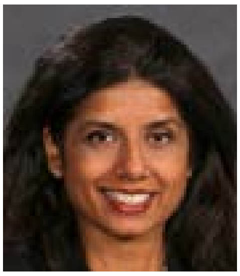

In August of 2017, the New York Department of Financial Services (NYDFS) assessed an approximate $600 million fine against a global bank and its New York branch for Anti-Money Laundering (AML)/ Bank Secrecy Act (BSA) violations. Specifically, the global bank failed to implement a strong AML/BSA compliance structure. Evidence of this was shown through the global bank's ties with a Saudi Arabian bank allegedly linked to Al Qaeda. The Saudi Arabian bank transactions comprised approximately 24% of the transactions conducted through the New York branch, and thousands of transactions were excluded as high risk even when essential information such as beneficiary identities could not be determined. US AML/BSA rules require financial institutions, like this global bank, to have an effective AML/BSA programme in place to prevent the company from being used to facilitate money laundering and the financing of terrorism.

Who is required to have an Anti-Money Laundering programme?

Many different kinds of businesses are at risk for money laundering and for penalties if AML/BSA programmes do not meet regulatory standards. Financial institutions such as banks, credit card companies, broker/dealers, money service businesses, insurance companies and casinos are under scrutiny to comply with AML/BSA requirements. Certain industries, such as insurance and real estate, are also being scrutinized for potential money laundering.[1] If you are a financial institution looking to do business in the US your institution and/or certain individuals of that institution may suffer consequences if adequate AML/BSA programmes are not in place. Often, government agency cases are initiated solely because of an entity's insufficient AML/

Many different kinds of businesses are at risk for money laundering and for penalties if AML/BSA programmes do not meet regulatory standards

BSA compliance programme, even if there is no suspicion of money laundering or terrorist associations. Such compliance programmes are necessary for both banks and non-bank financial institutions.

The components of an Anti-Money Laundering programme

An institution's AML/BSA programme should be risk-based. The institution should identify risks based on the type of customers it serves, geographic location of such customers, and the types of services it offers. Such risk-based programmes should be the basis for the institution's AML policies, procedures and internal controls. Section 352 of the Patriot Act requires all financial institutions to establish AML programmes that achieve the following:

- Establish internal policies, procedures and controls to prevent money laundering
- Designate a money laundering compliance officer
- Establish an ongoing training programme for awareness of money laundering
- Establish an independent audit function to test the programmes.

Section 326 of the Patriot Act expands on the BSA by requiring financial institutions to implement Customer Identification Programmes (CIPs). The CIPs are to be incorporated into financial

Footnote

1. Other financial institutions also include dealers in precious metals, stones or jewels.

institutions' AML programmes and should verify and maintain records of any individual and/or business seeking to open an account. Additionally, such procedures should be documented. The procedures should address the types of information the firm will collect from the customer and how it will verify the customer's identity.

When is additional due diligence needed?

AML Compliance programmes should include comprehensive customer due diligence (CDD) policies, procedures and processes for all customers, especially those that present a higher risk for money laundering and terrorist financing. CDD begins with verifying the customer's identity and assessing the risks associated with that particular customer. Processes should also include enhanced CDD for higher-risk customers and ongoing due diligence of the customer base.

High-risk customers present increased exposure to financial institutions; therefore, these customers and their transactions should be closely scrutinized at the initial account opening and throughout the term of their relationship with the bank. Some accounts may be riskier based on the following:

- Customer's actual or anticipated business activity
- Customer's ownership structur
- Anticipated or actual volume and types of transactions
- Transactions involving high-risk transactions.

Consequently, according to the Federal Financial Institutions Examination Council (FFIEC), a financial institution should initially and periodically request the following information:

- Purpose of the account
- Source of funds and wealth
- Identification of individuals with ownership or control over the account such as beneficial owners
- Occupation or type of business
- Financial statement
- Banking references
- Location of where the business is organised
- Proximity of the customer's residence, place of employment or place of business to the bank
- Description of the customer's primary trade area and expected frequency of international transactions
- Description of the business operations, the anticipated volume of currency and total sales, and a list of major customers and suppliers
- Explanations of account activity.

To sum up, in order to prevent businesses and individuals from suffering penalties for not having an adequate AML and/or BSA compliance programme in place, the following must be incorporated into every financial and non-financial institution's compliance programme:

Monitoring AML Programmes

1. **Ongoing AML programme monitoring:** Once an AML programme has been implemented it is important that an ongoing monitoring process be put in place as well. Account activity should be monitored for unusual size, volume, pattern, or type of transactions taking into consideration risk factors and red flags that are appropriate to a particular business. Red flags that indicate possible money laundering include, but are not limited to, the following:

- Customers that provide identification documents that cannot easily be verified
- Customers that "structure" deposits, withdrawals or purchase of monetary instruments below a certain amount to avoid reporting or record-keeping instrument
- Funds transfers to and from high-risk geographic locations without a business purpose
- Customer transaction patterns that show a change inconsistent with normal activities
- Multiple accounts in the names of family members or corporate entities with no clear business purpose
- Payment by third-party check or money transfer without any connection to the customer.

2. **Due diligence when accounts are opened:** Testing should occur to assess whether institutions are verifying the identities of new account holders, comparing their names against lists provided by government agencies and maintaining adequate records of the information used to verify an individual's identity.

3. **Monitor customers and activity with highest risk:** An enhanced due diligence and ongoing monitoring process should be developed in order to assess activity for all customers, placing emphasis on the customers and activity with the highest risk. The ongoing monitoring process should be used to identify suspicious activity that may ultimately result in the filing of a Suspicious Activity Report (SAR).

4. **Consider an independent assessment:** Institutions that already have an AML transaction monitoring system should consider having an independent consultant test their system at least annually in order to, at a minimum, do the following:

(1) Evaluate the overall effectiveness of the firm's AML/BSA compliance programme;
(2) Evaluate a firm's procedures for BSA reporting or record-keeping requirements;
(3) Evaluate the implementation of the firm's CIP programme;
(4) Evaluate the firm's customer due diligence requirements;
(5) Review the firm's high-risk transactions;
(6) Evaluate the accuracy of the firm's training programme;
(7) Evaluate the firm's processes for identifying and reporting suspicious activity.

As an example, an institution may learn that their AML transaction monitoring system is not capturing important patterns of suspicious behaviour and, therefore, that the activity is not being flagged and will not be reported to the appropriate government agency. Performing a detailed, expert review of a sample of customer transaction data can help to identify these additional patterns and types of behaviour that are not being monitored.

Additionally, it is also important that once AML activity has been flagged, AML analysts at the institution conduct adequate due diligence to assess whether a SAR needs to be filed or a client profile needs to be updated. Often, institutions run the risk of inadequately allocating resources to review cases of suspicious activity, which can result in the institution being deemed as having a deficient AML monitoring system and subject to hefty fines.

An independent review of an AML transaction monitoring system may also help determine whether the system is effective in comparing the customer's account/transaction history to the customer's specific profile information and a relevant peer group, and/or in comparing the customer's transaction history against established money laundering scenarios to help identify potentially suspicious transactions.

Having an AML transaction monitoring system in place, supplemented with employee training, compliance oversight, internal controls and independent testing, should form a strong foundation for a complete AML compliance programme.

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An introduction to Sage Intacct: How Sensiba San Filippo's accounting solution can help clients

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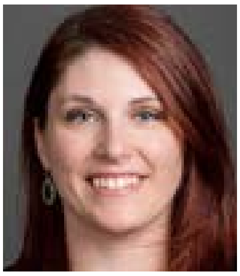

As the need for faster and more efficient accounting processes grows, so has the desire for automated technology and systems. Recognising this trend, Sensiba San Filippo LLP (SSF) has recently partnered with Sage Intacct, a leader in integrated accounting systems. Here is a closer look at the software and how automation can help clients increase performance, productivity and efficiency.

What is Sage Intacct and how does SSF utilise it to best service their clients?

Sage Intacct is a cloud enterprise resource planning (ERP) software that is transforming the system of record into a system of intelligence. Bringing cloud computing to finance and accounting, Sage Intacct's innovative applications are the preferred financial applications for American Institute of Certified Public Accountants (AICPA) business solutions. Used by more than 12,000 organisations from startups to public companies, Sage Intacct helps improve company performance and ultimately makes finance more productive. SSF utilises Sage Intacct to provide its clients with top-notch outsourced accounting and chief financial officer (CFO) services.

Gaining transparency to inform and make smart decisions

SSF covers all the accounting functions accurately, completely, and automatically while bringing speed and productivity to our client's finance and operations. Utilising the Sage Intacct Platform, SSF can transform the way our clients think and work by eliminating the close, allowing a continuous audit function, and providing predictive analytics.

Advanced functionality

The advanced functionality of Sage Intacct allows us to respond to complex challenges with flexible, built-in modules for multiple entity and global consolidation, complex grant and project reporting, multiple currencies, revenue recognition, and much more.

Sage Intacct is designed to let both an accounting firm and its client access the same information using the cloud, instead of sending files back and forth. Everyone accesses the same information in real time, enabling true collaboration.

Ditching manual processes

One key element to helping our clients maximise profitability is reducing time-consuming manual efforts. Another is ditching high-maintenance technology in favour of a modern, cloud-based financial management solution, like Sage Intacct.

Smart connections

Sage Intacct is a global ecosystem that gives our clients the ability to expand their financials with easy integration to their applications as their businesses and organisations evolve. A few examples of applications include:

- **SalesForce –** Quote-to-cash process and grant management
- **Nexonia –** Time and expense analysis
- **Bill.com –** Complete digital management of accounts payable and accounts receivable processes
- **ADP –** Fully integrated payroll solution that automatically posts payroll data into Sage Intacct's general ledger

Product innovation

In the past year, Sage Intacct delivered more than 150 product enhancements over four quarterly releases. One example of the product enhancements includes adding a new partner— GuideStar. For non-profit organisations, this partnership introduces real-time transactional data from the system of record to automate the calculation of key financial and operational metrics. It also ensures that the organisation is on track in accomplishing their mission. Similar roll-outs of digital board books have been built for the professional services and project-based businesses, as well as software as a service and wholesale distribution companies.

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GDPR and Kingston Smith's solution for you and your clients: ClearComm

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In 2017, Kingston Smith was pleased to add ClearComm to its client offering, providing a data protection consultancy to advise international organisations on General Data Protection Regulation (GDPR) compliance. This article outlines the practical implications for businesses operating in Europe, and offers a way forward for businesses needing a framework to aid their compliance.

The impact of GDPR on organisations doing business in Europe

The problem of unqualified or poor-quality customer data is being pushed to the top of the corporate agenda, with a focus on the sensitivity of customer data, particularly in light of the recent GDPR and its impending enforcement.

The GDPR is painful to read, but the regulation can be positive in the hands of data-driven businesses, presenting a key opportunity for businesses to engage in permission-based communication and marketing and enjoy the rewards available to them.

GDPR is a turning-point in data management and will ensure that organisations understand the process of the collection, use, management and storage of customer data, to benefit both businesses and their customers.

Organisations are left with two choices: you could do the bare minimum required to comply with the regulation, or you could seize this opportunity to become a highly effective data-driven business.

The issue with data quality

Customer data is critical to business communication and also to marketing campaign response and conversion rates. The following factors negatively affect the maintenance of high-quality data:

- **Time lapse:** With customers inevitably changing their addresses, jobs, preferences, social and legal status, data that are accurate can become out-of-date in an instant.
- **Data conversion:** It is rare for the data conversion process – whereby data are moved or consolidated from an initial source – to occur without some degradation to the quality of the data, even if the conversion itself worked.
- **Database consolidations:** Despite being important, it is inevitable that database merging often takes place under tight deadlines, without a correct understanding of the implications for quality and duplication of data.

Basic CRM and data management programmes: In the absence of robust data retention software, unqualified data can be added to poor-quality data, using outdated data entry screens and protocols, resulting in unverified and unvalidated data being held.

In light of this, it is absolutely essential that businesses improve their systems and processes in preparation for the upcoming enforcement of the GDPR.

What is the GDPR?

The GDPR, which is due to be enforced by the European Union on 25 May 2018, was designed to harmonise consumer rights in Europe and represents a key shift in the way customer data are used and managed, granting customers control over their own data and tightening the rules around its collection.

GDPR applies to any organisation doing business in Europe, so it affects international businesses

and how they consider their data, privacy, and communications in Europe.

Intended penalties for organisations found to be in breach of the GDPR have sent a shockwave through the business world, with non-compliant firms facing fines of up to 4% of global turnover or €20 million, whichever is greater; and the door has also been opened for potential customer litigation, should there be incompetence or negligence at play.

To be GDPR compliant, firms must ensure that:

- **Data are up-to-date:** The rules states that 'Every reasonable step must be taken to ensure that personal data that is inaccurate ... is erased or rectified without delay.'
- **Customers have the right to opt out of marketing:** Should a customer opt out, it is vital that businesses immediately cease all marketing to that customer.
- **Customers have the right to opt out of automated profiling:** This will impact customer relationship management (CRM) systems and will create challenges for businesses seeking to retarget past customers. Technical issues around the identification and removal of duplicate customer profiles from multiple databases are also likely to arise.
- **Customers have the right to request their data:** If a customer requests their data, businesses are required to provide to the customer all data currently held about them in an easily accessible format.
- **Organisations must have consent to use customer data:** Customer consent is at the heart of the GDPR and businesses are obliged to ensure that customers understand at all times what data are being collected and how it is going to be used. The GDPR states that consent must be as easy to withdraw as it was to give.

Business communication and marketing post GDPR

How will business communication and marketing operate after the implementation of the GDPR, and how will businesses change their customer engagement and data management strategies to reflect this?

Less data to work with

Companies may need to request permission from existing customers in order to receive ongoing communications, although rules state that if organisations can demonstrate 'legitimate interest' they may continue to lawfully process data from their existing database, which in turn may provide an alternative option. Processing data for marketing purposes may be considered as a legitimate interest, but businesses *may* be required to offer an opt-out for future communications.

For businesses to claim legitimate interest, their data must be accurate and up-to-date, for there can be no legitimate interest if businesses are not communicating accurately with their customers. It is key that organisations start improving the quality of their data *straight away* if they wish to avoid a shortfall in usable customer data as of May 2018.

Difficulty with using third-party data

Unlike the rules around marketing to existing customers, there is no legitimate interest in relation to the use of third-party data and it is vital that businesses using third-party data ensure that the data are compliant with the GDPR.

The volume of third-party data will reduce considerably after the implementation of the GDPR. This will have a positive impact, in that the remaining data will be more accurate and of greater value to businesses. Businesses must work with reliable, trustworthy data providers, who have technology, systems and controls in place to ensure compliance with the GDPR.

Uncertainty around sourcing of third-party data

It is believed that nearly 50% of organisations are now exclusively relying on customer data captured directly from their customers.

There is genuine concern about GDPR compliance by third parties and the likely outcome of this shift in opinion is that organisations will be less and less inclined to rely on data sourced from them.

Increased importance of customer retention

The strategic importance of building strong, sustainable customer relationships will be reinforced by the GDPR, which will force organisations to assess how they treat their customers and gauge whether they are providing a value exchange that is beneficial to the customer. Since the GDPR requires organisations to make it as easy to withdraw consent as it is to give it in the first place, the onus will be on businesses to ensure not only that they are granted permission to process data but also that the trust with the client is maintained on an ongoing basis.

A reduction in bad practice will result in better business

With better data management, there will inevitably be an increase in business performance levels.

The quality of opt-in customer data versus opt-out data is undeniable. Research suggests that opt-in data open rates are over 80% higher than opt-out data open rates; and the disparity is even greater when looking at click-through rates, with opt-in having on average more than twice the click-through rate of opt-out.

GDPR growth opportunities

Businesses can look to improve many processes as part of the GDPR compliance to benefit new possibilities and opportunities for making wider-reaching improvements to marketing strategy and process.

Data capture

Focus on how, where and why data is captured. Different channels are used for data capture, with most of these using websites as the primary channel of capturing data, with direct sales, face-to-face contact and call centres also being used. It is vital that there is a standardised data capture approach through all channels, and that data validation is built in by design.

Data cleansing

Many companies either have no data cleansing process in place at all, or they only clean their data once per year; very few organisations engage in daily or continuous data cleansing.

This is the perfect context for the GDPR to come in, since the regulation demands that organisations only have up-to-date, accurate information and serves as an example of a way in which tightening regulation can also improve market performance.

Enhancing existing data

There is a trend of marketers making the shift from relying on third-party data to relying exclusively on customer data they have captured themselves. The result of this is that organisations are missing out on the services of compliant and effective third-party data sources, which can enhance and enrich their existing data.

Consent

Although customer data that have not been 'permissioned' pursuant to the GDPR do not have to be discarded so long as there is a legitimate interest and the data are up-to-date, organisations might opt to 'renew' marketing data by contacting customers to obtain the requisite consent, thereby ensuring that it is safe to continue processing the data after March 2018.

Contacting customers in this context could also act as a way of re-engaging with lapsed customers and identifying accounts that are inactive, so that they may be removed from the database.

Customers could also be asked at this stage if they would like additional information or services, resulting in increased marketing avenues and deeper customer intimacy.

In doing so, it is vital that businesses clearly communicate to customers the value they will receive in exchange for granting permission, otherwise it is very likely that customers will not opt-in if there's nothing in it for them.

The process of renewing consent is likely to take at least 6 months, so businesses are encouraged to start looking into this as a matter of priority to be compliant by May 2018.

GDPR and Kingston Smith's solution: ClearComm

ClearComm is Kingston Smith's data protection consultancy, advising trans-European organisations on GDPR compliance.

To complement the advisory services, their SAAS offering is the **GDPR Self Certification Compliance Portal**, which helps lawyers and accountants guide their clients through the compliance journey in a cost-effective way.

The GDPR Portal is a task-based application allowing organisations to work to timescales via bespoke action plans tracking the compliance journey with allocated date markers. Following the compliance programme alongside policy and procedure creation ensures the organisation's full transparency, with integrated stakeholder involvement.

The dashboard overview offers instant reporting on the current compliance position of the organisation, including the policy and procedures plan, as they are created. The portal includes:

- Online self-assessment programme
- Online library of policies and procedures, with the option of uploading bespoke versioning
- Live dashboard reporting
- Simple and effective
- Tasks and action plans – creating the compliance journey
- Central data hub for policy and procedures.

The Compliance Portal is being offered to European and global partners on a re-seller with revenue share basis. It is already being promoted by a firm of lawyers with exclusive Isle of Man territory access and conversations are ongoing with other law firms and accountants to re-sell the portal throughout Europe and beyond.

If you have any questions or would like to discuss this article further, please contact:

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