Middle East
Point of View

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Need of the hour
Counter fraud controls

A "taxing" situation
From a GCC perspective

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Risky business
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An ounce of prevention

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A word from the editorial team

In 1736, Benjamin Franklin famously said the words, “An ounce of prevention is worth a pound of cure” to fire-threatened Philadelphians, words that would resonate for centuries to come. At the present time, as we make our way through a world that is vigorously developing by the second, this famous axiom by Mr. Franklin couldn’t be any more relevant. While our lives have evidently become more efficient in our super digitalized world of today, they have also become rather complex; complex in the sense that there are countless ways to be challenged or even attacked and hence, the necessity to protect ourselves on every level and within every aspect. And while we, collectively as humans, cannot possibly prevent every peril in our path, we can definitely prepare to reduce some of the potential adverse effects through forward planning.

In the article *Sealing the deal: COP27 reaches significant agreement on the Loss and Damage Fund*, author Damian Regan describes how COP27 will surely be remembered for the creation of this fund, a potential historic breakthrough that offers a vital step forward in sharing the burden of climate challenges ahead. Author Mark Millard presents the article entitled *Forensic investigations of tomorrow: What does the future hold?* which explains how one of the great skills in any business or profession is the ability to gaze into the future and spot the next “big thing.” Forensic investigations are no different as experts try to anticipate what types of upskilling will be needed to capitalize on tomorrow’s opportunities. In *Risky business: Managing risks in the dynamic digital era* authors Ziad El Haddad, Daniel Brierley, and Rabih El Sabaa reflect on how today’s organizations are racing to cope with rapid change, increasing data volumes, and a desire to leverage data to deliver business goals.

Since planning ahead is always the smart way to go, the article *The new United Arab Emirates Transfer Pricing regime: Plan, prepare, and prosper* by Mohamed Serokh, Rabia Gandapur, Ahmet Celiktas, and George German thoroughly covers how the developments in relation to Transfer Pricing in the UAE have far-reaching tax and non-tax/operational implications for affected businesses and how it’s safe to say that companies should start assessing the impact for their business and what they need do to be prepared given the complexity of the rules. In *The need of the hour: Stepping-up counter fraud controls in the banking sector* written by Saad Qureshi and Humaid Hussain, the authors offer us a glimpse into not only how financial fraud has had a dramatic surge in the region post-pandemic, but also how authorities have to introduce particular measures to enhance counter fraud controls.

Authors Steve Punch and Syed Moid discuss the corporate treasury world in their article *ACE-ing digital transformation efforts in corporate treasury: Opportunities, challenges, and benefits*. They describe how digital transformation is a journey that extends beyond the mere adoption of technology, and how to achieve full gains from transformation efforts, an organization much take a holistic view and adopt an incremental development plan.

In *A "taxing" situation: The evolution and impact of OECD driven Base Erosion and Profit Shifting (BEPS) Action Plan from a GCC perspective* by Abi Man Joshi, we learn how due to globalization and the digitalization of economy, it is important for all government authorities and international organizations to address the issue of double taxation, profit shifting, and tax evasion.

Keeping up with Internal Controls: Zeroing in on the Middle East by James Smith and Aderita von Glahn covers how over the last few years, several Middle East regulators have introduced regulatory mandates aimed at strengthening internal control over financial reporting (ICFR) in the region. The trend looks set to continue, with further activity in the UAE suggesting a wider range of organizations soon to be required to meet ICFR requirements.

And finally, in *A bird’s eye view: Earth observations for environmental reporting*, David Merren describes how data gathered from space-borne sensors has long been used to calculate the degradation of natural landscapes, but now powerful machine learning techniques combined with data gathered from space-borne sensors are forging a path to more robust and resilient data collection and interpretation for monitoring positive interventions.

We hope you enjoy reading the final Deloitte Middle East PoV of the year, and look forward to bringing you new and exciting topics in 2023.

ME PoV editorial team

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Forensic investigations of tomorrow

What does the future hold?

One of the great skills in any business or profession is the ability to gaze into the future and spot the next "big thing." Forensic investigations are no different as experts try to anticipate what types of upskilling will be needed to capitalize on tomorrow's opportunities. The following are five new areas where substantial forensic investigations work is likely to arise.

Cryptocurrencies

At the time of writing this article, one of the largest cryptocurrency exchanges in the world, FTX, has filed for chapter 11 bankruptcy protection.[1] Earlier in the year, the cryptocurrency operator Terraform Labs collapsed after the US$40 billion implosion of its Luna and TerraUSD tokens leading to a global manhunt for the company's founder Do Kwon.

The true extent of any fraud is currently unknown; however, the collapse of the mentioned companies raises wider questions. For example, are many of these cryptocurrency exchanges genuine or are they in fact similar to shadow banks, lending depositors' funds on speculative projects? According to the Financial Times, FTX only had US$900 million of easily sellable assets despite having US$9 billion in liabilities, which indicates that it is more than just a "conventional exchange." In fact, other cryptocurrency exchanges may share similar inherent weaknesses.

This is only one aspect of crypto investigation; others include crypto's use in financial crime, as well as market abuse through fictitious initial coin offerings and price manipulation.

Greenwashing

Environmental, Social, and Governance (ESG) has been a matter of increasing importance for corporates for some time; however, only recently has the term "greenwashing" become prominent - a concise term for organizations fabricating or exaggerating their green credentials. Organizations may greenwash for many reasons, but typically do so to attract investment, reduce external funding costs, or improve public perception.
On 31 May 2022, German police raided DWS, a Deutsche Bank subsidiary, for allegedly making misleading statements about ESG investing in its sustainability statements, which leads us to believe that greenwashing is now on regulators' radars.

As the spotlight grows ever stronger, a growing pipeline of ESG-related investigations will emerge. Such investigations could be motivated by a wide variety of stakeholders, such as ESG fund investors who feel misled, government regulators from inaccurate disclosures, or public interest groups motivated by raising awareness.

Renewable investments

Tangentially linked to greenwashing is the proliferation in the number of renewable energy projects. Globally, as fossil fuels are being phased out on the path to net zero, many countries are investing heavily in solar, wind, tidal, and other types of renewable projects.

Despite the apparent need and demand for these projects, many are facing financial difficulties. Renewable projects often require a developer to agree to a fixed tariff for any electricity supplied when they submit their bid. These tariffs are usually fixed for 20 to 30 years. However, economic conditions can change between making the bid and developing the project. For instance, increasing global interest rates have eroded the profitability of some projects, which are heavily debt financed; global supply chain issues have also resulted in rapidly escalating costs.

For instance, the price of solar modules has increased by approximately 30% to 40% since the start of the pandemic.[2] As more competition emerges in the sector, profitability has also decreased.

In our forensic practice, we have already started seeing the consequences, with investors wanting to conduct investigations to understand why their projects haven't been delivered the promised returns, and to identify any misconduct by the developers and those charged with managing the investment.

Metaverse

It's too early to tell whether or not Mark Zuckerberg's investment in the metaverse will pay off, or if the metaverse as a concept will indeed be a true success. If it is, there may be a significant stream of resulting investigations.

The metaverse envisages the widespread trading of goods and services, so inevitably, disputes will arise over consumer protection and intellectual property of these products, especially as appropriate laws and regulations are adopted. To transact, virtual currencies and non-fungible tokens (NFTs) will be the medium of trade in the metaverse and will be susceptible to the same manipulation as other cryptocurrencies.

Finally, we see potential for metaverse investigations arising from breaches of data protection laws as more jurisdictions introduce and enforce these laws, and the proliferation of cybercrime intensifies.

Special purpose acquisition companies (SPACs)

SPACs emerged from financial obscurity during the pandemic to become a major investment class. To illustrate, SPAC IPOs increased from US$13.6 billion in 2019 to US$162.5 billion in 2021. A combination of financial markets and heightened regulatory scrutiny then resulted in a sharp reversal. By the end of September 2022, only US$12 billion had been raised through SPAC IPOs.[3]

For those SPACs that did complete a reverse merger, investors have generally not fared well. When an investor buys into a SPAC, it costs US$10 per share; however, as of July 2022, 90% of SPACs have been traded at below US$10 per share.[4] The more relaxed rules around SPACs reverse mergers, as compared to IPOs, allowed SPAC sponsors to promote unrealistic growth projections/stories to entice investors.

Take the example of Nikola Corporation, an electric truck company whose sponsor said would rival Tesla.[5] Soon after its reverse merger in early 2020, its share price increased to US$75. Following a more realistic assessment of the company's prospects, it is currently trading at just under US$3 per share. Whereas investors have lost out, SPAC sponsors have generated hefty returns as they typically acquire 20% of a SPAC's shares for a nominal cost. Investors in these vehicles will likely want to investigate whether they invested under false pretences or not.

The forensic investigator's role

What role can a forensic investigator play when investigating frauds in any of these areas?

Firstly, these types of fraud usually involve collecting vast quantities of electronic, and occasionally, hard copy data. A forensic technology team is instrumental in securing this data in a legally sound manner in case of future litigation, and then subsequently facilitating an efficient review of this data by lawyers and investigators.

Secondly, in the case of SPACs, renewables, and cryptocurrencies in particular, the nature of any investments can be very complicated. This requires forensic accounting expertise to understand and unpick the true nature of the investment, identify and trace all the different cashflows relating to the fraud, and overlay this with email data and other evidence to understand how the fraud occurred. These types of investigations also frequently require data analytics expertise to assimilate and analyze vast quantities of financial information.

Thirdly, fraud cases can often culminate in civil and criminal proceedings. Forensic investigation reports can be imperative pieces of evidence that explain how a fraud occurred in a clear and cogent manner, especially to an audience who may not be experts in the metaverse or crypto domain.

Finally, victims and regulators normally aim to recover any funds embezzled by fraudsters. Tracking these funds down requires intensive corporate intelligence work by investigators to identify any assets that a fraudster may hold in both the Middle East and further afield.

> The world of finance and technology is forever evolving. While this evolution may confer economic and societal benefits, it provides new pastures for fraudsters looking to take advantage as regulators and governments seek to catch-up.

The traditional areas of forensic investigation, such as sanctions breaches, false accounting, and bribery and corruption, will always be a mainstay of the profession. However, the world of finance and technology is forever evolving. While this evolution may confer economic and societal benefits, it provides new pastures for fraudsters looking to take advantage as regulators and governments seek to catch-up. With just a glimpse into the 5 areas mentioned above, it becomes evident that there will be significant work for forensic investigators in the future.

By **Mark Millard**, Director, Forensic,

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Sealing the deal:

COP27 reaches significant agreement on the Loss and Damage Fund

In November 2022, over 45,000 individuals attended the United Nations Climate Change Conference (COP27) in Egypt, an annual gathering of countries seeking to tackle the global challenge of climate change.[1]

Over the last few years, a key focus of these conferences has been to drive forward policy related to limiting global warming to well below 2 degrees Celsius (preferably to 1.5 degrees Celsius) compared to pre-industrial levels. This was a legally binding agreement made in the Paris Agreement, an international treaty on climate change adopted by 196 countries following COP21 in Paris in 2015.[2]

However, a key issue facing the world today is that we are not on track to limiting global warming to the targets set; indeed, we have used most of our carbon budget.

Since 1850, humans have pumped around 2,500bn tonnes of CO2 (GtCO2) into the atmosphere, leaving less than 500GtCO2 of remaining carbon budget to stay below the 1.5 degrees Celsius target of warming. This means that effectively, the world has collectively utilized 86% of the carbon budget for a 50-50 probability of staying below 1.5 degrees Celsius.[3]

This bleak future is echoed by a recent report by the UN Climate Change which highlights that current pledges by national governments to limit carbon emissions puts the world on track for a 2.5 degrees Celsius warmer world by the end of the century. In order to limit global warming to 1.5 degrees Celsius, the UN's Intergovernmental Panel on Climate Change indicates that greenhouse gas emissions must peak by 2025 and rapidly decline by 45% by 2030.[4]

The consequence of this future is that developing countries (i.e., those countries least able to afford to take steps to mitigate climate change risks and whose economies and populations are least able to withstand significant impacts) will be most affected by climate change.

However, a key issue facing the world today is that we are not on track to limiting global warming to the targets set; indeed, we have used most of our carbon budget.

As a result, COP27 provided one very important stride forward, and in many ways a breakthrough agreement, in setting up a Loss and Damage Fund for vulnerable countries hit hard by climate disasters.

"This outcome moves us forward," said Simon Stiell, the UN Climate Change Executive Secretary. "We have determined a way forward on a decades-long conversation on funding for loss and damage – deliberating over how we address the impacts on communities whose lives and livelihoods have been ruined by the very worst impacts of climate change."[5]

Loss and damage refers to the most severe impacts of extreme weather on the physical and social infrastructure of poor countries, and the financial assistance needed to rescue and rebuild them. These are the negative consequences that arise from rising sea levels, prolonged heatwaves, desertification, the acidification of the sea, and extreme events such as bushfires, species extinction, and crop failures. As the climate crisis unfolds, these events will happen more and more frequently, and the consequences will become more severe.

Historically, G20 countries have emitted the majority of the greenhouse gases driving the climate crisis. The African continent, for example, contributes the least to climate change, yet it is the most vulnerable to its impacts. Meanwhile, G20 countries represent around 75 per cent of historic global greenhouse emissions. As an example, Pakistan, which recently witnessed US$30 billion in damages from severe flooding that covered a third of its landscape, and was attributed to climate change, emits less than 1 per cent of global emissions.[6]

United Nations Environment Programme (UNEP) research shows that finance for adaptation for developing countries falls short of what is needed. Its 2022 Adaptation Gap Report indicates that international adaptation finance flows to developing countries are five to ten times below estimated needs, and will need over US$300 billion per year by 2030.[7] Loss and damage finance needs are closely connected to the world's ability to mitigate and adapt to climate change.

Clearly, the creation of such a fund is a political challenge with the expectation that developed countries, who are responsible for the majority of greenhouse gases and therefore the upwards direction of climate warming, fund the adaptation and mitigation projects and provide compensation for loss in developing countries; hence, the years of discussion and the historic breakthrough achieved at COP27. Nevertheless, determined pressure from Pakistan, the president of the G77 (developing countries) negotiating block, had the desired effect. As the Pakistan Climate Change Minister, Sherry Rehman, said clearly at the beginning of COP27, "We are on the frontline and intend to keep loss and damage and adapting to climate catastrophes at the core of our arguments and negotiations. There will be no moving away from that."

Over the course of the coming year, representatives from a number of countries will work together to decide what form the Loss and Damage Fund should take, which countries should contribute, and where and how the money should be distributed.

To highlight the relevance of this fund and its importance in the delicate relationship between developed and developing countries, Antonio Guterres, Secretary-General of the United Nations, said the fund is "an important step towards justice" for poor countries that have done little to cause the climate crisis, but are suffering its worst impacts. "Clearly this will not be enough, but it is a much-needed political signal to rebuild broken trust. The voices of those on the frontlines of the climate crisis must be heard."[8]

Perhaps COP27 will be best remembered for the creation of the Loss and Damage Fund, a historic breakthrough and a definite step forward to rebuilding trust between developed and developing countries. It is a vital step in sharing the burden as we all face the same climate challenges ahead.

By **Damian Regan**, Sustainability Reporting & Assurance Leader, Deloitte Middle East

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Risky business

Managing risks in the dynamic digital era

Introducing automation into risk management processes is a complex task; and many challenges exist, which inhibit effective and long-lasting results.

Today's organizations are racing to cope with rapid change, increasing data volumes, and a desire to leverage data, to deliver business goals. In order to remain competitive and accommodate change, organizations are embarking on digital transformation journeys which are revolutionizing systems, processes, and teams through the implementation of analytics, robotics, and automation. The rush to automate starts by embracing digital tools that aim to improve processes and contribute to the collection and storage of data, which enable strategic and informed business decision-making. Digitization plays another essential role and enhances the customer experience by creating more dynamic touchpoints between the service provider and the user.

Introducing automation into risk management processes is a complex task; and many challenges exist, which inhibit effective and long-lasting results. Challenges span across people, processes, and technology, which range from underestimation of budgets required to enable automation, poor development and training of employees, and the desire from senior management to rapidly realize results. A final key risk that is often overlooked is data quality. Dealing with poor data quality residing in systems is key to success; clean and well managed data is a priority to ensure delivery of objectives. These high barriers to entry often cause reluctance to adopt technology amongst risk management specialists and internal audit (IA) professionals.

Challenges of introducing automation into risk management include:

- Significant budget required;
- Extensive collaboration with IT and data teams;
- Poorly defined vision and target state;
- Sufficient change management which ensures IA data requests accommodate business and technology changes;
- IA Op Model change;
- Training and repositioning of IA employees; and
- Poor data quality in source systems.

How would technology help IA functions deliver improved services?
A technology-driven IA approach and team leveraging the emerging trends enables the function to adapt a more integrated approach across lines of defense, deliver more value, and significantly increase efficiency.

Data/risk analytics
Internal audit functions are transitioning to data-driven operations; however, the adoption is slow and most are only embedding descriptive analytics and visualization into existing audits and processes to automate testing. Whilst embedding analytics in this fashion allows for full population testing across databases, it only enhances findings at the time of audit and does not offer immediate value to first and second lines of defense.

Technology solutions including continuous monitoring and process mining combined with an effective operating model offer value to both IA and first and second lines of defense, as issues are identified in real-time and are remediated as they occur. Moreover, IA can focus on what matters and reduce the costs of their standard operations.

Continuous control monitoring (CCM) is a technology-based solution which leverages data to continuously monitor processes and control failures. CCM empowers and enables the first line to own and operate their operational processes, while retaining transparency and audit trail. This trail, in turn, allows the second and third lines of defense to monitor first-line activities, thus eliminating redundancies in testing and associated costs.

Process mining monitors data within systems to reveal an end-to-end view of what is actually happening during processes and whether policies are being broken. However, the real value arises as monitoring identifies process inefficiencies and opportunities to streamline processes to drive business value.

Utilizing advanced analytics in specific scenarios, such as process mining and controls monitoring, deliver a proactive approach to IA which allows IA teams to predict and prepare for future risks before materializing, whilst adding business value.

Artificial intelligence (AI)
Artificial intelligence, which uses machine learning techniques, can be defined as the simulation of human intelligence by computers and machines which handle complex tasks by following a set of rules known as an algorithm.

Given that technology trends are a main driver in today's risk management functions, what would be more beneficial than adopting the AI trend in analyzing the huge amounts of data and identifying patterns and key points that may take hours by an internal auditor to perform? AI and risk management professionals would work in parallel. The first would provide, in an efficient manner, the key insights around the area to be analyzed, while the second would still make the judgment and derive the final result.

- Promotes a continuous improvement mindset that enables agility and digitalization through encouraging purposeful and structured focus on incremental improvement.
- Outlines the key principles and building blocks that functions need to consider as they design, build, and evolve their operating models.

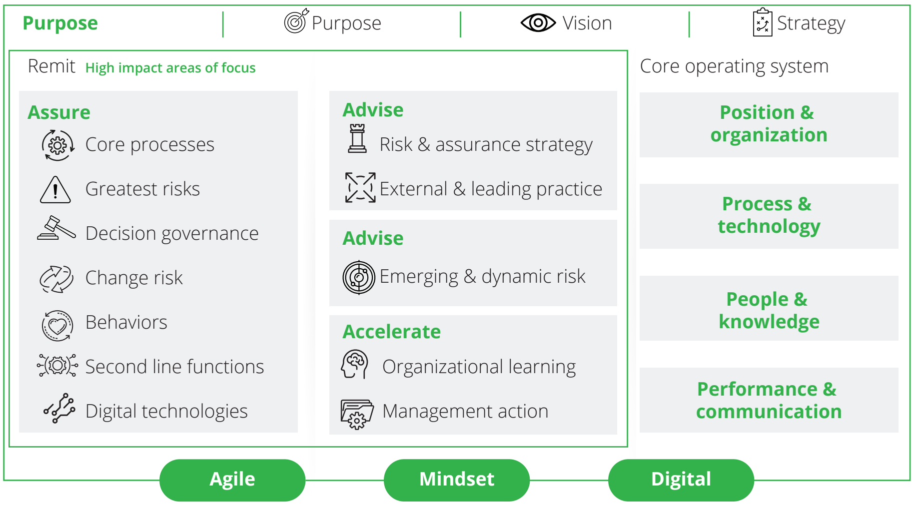


Figure 1: Internal Audit 4.0

Embarking the transformation
Looking ahead, on the breadth of demands on internal audit, and pace and scale of innovation in the profession, point to the need for an update, but not an overhaul. To assist organizations in this journey, Deloitte's Internal Audit 4.0 framework:

- Starts with purpose and the notion of aligning internal audit activities to the organization's purpose, vision, and strategy.
- Challenges internal audit functions to add the "Accelerate" component on top of the "Assure," "Advise," and "Anticipate" components of the framework (as shown in the illustration) to the remit to support organizational learning and management action in ways that match today's pace of change.
- Fully embraces the use of digital technologies across all aspects of the function to help drive insights, collaboration, quality, and productivity.

While internal auditors might perceive the digitization of the internal audit function and capabilities as a risk for their professions, it is in fact an opportunity to transition from the traditional tasks into more value adding activities. As automation is applied on IA methodologies and techniques, results including efficient risk management, cost reduction, and increased productivity are realized. We no longer see it as a set of activities leading to reporting identified issues, but more as working hand-in-hand with different business units to help them improve, and with top management to support in making strategic decisions.

With that having been said, isn't it the right time for auditors and risk management professional to shift their mindset, embrace innovation, and surf the transformation wave?

By **Ziad El Haddad**, Partner, **Daniel Brierley**, Director and **Rabih El Sabaa**, Senior Manager, Risk Advisory, Deloitte Middle East

The new United Arab Emirates Transfer Pricing regime:

Plan, prepare, and prosper

On 31 January 2022, the Ministry of Finance (MoF) of the United Arab Emirates (UAE) announced that the UAE will introduce a Federal Corporate Tax (CT) on business profits that will be effective for financial years starting on or after 1 June 2023. On 28 April 2022, a Public Consultation Document (PCD) was published with more detailed information on the proposed UAE CT regime with the intention of seeking views from interested parties and stakeholders before implementation.[1]

The proposed CT framework also includes a comprehensive Transfer Pricing (TP) regime. The published 47 Frequently Asked Questions (FAQs)[2] by the MoF clearly referred to TP rules being in alignment with the Organization of Economic Cooperation and Development (OECD) Transfer Pricing Guidelines (OECD TPG). In addition, the PCD provided more detail in relation to TP in section 7, specifically on the following items:

- Section 7.1: Related parties;
- Section 7.2: Connected persons;
- Section 7.3: Arm's length principle; and
- Section 7.4: Transfer pricing documentation requirements.

In this publication, we provide an overview of the background to the new UAE TP rules, their potential impact based on currently available public information, and how UAE based businesses can prepare.

A summary on the background of the UAE CT and TP rules

The intention of the 2013 OECD's project on Base Erosion and Profit Shifting (BEPS) was to bring more coherence, substance, and transparency to the international tax system with the introduction of 15 actions. The aim was to ensure that profits are taxed where economic activities generating the profits are performed and where value is created.[3]

A key part of the OECD/G20 BEPS Project is to address the tax challenges arising from the digitalization of the economy (Action 1). The OECD/G20 Inclusive Framework, which has 141 members on equal footing, was mandated to address these challenges. As of 4 November 2021, over 135 member countries and jurisdictions joined a Two-Pillar Solution to ensure that large multinational enterprises (MNEs) pay a global minimum tax where they operate and earn profits.

The UAE is part of the inclusive framework and supports the Two-Pillar Solution. It has now introduced a Federal CT regime, which will be effective for financial years starting on or after 1 June 2023. As noted in section 2.4 of the PCD, the introduction of a Federal CT regime will also provide a basis for the UAE to execute its support of the global minimum tax as proposed under Pillar Two of the OECD/G20 BEPS Project.

As the intended Federal CT regime will be based on global best practices, and will incorporate principles that are internationally known and accepted, the rules will include an extensive TP regime in line with OECD's TPG as indicated in the FAQs and the PCD.

UAE TP rules

Section 7 of the PCD elaborates on the proposed TP treatment of transactions between related parties. The TP rules will apply the internationally recognized and accepted arm's length principle (ALP) for transactions between related parties and with connected persons.

The PCD refers to the TP rules and ALP as set out in the OECD TPG, which is consistent with the internationally accepted and applied standards. Based on this, and as illustrated below, transactions between related parties or with connected parties should be consistent with the results that would be achieved for transactions between independent parties in the same or comparable cases.

Related parties

The definition of a related party is quite common within TP regulations, as this is generally based on the OECD Model Tax Convention. The OECD refers to associated enterprises where, "an enterprise of a Contracting State participates directly or indirectly in the management, control, or capital of an enterprise of the other Contracting State, or the same persons participate directly or indirectly in the management, control, or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State."

The PCD refers to a related party as an individual or entity who has a relationship through ownership, control, or kinship. Although ownership and control are generally in alignment with the OECD definition, the criterion of kinship is quite specific. This applies in transactions that may exist between natural persons. In certain cases, the natural persons may not be subject to any taxes (e.g., cases where they are not qualified as a being engaged in a business that is subject to CT), which may result in a situation where the income for that natural person is not taxed. Hence, these situations need to adhere to the ALP.

A branch or a permanent establishment is also considered as a related party for the UAE TP rules. For example, a branch in the UAE mainland may be considered as a related party of a head office in a Free Zone. Partners in the same unincorporated partnership are also considered as related parties.

Connected persons

The existence of the concept for connected persons is very specific to the UAE and is generally not considered in most other countries. The background to this is that the UAE does not have any personal income taxes, which may incentivize (excessive) payments from businesses to individuals (that are connected persons) to erode the taxable basis for CT.

A connected person is an individual who directly or indirectly has an ownership interest in, or controls, the taxable person.

A director or officer of the taxable person is also considered to be a connected person.

The PCD also refers to individuals that are related to the owner, director, or officer of the taxable person to the fourth degree of kinship or affiliation, including birth, marriage, adoption, or guardianship. This is a criterion which may have far-reaching consequences for businesses in the UAE to apply and maintain as there are many family-owned businesses in the UAE. More guidance is expected from the MoF on this item.

Any partner in an unincorporated partnership is also considered as a connected person in case there is one partner that is a taxable person, e.g., a natural person that is a partner with a legal entity or a natural person that is subject to CT.

To complete the above, a related party of any of the above descriptions is also considered to be a connected person.

As a measure to combat tax base erosion, payments to connected persons are only tax deductible if these:

1. Correspond with the market value of the service provided; and
2. Are incurred wholly and exclusively for the purposes of the taxpayer's business.

Although there is no guidance on how to prove the market value of the service provided (e.g., with a benchmarking analyses), businesses may, for example, already start gathering information on salaries in the market to prove that the payment is in line with the market value. However, more guidance is also expected from the MoF on this item.

TP documentation requirements

The PCD stipulates the preparation and maintenance of a Master File (MF) and Local File (LF) in line with the OECD TPG in case intercompany transactions with related parties exceed a certain threshold, which is yet to be specified by the MoF.

A disclosure form should also be submitted for transactions with related parties and connected persons.

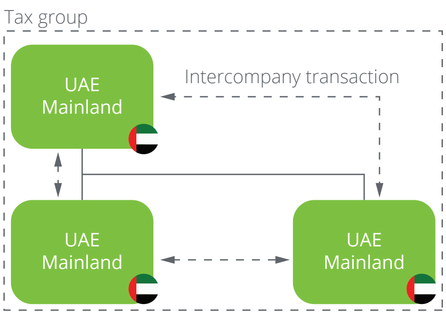
It should also be noted that the MF and LF requirement seems to be applied for related party transactions only, whereas the disclosure form extends to connected persons, as depicted in the below table. The disclosure form requirement also does not refer to any monetary threshold.

Transfer pricing documentation requirement	Prepare & maintain	Submit	Related party transactions	Connected person transactions
Master file	✓		✓	
Local file	✓		✓	
Disclosure forum		✓	✓	✓

Domestic transactions and tax groups

A key observation is that the PCD does not clarify the application of the TP rules in domestic situations. Although the effective tax impact of domestic TP rules may be limited, certain countries do apply the ALP for domestic transactions as the profits/losses of the companies should be determined individually, especially in cases where a tax advantage could potentially arise.

However, the impact of TP will be reduced when transactions with related parties take place within a tax group, or when group companies are allowed to transfer losses under certain conditions. Intercompany transactions within a tax group will be eliminated as the tax group is treated as a single taxpayer, which is illustrated.



Transfers or restructurings within a group may also qualify for relief under certain conditions. Although these may not have an immediate impact on the profits/losses within the group because of the relief, the ALP may be relevant if the group cannot maintain the qualification conditions and a "claw back" is applied.

Based on the above, it may be the case that the UAE will opt not to apply TP in domestic situations. However, more guidance is expected from the MoF on this matter.

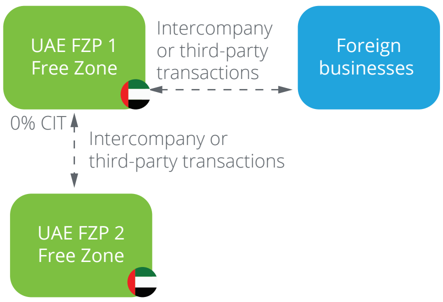
Free Zones

The UAE will maintain its Free Zones and honor a CT rate of 0% for Free Zone Persons (FZPs) if certain conditions are met. However, it should be noted that (intercompany) transactions with parties in the UAE mainland may have an impact on the eligibility of the 0% CT rate for FZPs and the deductibility of cost for the related parties in mainland. Important considerations of the PCD in this regard are illustrated below.

Consideration 1: Transactions between FZPs and foreign businesses

FZPs will maintain the 0% CT rate if they have intercompany or third-party transactions with foreign businesses (including related parties) or with FZPs (including related parties) in other Free Zones. The impact of intercompany transactions in such cases seems to be limited at first hand as the 0% CT rate will not be impacted, although the taxable base should still be in line with the ALP.

Please refer to the position of UAE FZP 1 in the below illustration.



Consideration 2: Transactions between FZPs and mainland businesses

When an FZP transacts with UAE mainland businesses (including related parties), the 0% CT rate may still be applied if the income is considered to be "passive income" (e.g., interest and royalties, and dividends and capital gains), as illustrated below.

However, transactions with related parties situated in the UAE mainland may result in non-deductibility of payments for these related parties in the UAE mainland. Non-deductibility of payments may have far-reaching consequences for the taxes paid by the UAE mainland entities. It is not yet clear which category of "payments" trigger non-deductibility for the UAE mainland entities, e.g., whether interest payments and royalty payments qualify for the non-deductibility of expenses.

The following tables illustrate the CT impact in the case of the non-deductibility of payments. The example consists of a UAE FZP that sells products to a UAE mainland related party, which in its turn sells the products to third-party customers in the UAE mainland.

Base scenario: Without non-deductibility of payments for mainland group company

P&L	UAE FZP	UAE Mainland		Group P&L
Revenue	200 Intercompany transaction	250	➤ **UAE ML**	250
Cost of goods sold	(150)	(200)	➤ **UAE FZP**	(150)
Gross profit	**50**	**50**	➤ **Sum**	**100**
Operational expenses	(40)	(20)	➤ **Sum**	(60)
Net profit/taxable basis	**10**	**30**	➤ **Sum**	**40**
CT rate	0%	9%		
Corporate tax	0	2.7	➤ **Sum**	(2.7)
Total result (net profit - CT)	**10**	**27.3**	➤ **Sum**	**37.3**

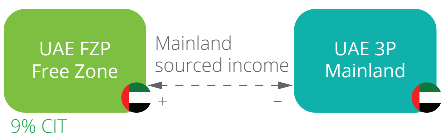
Alternative scenario: Non-deductibility of payments for mainland group company

P&L	UAE FZP	UAE Mainland		Group P&L	Group P&L
Revenue	200 Intercompany transaction	250	➤ **UAE ML**	250	250
Cost of goods sold	(150)	(200)	➤ **UAE FZP**	(150)	(150)
Gross profit	**50**	**50**	➤ **Sum**	**100**	**100**
Operational expenses	(40)	(20)	➤ **Sum**	(60)	(60)
Net profit/taxable basis	**10**	**30**	➤ **Sum**	**40**	**40**
Non-deductible payment		200		200	
Taxable basis	**10**	**230**	➤ **Sum**	240	240
CT rate	0%	9%			
Corporate tax	0	20.7	➤ **Sum**	(20.7)	(2.7)
Total result (net profit - CT)	**10**	**9.3**	➤ **Sum**	**19.3**	**37.3**

The difference of CT in both scenarios clearly shows the significant impact that non-deductibility of payments for intercompany transactions has for businesses.

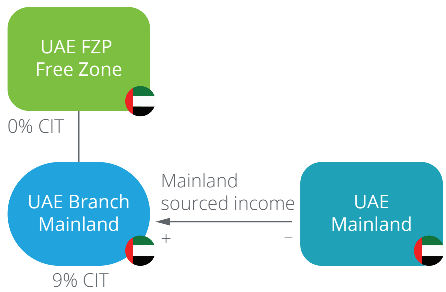
Consideration 3: Transactions between FZP and mainland businesses

Any other UAE mainland sourced income will disqualify an FZP from the 0% CT rate for all their income, as illustrated below. It is currently unclear whether this only applies to income from unrelated parties.

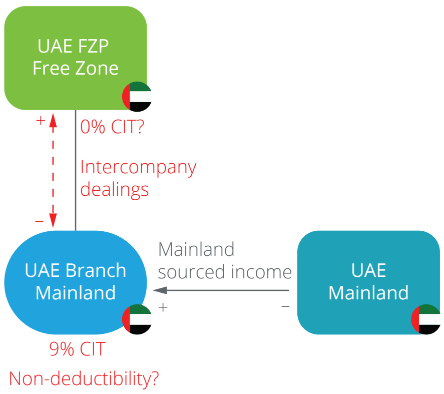


Consideration 4: FZP with a branch in UAE mainland

An FZP with a branch in the UAE mainland will be taxed at the regular CT rate for the mainland sourced income, whereas it will retain the 0% CT rate for its other income, which is illustrated above.



However, as the PCD does not elaborate on the allocation of income to the branch, it may be considered to apply the principles of the OECD TPG to allocate profits to the branch, which may trigger internal dealings between the branch and head office which is an FZP (please refer to the illustration).



These internal dealings between FZP and branch may also have an impact for the application of the 0% CT rate and the deductibility of costs for the branches, as these internal dealings can be considered as transactions that trigger consequences for FZPs.

Conclusion for Free Zones
Given the complexity of the rules for FZPs, it is recommended that businesses carefully consider their (intercompany) transaction flows to understand the tax impact of their current arrangements and to act.

More guidance on this subject is expected from the MoF to clarify the exact impact for businesses.

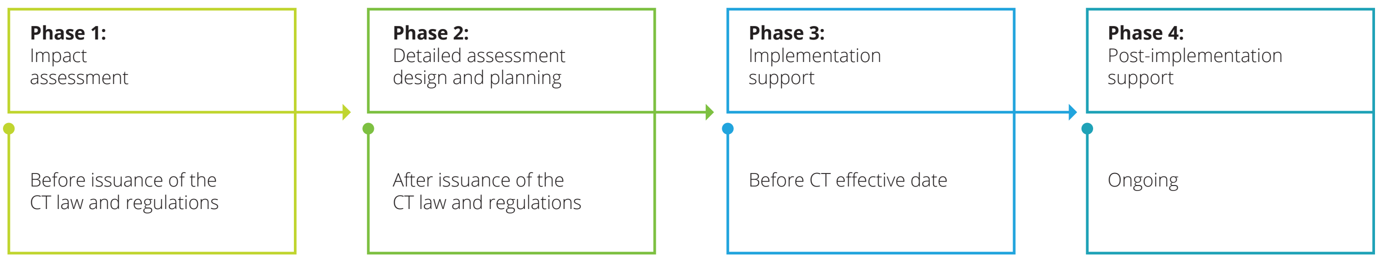
Clarifications
The PCD says that businesses may apply for a binding clarification for correct or intended treatment in case there is uncertainty in relation to a (proposed) arrangement. Although the extent of the clarifications is not entirely clear yet, this may be a possibility to obtain Advance Pricing Agreements (APAs) and thus certainty in relation intercompany transactions with related parties.

Considering the above, the PCD provides some details on the intended design of the TP regime in the UAE. However, as noted above, this results in complexity for businesses when considered together with the CT regime based on the current publications. More details and guidance from the MoF are expected to provide further clarification.

Next steps
The developments in relation to TP in the UAE have far-reaching tax and non-tax/operational implications for affected businesses. Alongside TP, these implications may also relate to legal structure, business model, contracting, accounting, profit and systems and data organization, and the organization of the tax function with a potential impact for various stakeholders within organizations.

Considering the timeframe left to prepare for the implementation of TP rules, companies should start assessing the impact for their business and what they need do in order to be prepared given the complexity of these rules.

Deloitte Middle East has developed a phased framework to assist businesses in effectively managing their preparation and transition into the implementation of TP in the UAE through a holistic approach. This covers areas such as TP and CT advisory and compliance, TP modeling and planning, the organization of the tax function, and the use of technology to effectively manage these areas.



The developments in relation to TP in the UAE have far-reaching tax and non-tax/operational implications for affected businesses

By **Mohamed Serokh**, Tax Partner, Transfer Pricing Leader, **Rabia Gandapur**, Transfer Pricing Director, **Ahmet Celiktas**, Transfer Pricing Senior Manager, and **George German**, Transfer Pricing Senior Manager, Deloitte Middle East

Endnotes
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The need of the hour:

Stepping-up counter fraud controls in the banking sector

The Gulf Cooperation Council (GCC) countries' economic recovery since the peak of the pandemic in 2020 has been remarkable; it has been so convincing that their economies were projected to have grown at their fastest pace in more than a decade in 2022.[1] The flurry of economic activity also resulted in increased financial fraud (FF), specifically in the financial services sector.

FF has had a dramatic surge in the region in the post-pandemic era. In Q2 of 2022, reported FF cases more than doubled in the region compared to the previous quarter.[2] A recent survey reported 62% of KSA residents have experienced attempts of FF while 14% have been impacted by some form of fraud.[3]

Regional authorities have taken notice of this surge in fraud related incidents and have introduced measures to enhance the controls to counter fraud - key measures such as the below:

- The Central Bank of the UAE, UAE Banks Federation, Abu Dhabi Police, and Dubai Police launched the country's first-ever National Fraud Awareness campaign.[4]
- The Qatar Central Bank spread Counter Fraud (CF) awareness amongst the public via their communication channels.[5]
- The Saudi Central Bank issued a CF Framework for its member organizations to comply with by June 2023.[6]

In tandem with the authorities, banks have a vital role to play in the fight against FF. Governance, technology, and people are 3 key pillars that the banks should be focusing on within their CF program.[7]

Governance

The Committee of Sponsoring Organizations of the Treadway Commission (COSO), a leading issuer of fraud risk[8] management guidance, describes fraud risk governance as an integral component of corporate governance and the internal control environment; it designates the board and executive leadership to be ultimately responsible for the CF program. The governance of fraud risk varies from bank to bank. This is evident when looking at where fraud risk lies at leading global banks. At HSBC, the group risk and compliance function is responsible for fraud risk, at Standard Chartered Bank, the financial crime compliance (FCC) function is responsible for it.[9] In the GCC, governance of fraud risk is usually the responsibility of either the compliance function or the risk management function.

Regardless of where ownership of fraud risk lies within the bank, it is important for the owner of the risk to have sufficient understanding of the current threats/ trends and the mitigating controls' effectiveness to ensure that residual risk is in line with the bank's agreed risk appetite.

Technology

A surge in financial fraud

Increased digitalization and remote-payment of products and services in recent years has also resulted in innovative ways for fraudsters to bypass the banks' controls. For example, fraudster(s) developed fake websites that greatly resembled the domain-name and appearance of a leading recruitment company's website in order to steal customers' online/mobile banking credentials. The stolen credentials were then used to transfer moderate amounts (SAR20,000–70,000) to "money mules" (i.e., associates who receive stolen funds for further money laundering or immediate cash out via ATM). The worrisome matter is that this fraud was conducted in such a way that it out-maneuvered traditional CF controls such as one-time passwords (OTPs) and legacy fraud detection systems.[10]

In another example of FF sophistication, a fraudster was able to successfully transfer out AED9.5 million from a customer's bank account. After obtaining the mobile/ online banking log-in details (via a phishing/ vishing scheme), the fraudster submitted a cancellation and replacement issuance request for the SIM registered with the bank. Following receipt of the replacement SIM, the fraudster conducted forty-six transactions over a month to empty out the bank account.[11]

The ever-evolving modus operandi of fraudsters is increasingly propelling regional banks to look at more proactive technological solutions. Technology, such as the below, is enabling interesting use cases to prevent FF.

- **Artificial intelligence (AI):** AI-powered solutions can be implemented to recognize suspicious behavior in the bank's transactions. Such solutions scan data passage through systems in real-time (e.g., on the basis of geographical location, rhythm of inputting log-in credentials, new device log-in), flag suspicious transactions, and issue alerts for investigation.
- **Machine learning (ML):** Simple rule-based solutions often lead to a high volume of false positive alerts for a bank's limited resources to manually review and close. ML allows banks to automate the ongoing update of their existing technology solutions to adapt and prevent existing and future threats.
- **Biometric data:** The use of biometrics (e.g., fingerprint, retinal scan) to access online banking channels can add an additional layer of protection for a bank's customers, especially against phishing/ vishing.

Banks need to urgently revisit their CF program and ensure that they invest in updated technology for real-time fraud monitoring to ensure proper safeguards are in place against fraudsters. The value of a fraud detection system is highly dependent on the quality and quantity of the data it has access to. Thereby, by using collective intelligence from multiple sources, banks can increase the effectiveness of their dedicated CF solutions. Organizations who have made investments in CF technology (in the post-pandemic era) have experienced a 60% decrease in their fraud cases.[12]

People

No matter how robust the control framework is, the human element continues to be the most important control against FF. A recent study has identified that over 137,000 Arabs visit fraudulent websites through which they are subjected to various fraud schemes every day.[13]

It is the banks' responsibility to adequately train their internal stakeholders (i.e., employees, executive leadership, board members) and spread awareness amongst internal and external stakeholders (i.e., third-parties, customers). Although most organizations do provide CF-related training and awareness, a recent survey indicated that almost half of the organizations find their CF training and awareness to be inefficient.[13] Banks need to consider how they can optimize the efficiency of their existing CF training and awareness frameworks for each respective audience group.

As technology advances, fraudsters will continue to come up with innovative techniques to exploit the population's limited awareness of FF and take advantage of CF program deficiencies. While banks in the region have made great strides in fighting FF, fraudsters remain a step ahead of the curve; this clearly puts the onus on the bank to protect its customers and itself from FF.[14] It is time for banks to invest in their CF programs, especially with advanced CF technologies, to ensure fraud is prevented, rather than investigated.

By **Saad Qureshi**, Director, Financial Crime and Analytics and **Humaid Hussain**, Senior Associate, Financial Crime and Analytics, Deloitte Middle East

As technology advances, fraudsters will continue to come up with innovative techniques to exploit the population's limited awareness of FF and take advantage of CF program deficiencies

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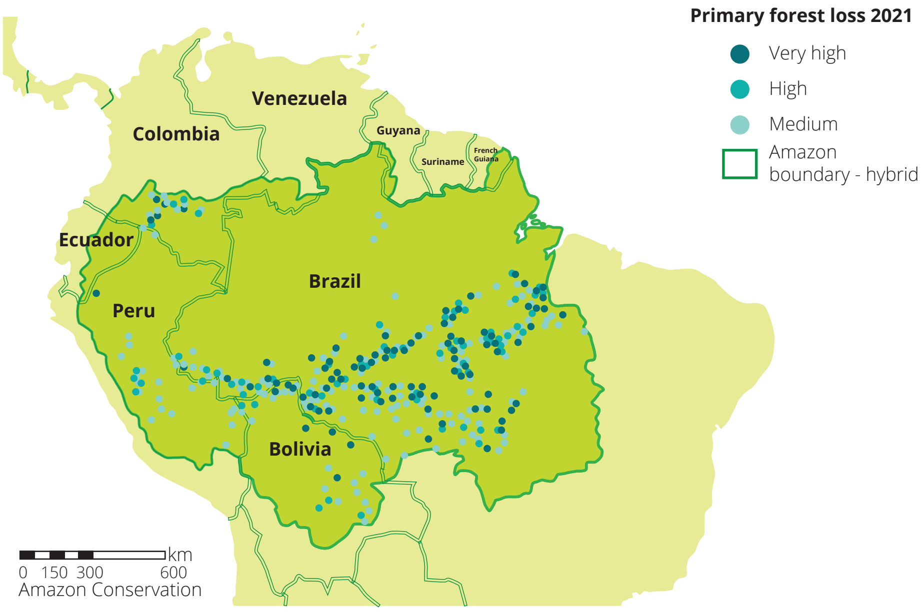
A bird’s eye view:

Earth observations for environmental reporting

The landscape and criticality of environmental impact reporting is changing, and yet the same methodologies and data collection techniques are repeatedly used. This is leading to a perceived lack of confidence in some of the figures, as well as reduced confidence in the overall impact of large-scale environmental programs, and the effect will not be felt for decades to come.

Data gathered from space-borne sensors has long been used to calculate the degradation of natural landscapes, such as the deforestation of the Amazon Rainforest; but now powerful machine learning techniques combined with data gathered from space-borne sensors are forging a path to more robust and resilient data collection and interpretation for monitoring positive interventions.



Source: Finer M, Mamani N, Spore J (2022) Amazon Deforestation Hotspots 2021. MAAP: 153

Figure 1: Deforestation hotspots across the Amazon in 2021 (as of September 18). Data: UMD/GLAD, ACA/MAAP

A changing landscape

The environmental impacts of climate change cannot be ignored. While it is tempting to think that the region is already well adapted to existing in extreme temperatures, the reality is that for Gulf states the impact will manifest as rising sea levels and increased levels of desertification, which is also driven by other anthropomorphic factors like increased urbanization.

One of the weapons in the arsenal to combat these changes is the planting of trees and mangroves across the region, enshrined in programs such as the Saudi Green Initiative, which aims to plant 10 billion trees and rehabilitate 40 million hectares of land over the coming decades. These initiatives will not only help efforts to move towards carbon neutrality, but will also work to stop the encroachment of deserts on otherwise habitable and potentially productive land.

The criticality of these programs to succeed is not disputed; however, as with any ongoing project, progress must be monitored and reported in order to provide internal oversight and timely intervention if needed, as well as provide external confidence and continued support. Reporting mechanisms for landscape modification on such scales is not yet well defined.

By the end of 2020, even with 92% of Standard and Poor's (S&P) companies reporting environmental, social, and governance (ESG) metrics, according to a BlackRock survey, 53% of global respondents said the quality or availability of ESG data and analytics was poor.

The need for reliable environmental reporting, combined with the apparent lack of confidence in existing reporting within the industry, presents a couple of opportunities. One, in providing clients with reporting methodologies that are consistent, scalable, repeatable, verifiable, and have a high turn around rate, and the other, in providing assurance services in the environmental reporting space.

Avoiding greenwashing

Measuring the success of a program such as the Saudi Green Initiative is fraught with pitfalls. Often, the number of trees planted, or amount of land rehabilitated, is difficult to quantify and methodologies for doing so either involve self-reporting or taking in-situ measurements.

Both of these methodologies have their own drawbacks. In-situ measurements can be very labor intensive and time consuming (especially when considering the kind of land areas involved in Saudi) and self-reports can be difficult to independently verify, an issue when financial incentives are at stake.

Earth observation (EO) data, gathered from aerial or space-borne sensors, is being used to close the gap between statement and reality in environmental reporting.

The Earth observed

EO products work by measuring the reflected and emitted electro-magnetic (EM) radiation of a surface at a distance. This is essentially the same way a digital camera captures an image, but the sensors used in EO detect wavelengths of EM radiation beyond our visual range. These values are then expressed as "bands" and different combinations of these bands can be used to infer characteristics of the earth's surface or atmosphere. In the digital camera, the sensors capture reflected radiation in the red, green, and blue bands and compile an image from them. When bands are combined from other parts of the EM spectrum, we can detect factors like land cover type, soil conditions, vegetation cover and health, forest fire prevalence and potential, and detecting and monitoring oils spills.

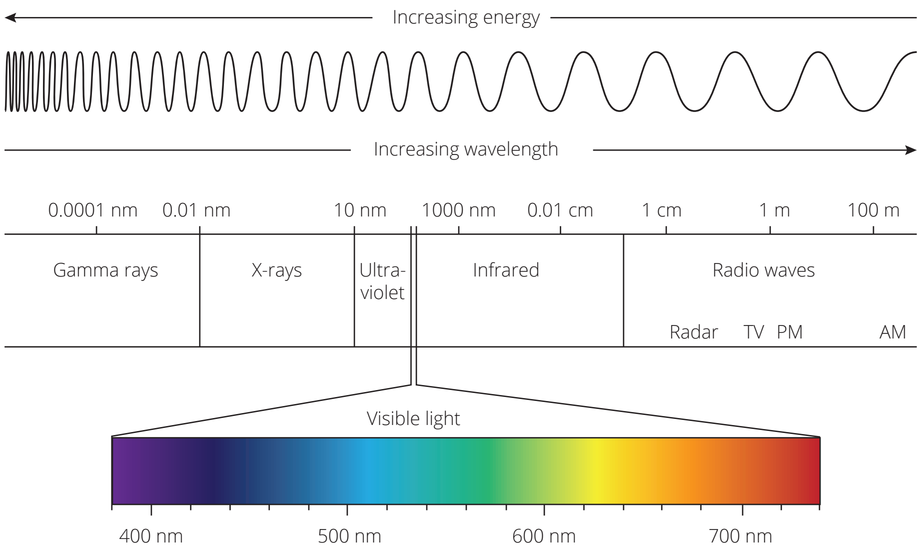


Figure 2: The electromagnetic spectrum

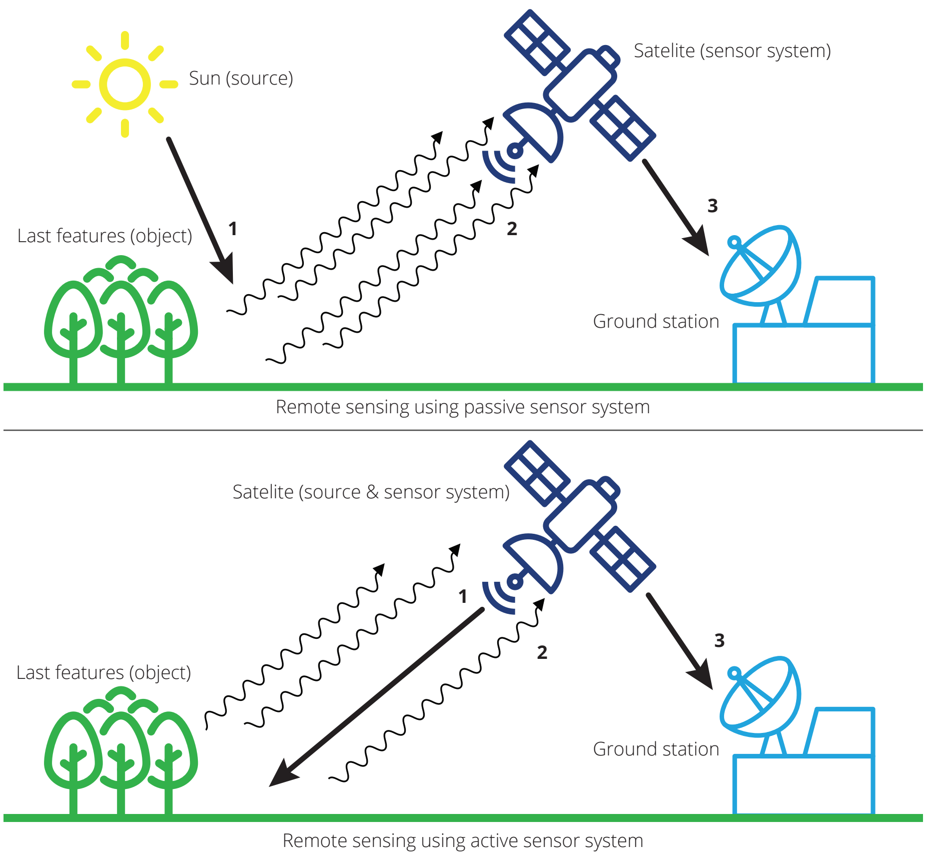


Figure 3: Passive and active sensors systems working principles

Specific to environmental reporting, these sensors can aid in defining the environmental impacts of commercial activity from estimating the extent of power consumption via infra-red heat proxy to calculating the extent of land degradation or measuring CH4 emissions. It is however vitally important to build sector specific geospatial analysis methods and to gain maximum insight and attribute environmental impact to fixed intervention. Currently, the best use cases for these types of analyses are focused on sectors with robust existing asset datasets – mining, powerplants, cement, oil and gas, where the environmental impact is primarily linked to a geographically fixed asset location.

The assessment methodology to determine what exactly is meant by “land rehabilitation” needs to be defined, and appropriate measurements need to be taken

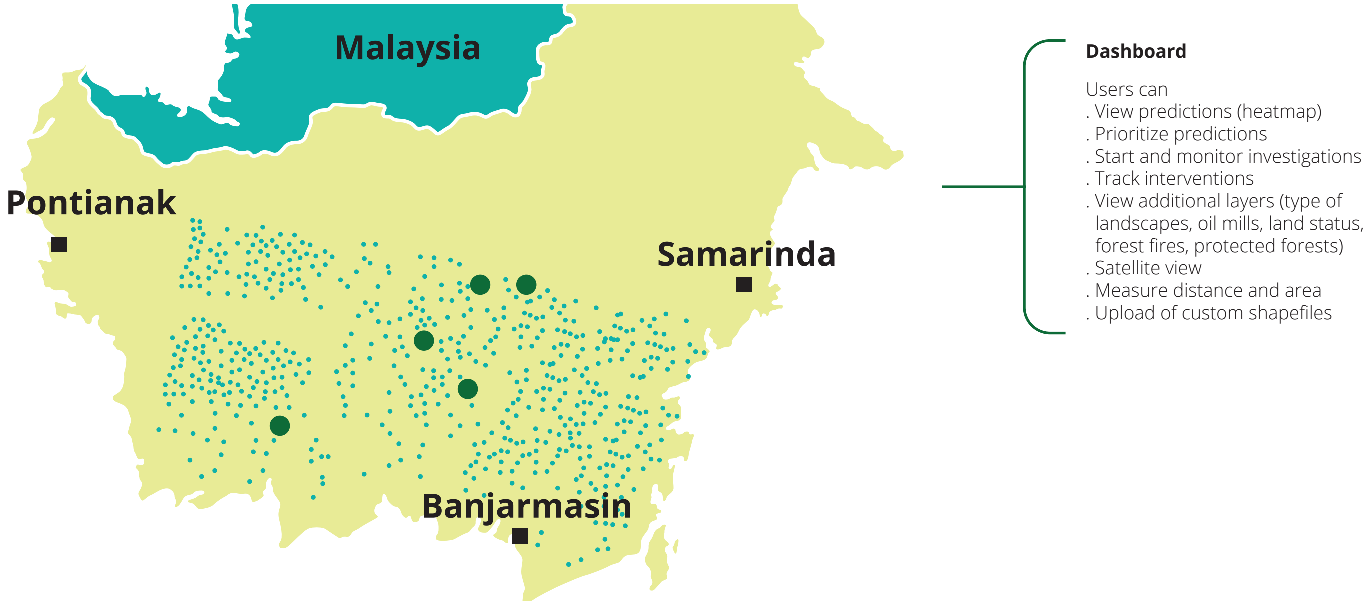
Time after time
The strategic advantages of using insights derived from EO platforms over traditional monitoring techniques are that they are consistent, repeatable, and independently verifiable.

The advantages are extended when considering the temporal resolution of the collected data. Typically, sensors in orbit have been collecting data for years (in some cases decades) and so historical reporting is possible, along with the ability to produce a “natural state” assessment of the landscape before the presence of an asset or activity.

Not a magic bullet
There are limitations to the application of EO data and analysis to environmental reporting; unfortunately, it is not a magic bullet. For example, to assess the environmental impact over the lifetime of an intervention, data must exist for both before and after the intervention started to occur. The proliferation of orbital sensors has increased dramatically over the last decade or so, meaning for many interventions with more longevity, other datasets would have to be sourced and interpreted to provide the historical overview.

The assessment methodology to determine what exactly is meant by “land rehabilitation” needs to be defined, and appropriate measurements need to be taken. The complexities of defining and measuring ”environmental impact” (land degradation, habitat loss, climate impacts), as well as the availability of supporting data, means that industry and asset specific methodologies will need to be identified, likely including a series of actors to validate definitions and provide data sources. Finally, the correct spatial resolution needs to be collected and used in order to count specific tree numbers. Often, this data can only be provided by airborne sensors, rather than spaceborne ones, meaning that some applications would require specific mission-to-be flows; however, with the cost of drone surveys reducing, and their payload capacity increasing, this is more of a reality today compared to 10 years ago.

Today’s application
Deloitte has a rich history of turning EO data into actionable intelligence. An early warning system has been developed to detect and predict illegal deforestation and logging road construction in eastern rainforests. The system uses change detection analysis to identify changes between data ingested monthly across millions of hectares of rainforest and identify newly constructed logging roads. This data, along with more than 30 other deforestation drivers, are used by a predictive model to create “hot zones” of new activity which linked to a prioritization interface, allows administrators to customize alert types based on user group preference. Finally, the front end allows users to see results and trigger intervention activities.



Source: Deloitte Netherlands

Figure 4: Early warning system dashboard

Earth observation data has a rich history of providing scientific measurement of changes occurring on the earth's surface and within the atmosphere. As space-borne sensors increase their spatial resolution and airborne sensors become more affordable, and while the need to report on the state of land or health and prevalence of vegetation becomes more commercially motivated, the opportunities to bring earth observation products out of the scientific journals and into the hands of our clients become ever more real.

By **David Merren**, Assistant Director, Analysis & Geospatial, Deloitte Middle East

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A "taxing" situation

The evolution and impact of OECD driven Base Erosion and Profit Shifting (BEPS) Action Plan from a GCC perspective

As international tax rules were written decades ago, there have been fundamental changes in the global landscape due to globalization and digitalization of economy. Hence, it is important for all government authorities and international organizations to address the issue of double taxation, profit shifting, and tax evasion. With support from G20 nations, the Organization for Economic Cooperation & Development (OECD) has taken joint action to increase transparency and exchange of information in tax matters, and to address weaknesses of the current global tax system that lead to tax leakages for tax authorities.

Following the 2008 economic crisis, western nations made "taxation" a priority topic and have since led the fight against profit erosion. Base Erosion and Profit Shifting (BEPS) refers to strategies used by a company in attempt to exploit gaps and mismatches in tax rules to move profit to a low tax jurisdiction. As such, the OECD initiated the BEPS Action Plan (with the support of all Inclusive Framework (IF) member countries), which has taken centre stage in addressing the challenges of the global economy.

Due to lack of adequate measures in place, it is estimated that annual tax revenues of approximately US$100 billion are lost due to BEPS creating huge tax loopholes in the system based on OECD findings. Keeping this in mind, the objective of the BEPS framework is to seek consensus building amongst OECD member countries and G20 nations. Ultimately, the BEPS framework's goal is to implement policies and tax rules that don't facilitate the shifting of corporate profits away from where the real economic activity and value creating is taking place. Back in 2015, the OECD identified 15 actions along three key pillars: introducing coherence in the domestic rules that affect cross-border activities; reinforcing substance requirements in the existing international standards; and improving transparency, as well as certainty.

This comprehensive 15-point BEPS Action Plan would provide clarity and transparency in the international tax arena. The 15 points of the BEPS Action Plan are as follows:

- **Action 1:** Addressing the tax challenges of the digital economy
- **Action 2:** Neutralizing the effects of hybrid mismatch
- **Action 3:** Designing effective controlled foreign company rules
- **Action 4:** Limiting base erosion involving interest deductions and other financial payments
- **Action 5:** Countering harmful tax practices more effectively, taking into account transparency and substance
- **Action 6:** Preventing the granting of treaty benefits in inappropriate circumstances
- **Action 7:** Preventing the artificial avoidance of permanent establishment status
- **Actions 8-10:** Aligning transfer pricing outcomes with value creation
- **Action 11:** Measuring and monitoring BEPS
- **Action 12:** Mandatory disclosure rules
- **Action 13:** Guidance on transfer pricing documentation and country-by-country reporting
- **Action 14:** Making dispute resolution mechanisms more effective
- **Action 15:** Developing a multilateral instrument to modify bilateral tax treaties

The BEPS package of measures represents the first substantial renovation of the international tax rules in almost a century. Once the new measures become applicable, it is expected that profits will be reported where the economic activities that generate them are carried out and where value is created. The BEPS package is designed to be implemented via changes in domestic law and practices, and via treaty provisions, with negotiation for a multilateral instrument under way.

Out of 15 BEPS action items, the four minimum ones are Action 5, Action 6, Action 13, and Action 14, which all IF member countries have to meet and are subject to annual peer review by the OECD. Implementation of these recommendations aims to tackle tax avoidance, improve

Ultimately, the BEPS framework's goal is to implement policies and tax rules that don't facilitate the shifting of corporate profits away from where the real economic activity and value creating is taking place

the coherence of international tax rules, and ensure a more transparent tax environment with the implementation of these specified actions. The IF currently comprises 140 countries, including USA, Japan, Latin America, and Asia Pacific, as well as various other geographic regions. Although these tax policies introduced by G20 and OECD IF member countries are the soft law, and will only be hard law once transposed into domestic law by member countries, they are gaining momentum in today's global economy as not joining the bandwagon can lead to name shame and potential loss of reputation.

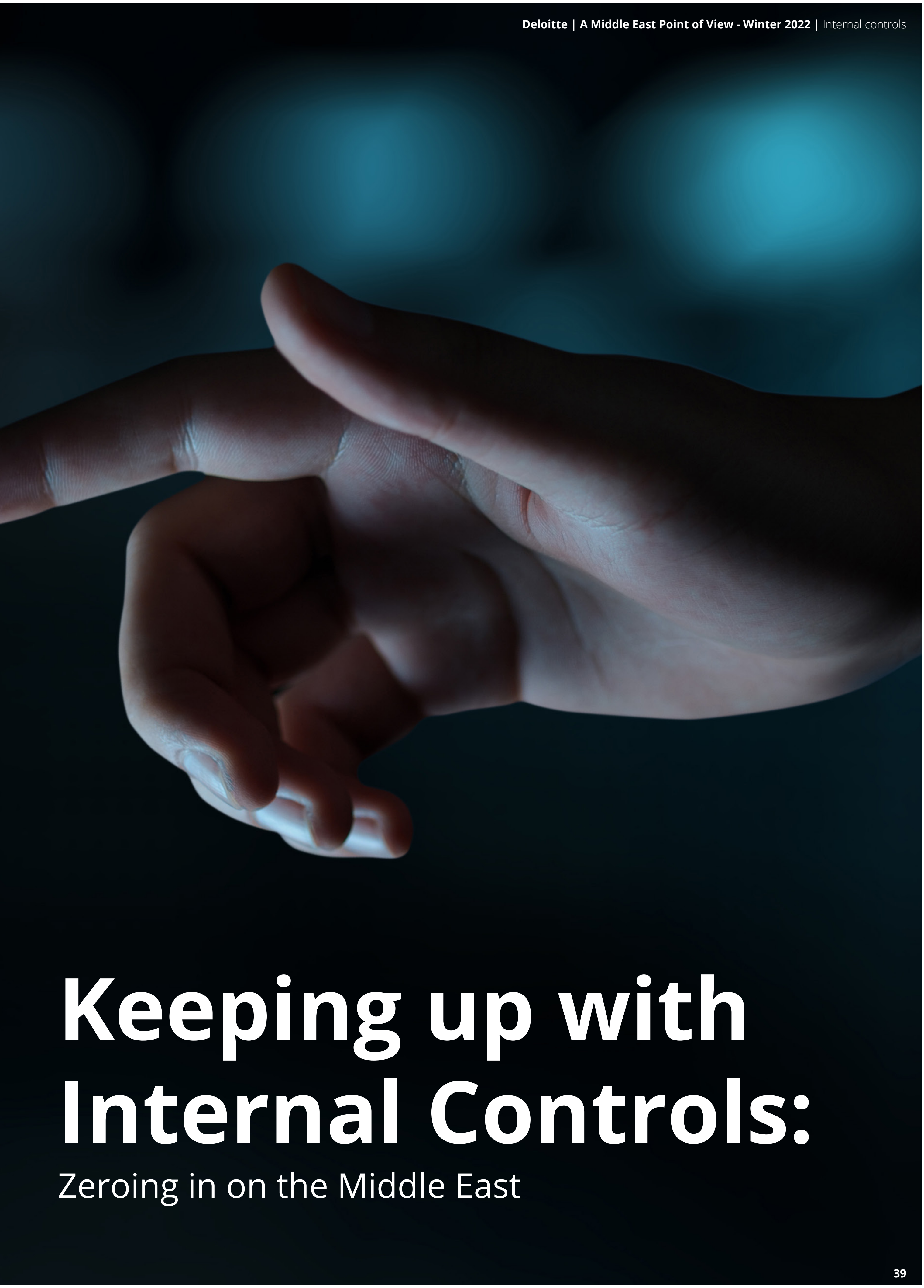
From a Middle East perspective, almost all GCC countries (except for Kuwait which is not part of the IF membership yet) are playing crucial roles in terms of meeting the four minimum BEPS actions and making improvements in their regime per the recommendations provided by the OECD peer review committee. For instance, back in October 2021, Qatar's Ministry of Finance issued guidance concerning Economic Substance Regulations (ESR), requiring certain "qualifying entities" that carry on specified activities to demonstrate economic substance in Qatar from November 4, 2021 if they want to benefit from a preferential tax regime. This required all relevant entities in Qatar to assess whether they would fall into ESR scope or not and take necessary steps to comply. These welcoming measures by the Qatar Tax Authority are to address the OECD's recommended issues with regards to BEPS Action 5. As for the other minimum action items, based on the OECD's website, Qatar has so far met all the criteria of the OECD peer committee.

Likewise, when it comes to OECD peer review for the UAE, it has also been found to be largely compliant in terms of exchange of information upon request (EOIR), and its review of effectiveness in practice of automatic exchange of information (AEOI) is also on track. As for the other action item update per OECD findings, the UAE is compliant in terms of BEPS Action 5 (Existence of Harmful Tax Practice); it is going through Action 6 review (Preventing Treaty Abuse); there is a proper legal framework in place when it comes to Action 13 (Guidance on Country-by-Country reporting); and finally, Action 14 (Effective Dispute Resolution) has been reviewed and some recommendations have made by the OECD. Last but not least, along with the majority of GCC countries, the UAE also participated in the OECD agreement back in October 2021 regarding the two-pillar plan to address tax challenges arising from the digitalization of the economy.

From wider GCC perspectives, there have also been positive improvements and developments when it comes to OECD peer review in terms of minimum BEPS action items. In addition, beyond the four minimum BEPS action items, as the majority of the EU and other remaining OECD countries have also started to implement the remaining 11 BEPS action items in some respect (although not mandatory), GCC tax authorities should start envisioning how to bring these new rules in the domestic legislations to be aligned with international tax regulations. This could pose as adopting the principles of anti-tax avoidance directives, controlled foreign company (CFC) rules, and addressing hybrid mismatch rules, as the GCC wants to attract foreign direct investment (FDI) in the near future, and make it easy from tax policy perspectives.

But in the meantime, it is encouraging to see our GCC IF member countries actively participating in the two-pillar plan agreement to address the tax challenges arising from the digitalization of the economy in line with BEPS Action 1. This certainly shows the willingness and ability of wider GCC tax authorities to have tax policies and regulations in line with OECD standards, which is certainly welcoming news in today's global tax landscape.

By **Abi Man Joshi**, Business Tax Partner, Deloitte Middle East



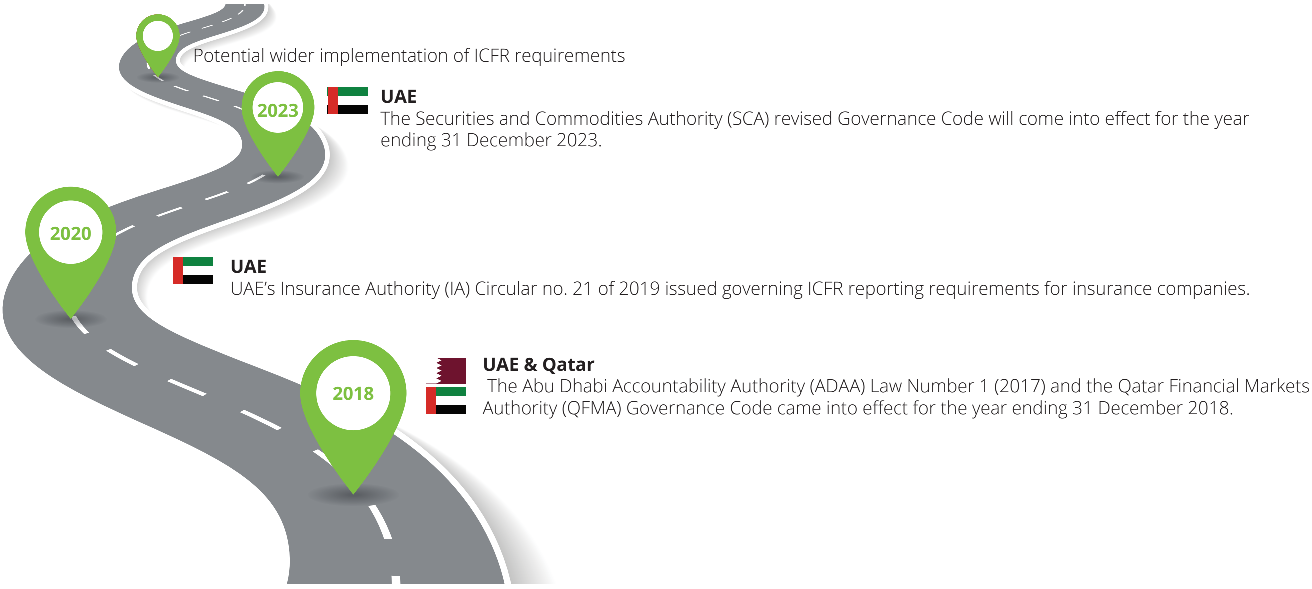
Keeping up with Internal Controls:

Zeroing in on the Middle East

Since 2018, several Middle East regulators have introduced regulatory mandates aimed at strengthening internal control over financial reporting (ICFR) in the region. The trend looks set to continue, with further activity in the UAE suggesting a wider range of organizations soon to be required to meet ICFR requirements.

The article “Inspiring trust through enhanced governance,” in the Middle East Point of View Spring 2021 issue, described how a number of government bodies had introduced a regulatory mandate for internal control aiming to strengthen governance structures within subject entities. It is clear that this journey continues today.

> Companies will be required to establish or formalize their internal controls within a specific framework, against which to judge the effectiveness of internal controls



ICFR journey in the Middle East

Following the Abu Dhabi Accountability Authority (ADAA), Qatar Financial Markets Authority (QFMA), and the UAE Insurance Authority (IA), the UAE Securities and Commodities Authority (SCA) issued a revised draft Governance Code for public consultation in the UAE in September 2022. Although the Code has not yet been issued in final form, the consultation indicates that the auditor’s responsibilities will be enhanced to include an opinion on the effectiveness of ICFR for all listed entities in the UAE; this will broaden the scope for ICFR compliance to a wider range of organizations across the country. What does this mean for UAE listed companies and what steps can be taken to prepare for the new requirements?

What does the SCA release mean for companies and auditors?

As a result of the ICFR requirements as currently drafted in the Governance Code, there will be a wide range of implications for management, boards, and auditors of all listed entities in the UAE.

Companies will be required to establish or formalize their internal controls within a specific framework, against which to judge the effectiveness of internal controls.

As mentioned in the article “Inspiring trust through enhanced governance,” a well-established and well-recognized internal control framework is the Committee of Sponsoring Organizations (COSO) Internal Control Integrated Framework 2013 (the COSO Framework).

Formalizing internal controls against the COSO Framework involves a series of activities to formalize scoping: development of an ICFR policy, a risk assessment, control definition, and allocation of roles and responsibilities.

To provide comfort to management, the board and the audit committee around the effectiveness of ICFR at the year end, companies need to have a monitoring process in place, aligned with the monitoring principles of the framework.

Furthermore, the level of work performed on internal controls as part of the external audit is likely to increase significantly as testing the operating effectiveness of controls for an ICFR audit is a significant step up from the minimum control testing requirements for a financial statement audit.

What are the benefits of ICFR?
As well as meeting regulatory requirements, developing an internal control framework brings several significant benefits to organizations as described below:

- Effective internal controls **increase the reliability of financial reporting**. ICFR facilitates the availability of accurate and timely information to manage the business better and reduce the risk of errors, which can add time and effort to personnel.
- ICFR **increases a company's credibility** with internal and external stakeholders and potential investors.
- Internal controls **support a company** to achieve their objectives of **being effective and efficient**. Roles and responsibilities of management and employees are defined and processes are in place, thereby providing great operating efficiency and enhanced performance.
- **Fraud opportunities** are significantly **reduced** by effective internal controls; and
- Data used in the organization is more reliable, facilitating **better and quicker decision-making**.

Key observations from implementing ICFR
Deloitte has practical experience in supporting organizations implement and enhance internal controls, both in the Middle East and globally. Key observations from this experience include the following:

1. Timing of implementation:
Starting the process early is critical. This ensures that time is available to remediate and implement controls before year end, thereby gaining the operational benefit of the controls and helping to achieve an unqualified ICFR assurance report.
Gap assessments should be focused on meeting the ICFR audit requirements in the first instance, with practical and achievable recommendations.

2. Focus on the right areas:
The foundation of an ICFR framework is the risk assessment. Management should aim for smart and focused risks and controls to cover the principles of the applied control framework and financial reporting risks. Knowing the level and type of documentation helps avoid audit issues and drives an efficient and effective process.

3. Auditor engagement:
Up-front and continuous engagement with the audit team ensures that issues are addressed and resolved throughout the year, rather than at year end. This supports achievement of an unqualified ICFR opinion, a smooth ICFR audit process, and operational benefits from the establishment of ICFR.

4. Project approach:
Having an established project approach ensures that the many pieces of the puzzle can be managed smoothly. Establishing ICFR is a complex process and an ICFR opinion is a significantly increased reporting requirement. It is critical that all aspects of the control framework are in place before the auditor begins the engagement.

5. Change management:
Embedding controls and control frameworks is more than an exercise in documentation. It is critical to communicate across stakeholders and process owners at all levels of the organization through a change management program to ensure that a control implementation brings real benefits in the longer term.

Thinking of the future
Setting the foundation for an ICFR journey is often a manual exercise initially – clearly defined and documented processes, risks, and controls are critical as a baseline. However, it is important to think about the future at the same time. This includes how organizations are responding to financial reporting risks arising from the confluence of technology revolution, a global pandemic, merger and acquisitions, and private equity funded disrupters. But it also covers how technology and data are used as a greater enabler for a company's control environment. A robust risk and controls environment can help organizations become more agile and resilient, and support accelerated digital transformation—all of which help companies better utilize automation in operating and monitoring their financial reporting controls. However, the regulatory requirements for companies to adopt ICFR represents an opportunity to consider how controls, data, and technology can be used to help manage financial reporting risk - and at the same time - drive strategic benefit. Those organizations that see this as an opportunity, rather than a compliance exercise, stand a greater chance of driving better financial reporting, and at the same time, driving value for stakeholders.

By **Aderita von Glahn**, Senior Manager, Assurance and **James Smith**, Partner, Assurance, Deloitte Middle East

ACE-ing digital transformation efforts in corporate treasury:

Opportunities, challenges, and benefits

To catch up with the rapidly growing demands of the way modern corporate treasuries work, organizations need to 'ACE' the competition. Deloitte defines the ACE approach as:

- **A:** Automation
- **C:** Centralization
- **E:** Efficiency

This approach will empower corporate treasury departments to ACE their transformation efforts and achieve sustained growth.

What does corporate treasury do?

Corporate treasury's role is about managing the cash, liquidity, and financial risks in a business. This involves making sure a business has the capital it needs to manage its day-to-day business obligations, while helping develop its long-term financial strategy and policies. Payments, debt and investment, cash balances reporting, and trade financing, are some of the ambits where modern-day corporate treasury works.

How do we define digital transformation?

There is no unique way to define the digital transformation process. Each corporate has its unique outlook and processes with significant variations in structure. Therefore, we can say that treasury digital transformation will look slightly different for every corporate. However, we can still deduce a common definition, which is the adoption of new and emerging technologies into the business to produce operational and financial efficiencies, centralize the overall reporting, and automate processes.

Digital transformation and corporate treasury

In today's world, thanks to the rapid developments in products and solutions, there is an expectation that corporate treasuries will adopt technology transformation. Automation, sophisticated analytics, and rich data visualizations, are putting powerful new tools in the hands of corporate treasury teams.

Why embark on digital transformation?

Some of the factors that should drive corporate treasuries towards digitization include:

Efficient processes

Nowadays, the role corporate treasurers play is quite intensive. From maintaining bank accounts to generating accounting entries, many processes need to be performed. And it is of utmost importance for corporate treasurers to make operational processes efficient in less time at a reduced cost, with improved compliance, and more regulatory insight.

Competitive advantage

In the fast-paced corporate environment, companies are continually seeking a competitive edge over their direct competitors and peers. The early adoption of transformation technologies will likely lead to advantages over the competition. For example, implementing a payment hub and centralizing payment approval workflows will minimize the invoice to approval process and will produce a reduction in the payment turnaround time. This will make the company attractive to the top suppliers and eventually will allow it to utilize this strength for better price negotiations.

Regulatory pressures

The continually changing regulatory landscape continues to affect business reporting requirements across corporations, specifically for those using complex financial instruments. Not keeping up-to-date in these areas can increase the risk of becoming non-compliant.

Expanding role of corporate treasury

Modern corporate treasury has evolved rapidly, with many new responsibilities and functions now under its domain, such as supply chain financing, funds transfer pricing (FTP), etc. To cope with these expanding realms, it has become imperative for treasury heads to embrace the tools and technologies that cater to broader treasury needs.

Processes will empower corporate treasury departments to ACE their transformation efforts and achieve sustained growth.

Avenues of transformation

Cash forecasting and reconciliation
Forecasting is an important task that treasurers must perform. The cash reconciliation with forecast enables the treasury to have visibility of cash on hand rather than bank balances and gives them an accurate visibility to deploy cash more efficiently. Any tools that can create forecasts based on predictive analysis will help treasurers enormously. Artificial intelligence can be used to automate the creation of forecasts. For example, repetitive transactions, such as payments of wages, rent, or bills, can be read by the system from past transactions and used to emulate forecasts automatically.

Another important process that treasurers must perform is matching created forecasts with bank statements or cash forecast reconciliation. Rule-based engines can help automate the reconciliation process, hence freeing up treasurers' time to think more strategically.

Automation of bank connectivity
Fetching bank statements is probably the first activity of the day for a typical corporate treasurer. Yet, downloading statements and gathering a bank balance report is a mundane and laborious task. Automating this process would save immense time from the treasurer's daily tasks while improving the accuracy of information.

All treasury management systems (TMS) offer various alternatives for bank connectivity, ranging from H2H to SWIFT, SFTP, and more. Besides this, there are new systems providing out-of-the-box connectivity and the development of comprehensive application programming interfaces (APIs) that ensure quick, efficient, and automated bank communication.

Payment processing
Corporate treasuries have to deal with varying payment banks and formats along with keeping the payments compliant. Specifically, the emphasis on identifying and curbing fraudulent payments in time has increased manifold. Modern-day treasuries need to have a system (Payments Hub) that can have rule-based screening engines able to detect fraudulent payments as they happen. These systems should have approval workflows that will enable them to have more centralization, control, and visibility.

Replacing excel-based activities
As the future unfolds, data in spreadsheets will be replaced by visually rich information that is intuitively accessible and easy to use. Higher-value work requires cross-functional collaboration among businesspeople, technology teams, and finance strategists. Integration between systems will be essential.

Real time reporting
Corporate treasurers would do well to start to work on an integrated data framework and use analytics tools to generate real time reports. Application programming interface (API) connectivity is a new trend as well, and while using it the data can be centralized, and real time reports can be generated.[2]

Obstacles and challenges

Change resistance
Change can be uncomfortable. Even if it sets us up for a great future, most people take time to adapt. And one of the greatest reasons that cause employees to consciously or unconsciously resist change is the fear that new technologies will threaten their jobs.

This disillusionment may occur due to some lack on the organization's part; for example, a lack of appropriate training around the new system or process, or an absence of the change management strategy being cascaded to employees, etc.

Misunderstanding customers' needs
Failure to properly gauge customers' needs is one of the mistakes fintech professionals appear to be making in the process of selling their products. Vendors need to ask whether or not their solution will fundamentally enhance their potential client's processes.

Transformation strategy
One of the challenges that organizations face in the digital transformation journey is moving without any strategy. Organizations generally miss out on asking crucial questions regarding their motivation for transformation. For example, what is the motivation for replacing legacy systems and manual processes with new systems? Does an organization have the capability (in terms of resources and budget) to implement advanced and complex systems?

The continually changing regulatory landscape continues to affect business reporting requirements across corporations, specifically for those using complex financial instruments

Organizational agility
Organizational agility defines the ability of an organization to adapt, change, and succeed in a rapidly changing environment.

Organization agility is a huge phenomenon that impacts the company's decision on whether to move or not towards digital transformation. Changes begin at the level of top management and then this vision is cascaded down through a commitment to and the adoption of development and transformation.

Cyber security
Organizations rely on vendors (third parties) such as cloud providers, robotics, and process automation, to power these initiatives. These third-party systems can greatly enhance digital businesses, but they also pose new risks to the company as well. An organization's IT department is more careful, to the extent of being nervous in the adoption of these technologies, being aware of the risk that if a system breach or technology failure occurs, it can result in financial loss, disruption, or damage to a corporate reputation.

Data Integrity – Cloud-Hosting
When it comes to cloud-based solutions, the hosting location can also be an obstacle to embracing this technology. In some jurisdictions, corporates such as government entities or telecom companies have no desire for their data to be located beyond their geographic borders.

The roadmap to a digital treasury

- It is important to build an internal culture that accepts change, and which always questions the norm, without any barriers in terms of communicating ideas and feedback to top-level management.
- During any hiring process, it is important to ensure potential candidates are interested in technology and demonstrate clear adaptability to new systems.
- Appointing a digital champion, or chief technology officer (CTO), is an important consideration. By design, this role is meant to be involved in other people's business — and therefore it's almost inevitable that this leader will come into conflict with other organizational groups.
- The need for the organization to define a clear vision and strategy for change is of utmost importance. For this, the organization's decision-makers need to clearly know what needs to change, and what the resulting benefits for the company, employees, and customers will look like.
- When it comes to determining where to start your digital efforts, a scalable approach can be adopted. For example, think of the smallest and simplest process to transform and ascend from there towards more complex processes. A convincing business case should also be prepared.
- While executives cascade their vision of the future downwards through the organization, there should remain room for employees to build upon ideas,

with culture of encouragement created.

Organizational agility defines the ability of an organization to adapt, change, and succeed in a rapidly changing environment

Modern corporate treasury needs to ensure that a business has the capital it needs to manage its day-to-day business obligations, while helping develop its long-term financial strategy. In today's world, thanks to the rapid developments in products and solutions, there is an expectation that corporate treasuries will adopt technology transformation to achieve these goals. However, it's not as smooth of a ride as one would like; there are some of the obstacles that hinder growth towards digitally transformed treasury. To tackle these obstacles, the need for the organization to define a clear vision and strategy for change is of utmost importance.

Digital transformation is a journey that extends beyond the mere adoption of technology. To achieve the full gains from transformation efforts, an organization needs to take a more holistic view and adopt an incremental development of its digital transformation regime.

By **Steve Punch**, Partner and **Syed Sohaib** Moid, Director, Risks Advisory, Deloitte Middle East

Endnotes
1. https://www.treasurers.org/hub/careers/what-is-treasury.
2. https://www2.deloitte.com/us/en/pages/finance-transformation/articles/finance-digital-transformation-for-cfos.html.
3. https://www.accountingtoday.com/opinion/how-finance-can-use-digital-transformation-to-inform-business-strategy.

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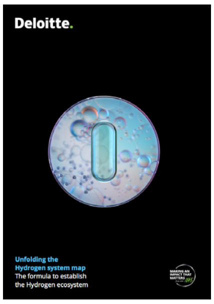

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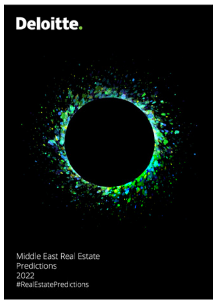

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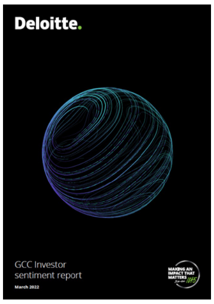

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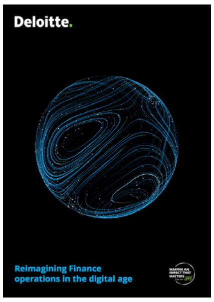

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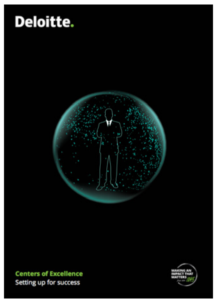

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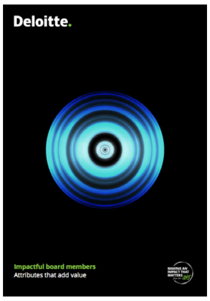

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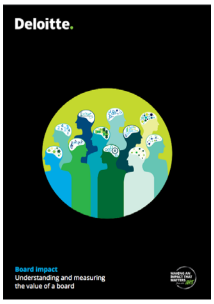

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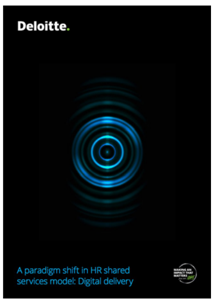

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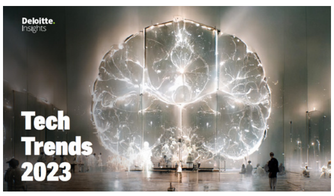

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