August 2026

IR GLOBAL

The visionaries

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

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IR Global members share their insights on key issues facing businesses today

EXPERT VIEW

“The world will look different within two to three years, and investment decisions need to account for that reality.”

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FROM THE EDITOR

Before risk reveals itself

Annie Elsmore
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The obvious risk is often waiting at the front door, while the real exposure enters quietly through the side. AI is visible; the harder questions lie in governance, liability and trust. Geopolitical instability makes the headlines; its consequences are felt in investment decisions, contracts, supply chains and financing. Regulation is expected, but its speed and reach are harder to predict.

Each edition of The Visionaries is shaped by the questions clients are asking at that moment. This year, those questions are particularly difficult to separate. AI, risk and transformation are no longer separate conversations. Each influences the others, and together they are now part of the same advisory reality: the visible issue is often only the starting point, and few questions sit neatly within a single jurisdiction or area of expertise.

Across the submissions in this edition, one common denominator stands out: early intervention. Whether the subject is financial distress, AI governance, regulatory change or investment strategy, the resounding advice is to act before pressure becomes a crisis. That sounds simple enough. But how does one intervene early when the assumptions underpinning today's decisions may look very different tomorrow?

The answer lies partly in visibility. Organisations must understand where exposure is building and when specialist advice is needed. An AI tool introduced for efficiency may raise questions about liability or confidentiality. A transaction may be shaped by political risk as much as price. A restructuring conversation may need to begin while the business still looks stable. Once considered the hallmark of a well-run business, proactivity can now be the difference between preserving value and running out of options.

> "Whether the subject is financial distress, AI governance, regulatory change or investment strategy, the resounding advice is to act before pressure becomes a crisis."

That is also where adaptability becomes essential. Not as a vague business virtue, but as a practical discipline: the ability to test assumptions, update governance and take heed of expert advice before those options narrow.

In tandem, the role of the advisor is changing. Good advice always has and always will require technical expertise and good judgement, but it now also requires the ability to help clients act before certainty arrives. Clients rarely require answers confined to one legal, tax or commercial discipline. They need someone who can understand how those questions interact, bringing in the right expertise where required without losing the close, practical judgement expected from a trusted advisor.

In the following chapters, IR Global members offer practical insight for a new advisory era. Their contributions do not pretend that uncertainty can be removed, but instead show how clients and their advisors can meet it with better judgement, stronger structures, and the confidence to adapt.

IR GLOBAL

IR Global is a multi-disciplinary professional services network that provides legal, accountancy and financial advice to both companies and individuals around the world.

Our membership consists of the highest quality boutique and mid-sized firms who service the mid-market; firms which are focused on partner led, personal service and have extensive cross-border experience.

Represented in 165+ jurisdictions, covering over 60 unique practice areas, we are perfectly placed to offer the highest quality bespoke advice that meets the needs of the most complex client requirements.

Since 2010, our community has grown to 1,500+ members worldwide based on the principles of friendship, trust and a shared belief in going beyond the traditional role of the adviser. Today we exist as the 'go-to' network for forward-thinking clients looking for creative, pragmatic and cost-effective solutions.

Thomas Wheeler
Founder of IR Global

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

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"For investors, the significance lies in recognising how heavily financial markets are shaped by uncertainty."

Isabella Bertani,
BERTANI

The 2028 reset window for global investment decisions

Isabella Bertani, FCPA, FCA
Founder and Chief Client Strategist
BERTANI

The world will look different within two to three years, and investment decisions need to account for that reality.

By the end of the decade, many of today's political leaders will be leaving office, facing succession challenges, or governing with weaker mandates. Donald Trump will have left office by January 2029, closing a chapter in which American politics was defined by his influence. In Europe, Viktor Orbán's recent electoral loss suggests the current cohort of strongman politicians may also be receding. Narendra Modi in India and Recep Tayyip Erdoğan in Turkey face growing uncertainty ahead of their next elections, while Xi Jinping, though entering a fourth term, may see the CCP begin positioning a successor for the term after 2028. Together, these shifts point to a generational transition in political leadership across many major powers, and the world is heading into a new global leadership era.

By 2028-2029, several conflicts that have defined the post-Covid era may also have found resolution. The Russia-Ukraine war could move towards a ceasefire, frozen conflict, or militarised settlement, even if a clean peace remains elusive. Conflicts involving Israel, Palestine, and Iran are also likely to reach some conclusion, whether or not the outcome is desirable. For investors, the significance lies in recognising how heavily financial markets are shaped by uncertainty.

New geographies of conflict

A calmer geopolitical climate could produce a limited 'post-war boom', particularly across Europe and parts of the Middle East, with strong opportunities in reconstruction, power grids, nuclear energy, liquefied natural gas, defence, logistics, industrial parks, ports, rail, urban housing, and digital infrastructure. Emerging markets

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WHERE DOES CANADA STAND IN ALL OF THIS?

Canada occupies a particularly strong position in this emerging landscape, combining several attributes likely to become more valuable during the 2028-2030 reset window. As competition increasingly centres on energy security, critical minerals, supply chain resilience, and regulatory trust, Canada is one of the few jurisdictions offering all four at once. It holds significant reserves of uranium, potash, nickel, cobalt, copper, and rare earth elements needed for electrification, advanced manufacturing, defence technology, and AI infrastructure, while remaining one of the world's largest and most reliable exporters of oil, natural gas, hydroelectric power, and agricultural products.

Equally important is Canada's position within the Western alliance system. Unlike many resource-rich jurisdictions, Canada combines resource abundance with political stability, strong property rights, predictable regulation, deep capital markets, and privileged access to both American and European markets. In a world increasingly divided between competing blocs, Canada may emerge as a preferred partner for countries seeking to diversify away from less predictable suppliers while remaining within trusted security and regulatory frameworks.

Canada's opportunity, then, is not merely to export commodities but to position itself as a strategic platform for Western energy security, critical mineral processing, AI infrastructure, advanced manufacturing, and supply-chain resilience. If governments increasingly prioritise economic security alongside efficiency, Canada could become one of the most strategically valuable jurisdictions in the Western economic system.

offering scale and strategic usefulness could benefit from renewed capital flows and a new cycle of global market integration.

Yet geopolitical competition will not disappear. The US-China rivalry is unlikely to be resolved by then and may intensify, dividing the world more clearly into spheres of influence around Beijing and Washington. Countries able to manage ties with both may find that space shrinking, but with Russia's war-making capacity exhausted, the new competitive equilibrium centred on Beijing and Washington could mean less violent competition even as the geography of conflict shifts from Eastern Europe and the Middle East towards Africa and Latin America.

Control over critical minerals is becoming a strategic imperative for both economic and national security policy. China's near monopoly over deposits and refining capacity across Latin America and Africa means that, having addressed conflicts in the Middle East and Eastern Europe, Washington and its allies will need to confront the risks of near-universal dependence on Beijing.

The demographic divide

Demographics will also shape future winners and losers. Many developed countries, including much of Europe, China, Japan, South Korea, and Russia, face ageing populations, shrinking workforces, and rising fiscal pressure from healthcare and pensions. By contrast, India, Indonesia, Vietnam, Nigeria, and parts of Africa continue to benefit from younger populations and expanding labour pools. This divergence will shape migration policy, housing demand, consumer markets, productivity growth, and capital flows. Countries with ageing populations may recalibrate investment, social security, and immigration policy, while those with youth-driven growth will see this translate into progress or conflict depending on whether their youth bulge is absorbed productively into the labour market.

Technology's defining role

By 2028-2029, the practical impact of technologies such as artificial intelligence should also become clearer. Investors may know by then whether AI represents the transformative technology many expect, or whether it proves an intermediate stage before a further breakthrough such as quantum computing. If AI meets current expectations, it could significantly alter the balance of capabilities, and in turn, power among nations, opening new avenues for international conflict, as countries currently behind in development leapfrog economic and military capacity through AI. If instead AI turns out to be more like the pager before the mobile phone, an interim stage of technological progress, the more important shifts may come from industrial reorganisation and new forms of international cooperation.

Two focal shifts: Sovereign energy and non-trade barriers

One of the clearest lessons of recent instability, following the Strait of Hormuz blockade shock, has been the vulnerability created by energy dependence. The crisis has spurred new energy sourcing contracts worldwide and pushed nations to search more aggressively for alternatives. As long as solar panel supply chains remain concentrated in China, uptake of solar and EV technology may lag expectations, and countries, while still expanding solar capacity, will push harder for sovereign energy sources such as nuclear power, where national governments can exert more direct control. Australia, Kazakhstan, Canada, Russia, and other countries with uranium, thorium, and zirconium deposits and enrichment capacity stand to gain leverage.

A second shift is moving concern from free trade agreements towards non-tariff barriers. Following US tariffs, many countries have signed new trade agreements, and more are likely in the next two to three years, but there is growing recognition that signing FTAs alone is not sufficient to grow trade. The India-ASEAN Free Trade Agreement, the Greater Arab Free Trade Area, the Australia-United States Free Trade Agreement, and the Regional Comprehensive Economic Partnership all show that bilateral, regional, and mega-regional agreements often struggle to deliver rapid gains, because tariff liberalisation alone cannot overcome deeper constraints such as limited domestic firm capacity, restrictive rules of origin, cumbersome customs procedures, and persistent regulatory barriers. The next phase of trade politics will therefore shift from signing agreements to addressing non-tariff barriers, focusing on rules of origin, intellectual property law, product standards, sanitary and phytosanitary rules, carbon reporting, licensing systems, customs delays, certification costs, procurement restrictions, data rules, visa constraints, and local content requirements, producing a more interventionist trade politics. The winners will be countries and firms with compliance capacity, testing infrastructure, logistics depth, customs efficiency, standards recognition, digital documentation, and the ability to meet carbon, labour, health, and security requirements in destination markets.

Grey rhinos: Taiwan blockade and a right-wing Europe

Alongside these trends, two grey rhino risks could reshape the investment landscape. The first is a Chinese blockade, quarantine, or sustained pressure campaign against Taiwan. Even without a full invasion, such an event could disrupt semiconductor production, shipping routes, electronics manufacturing, AI hardware supply chains, and global trade, driving global inflation. The second is Europe's rightward turn, already becoming visible. A more nationalist Europe would grow more protectionist and security-driven, tightening foreign investment screening and controls on outward investment, favouring local content, supporting domestic manufacturing, and slowing aspects of the Green Deal.

A reset window

The 2028-2030 window marks a turning point as several structural shifts reshape global markets, with institutional stability emerging as the key differentiator, resource and energy assets becoming strategic instruments of state policy, and regulatory interoperability serving as the main gateway to market access, dynamics that grey rhino pressures such as Taiwan tensions or a rightward-shifting Europe could intensify by redrawing manufacturing maps, fragmenting regulatory blocs, and slowing industrial and green transition timelines.

The overarching implication is that investors who prioritise administrative resilience, resource security politics, and cross-bloc regulatory compatibility will be best positioned to capture the upside of a world entering a new cycle of reconstruction, competition, and institutional reordering. Canada, Australia, and select Nordic and Gulf states may prove particularly attractive, combining resource endowments, political stability, and institutional capacity at a moment when all three are becoming scarce and valuable at once.

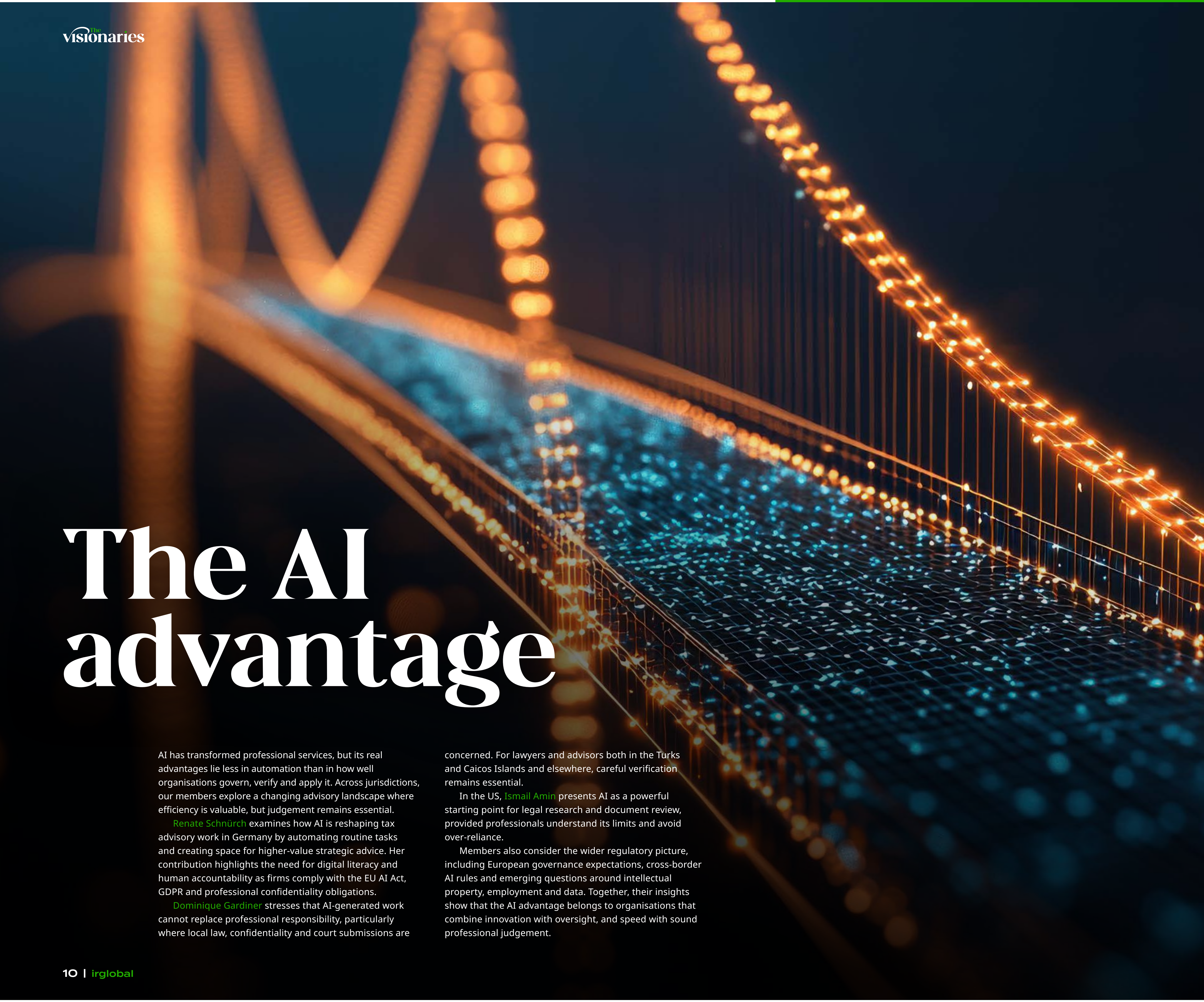
ABOUT US...

BERTANI

Founded in 2001, BERTANI specialises in inbound and outbound foreign direct investment involving Canada, as well as advising companies pursuing growth, expansion, and international opportunities. The firm combines audit, tax, and advisory expertise to help clients evaluate opportunities, manage risk, and execute cross-border growth strategies.

As a member firm of IR Global, BERTANI is connected to 1,500 collaborative member firms in over 165 jurisdictions across the globe, helping our clients to pursue outward global expansion strategies.

This article is an excerpt from a longer publication. To read the full article, follow BERTANI FDI Compass on LinkedIn.



The AI advantage

AI has transformed professional services, but its real advantages lie less in automation than in how well organisations govern, verify and apply it. Across jurisdictions, our members explore a changing advisory landscape where efficiency is valuable, but judgement remains essential.

Renate Schnürch examines how AI is reshaping tax advisory work in Germany by automating routine tasks and creating space for higher-value strategic advice. Her contribution highlights the need for digital literacy and human accountability as firms comply with the EU AI Act, GDPR and professional confidentiality obligations.

Dominique Gardiner stresses that AI-generated work cannot replace professional responsibility, particularly where local law, confidentiality and court submissions are concerned. For lawyers and advisors both in the Turks and Caicos Islands and elsewhere, careful verification remains essential.

In the US, Ismail Amin presents AI as a powerful starting point for legal research and document review, provided professionals understand its limits and avoid over-reliance.

Members also consider the wider regulatory picture, including European governance expectations, cross-border AI rules and emerging questions around intellectual property, employment and data. Together, their insights show that the AI advantage belongs to organisations that combine innovation with oversight, and speed with sound professional judgement.

FEATURING...

Regulate, innovate, or both?

How the UK and India are responding to the AI revolution

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The UK perspective:

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The AI landscape has changed at unprecedented pace in 2026. A year ago, the UK's approach was one of deliberate restraint, with the government's AI Opportunities Action Plan setting out an ambitious growth agenda and Prime Minister, Starmer, framing the UK's position as one of seizing opportunities rather than overregulating.

The international context raises the stakes: President Trump's decision on his first day back in office to revoke the Biden administration's Executive Order on AI signals a decisive shift towards a market-led, largely unregulated environment in the United States, while the EU has moved firmly in the opposite direction. Twelve months on, these divergences cannot be ignored by any business operating across borders.

Crucially, the EU AI Act is now in force and its significance for UK businesses comes down to one straightforward reality: market access. The EU remains the UK's largest trading partner and the Act follows the same extraterritorial logic that made GDPR a global compliance standard. Under Article 2, any provider or deployer of AI systems whose output is used in the EU falls within scope regardless of where they are established – expressly including third-country providers. A UK business whose AI system is used by EU customers, integrated into EU-regulated processes, or deployed by an EU-based subsidiary must comply because the EU demands it as a condition of doing business in the bloc.

The UK's own legislative picture remains unresolved. The Artificial Intelligence (Regulation) Bill, which proposed a statutory AI Authority and mandatory impact assessments, was not government backed and has not progressed. The government's preference remains for existing sectoral regulators to apply five core principles: safety and security; transparency and explainability; fairness; accountability and governance; and contestability. In principle this is sensible, but in practice, it leaves businesses navigating a fragmented and fast-developing landscape without a map.

As N V Saisunder addresses, this extraterritorial reality extends beyond UK businesses. Indian businesses expanding into the EU, or servicing UK clients with EU operations, face the same compliance obligation under the AI Act regardless of where they are based.

Despite the absence of primary AI legislation, the UK's practical environment is shifting rapidly. The Data Protection Act 2018 (Code of Practice on Artificial Intelligence and Automated Decision-Making) Regulations 2026 place the ICO under a statutory obligation to produce a code of practice on AI and automated decision-making. Simultaneously, the Data (Use and Access) Act 2025 has replaced the former Article 22 UK GDPR framework with a new regime, redefining when a decision is 'solely automated' for the purposes of the enhanced safeguards that must be applied. The Employment Rights Act 2025, which will reduce the qualifying period for unfair dismissal from two years to six months, brings AI-assisted hiring, disciplinary and redundancy decisions squarely within statutory scrutiny.

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On intellectual property, the government consulted on expanding text and data mining exceptions to permit AI training on copyright-protected works, then stepped back under creative industry pressure. The position remains unresolved, with no legislative clarity on whether training an AI model on copyright-protected content without a licence is lawful under UK law.

Businesses operating across the UK, EU and other jurisdictions face a growing patchwork of obligations with no domestic anchor for their compliance. There is also an equivalence risk: the UK's data adequacy status with the EU depends on ongoing alignment with EU data governance standards.

If your business has EU exposure, map your AI systems against the EU AI Act's risk tiers now. Do not wait for domestic legislation. Audit your AI vendor contracts, because liability allocation, data processing terms and IP indemnities are frequently underdeveloped in standard terms. Finally, build governance structures that can flex, because this landscape will keep evolving at a blistering pace.

> "If your business has EU exposure, map your AI systems against the EU AI Act's risk tiers now. Do not wait for domestic legislation."

The Indian perspective:

N V Saisunder
Partner –
IPR, Media & Technology Law
Eshwars Advocates

The extraterritorial logic described by Shilpen Savani has a clear Indian counterpart. To the extent that an AI service provider processes the personal data of individuals in India, the Digital Personal Data Protection Act, 2023 (DPDPA) applies wherever that processing relates to the offering of goods or services to individuals within India, regardless of where the provider is established.

India's approach to AI stands in deliberate contrast to its treatment of personal data. Like the UK, India has no dedicated AI statute and governs the technology through existing legislation. Two enactments carry the substantive burden: the Information Technology Act, 2000 (IT Act), which addresses the platform and content dimension, and the DPDPA, which governs personal data and is constructed around consent.

The DPDPA permits non-consensual processing only within a closed list of 'legitimate uses', among them employment, state benefits, medical emergencies and public health and contains no open 'legitimate interests' ground. Critically for AI developers, none extends to the training of an AI model, so consent remains the operative basis even where the underlying data is publicly available. Entities processing personal data at scale assume heightened obligations, including impact assessments, independent audits and reporting to the newly constituted Data Protection Board.

Under the IT Act, the position turns on Section 79, which confers conditional 'safe harbour' on intermediaries, an immunity from liability for third-party content they host, provided they observe prescribed due-diligence obligations. Generative AI fits uneasily within that scheme, as a system that produces original, synthesised output is not merely hosting content created by others. Rather than enact a specific AI statute, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026 brought synthetically generated information within intermediaries' due diligence duties, requiring it to be labelled and tagged with metadata and putting safe harbour at risk where a platform knowingly permits unlawful synthetic content. However, this strategy regulates AI by treating the platforms that generate it as intermediaries, when it is contestable whether a generative AI system is an intermediary at all.

In the absence of legislative clarity, the question has fallen to the courts and an AI jurisprudence is slowly beginning to take shape. In IndiaMart Intermesh Ltd v. OpenAI Inc (Calcutta High Court, May 2026), the Court considered this question at the interim stage, taking the prima facie view that ChatGPT is an 'originator' rather than an 'intermediary' under the IT Act, while leaving the point to be decided finally at trial and noting that a statute drafted before generative AI will ultimately require legislative, not merely administrative, intervention. In ANI Media Pvt Ltd v. OpenAI OpCo LLC, the Delhi High Court has reserved judgment on whether training a model on copyrighted news content infringes the Copyright Act, 1957, the first substantive test of AI training data before an Indian court. Although neither decision is final, they mark the beginning of a judicial answer to questions the legislature is yet to address.

For foreign businesses, two further points are worth noting. First, India places no AI-specific restriction on foreign investment and the DPDPA's approach to cross-border data transfer is markedly more permissive than the EU's adequacy-based model. Second, for multinationals running AI development, training or data annotation operations through Indian subsidiaries or delivery centres, the unresolved copyright position illustrated by the ANI Media litigation means that contracts governing the use of India-sourced or India-processed training data should expressly allocate IP risk, rather than assume the position is settled.

The lesson from India is the same as in the UK: do not wait for dedicated AI legislation. Agreements should expressly address liability, data processing terms and IP indemnities under Indian law, consent practices should be tested against the DPDPA and governance should be built to accommodate change.

> "Contracts governing the use of India-sourced or India-processed training data should expressly allocate IP risk, rather than assume the position is settled."

REGULATE, INNOVATE, OR BOTH? A SHARED ANSWER:

From London to Chennai, the regulatory picture shares the same essential shape: AI is transforming business faster than legislators can respond and businesses cannot afford to wait for the law to catch up.

Although the UK and India have approached AI regulation from different starting points and have so far favoured adapting existing legal frameworks rather than introducing dedicated AI legislation, both face the same reality that the EU AI Act is increasingly operating as a global compliance benchmark for organisations with European exposure.

The common challenge is how to govern a fast-evolving technology that is already deeply embedded in commercial and employment relationships. For businesses operating across both jurisdictions, the message is clear: AI governance should not be viewed as a compliance exercise triggered by legislation. Build it now, build it proportionately and build it to be flexible. In AI regulation, as in AI itself, the ability to adapt is the most valuable capability of all.

ABOUT US...

gunnercooke

gunnercooke LLP is a UK-based corporate and commercial law firm founded in 2010 to deliver a more flexible and transparent approach to legal services. With legal professionals across offices in the UK, Europe and the US, the firm advises businesses and financial institutions on a range of legal and commercial matters.

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Eshwars Advocates is a full-service commercial and intellectual property law firm with offices across India. Established in 2006, the firm advises domestic and international clients on corporate, technology, data protection, intellectual property and dispute resolution matters.

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Let AI start the work, but don't rely on it to finish

Ismail Amin
Founder / Partner
TALG

Q1

How is AI changing the skills expected of professionals in your jurisdiction?

AI is already changing the skills expected of professionals, including attorneys. I believe it is making lawyers more efficient by providing useful roadmaps to statutes, precedent and transactional templates. It is also making it easier to quickly complete more mundane tasks (such as creating a table of contents or authorities).

My favourite aspect of AI is its ability to efficiently condense voluminous amounts of information into granular detail. For example, in a complex legal case, AI can assist in generating timelines from thousands of pages of documents. In an M&A transaction, it can help create a workable diligence or closing checklist. These tasks can save counsel invaluable amounts of time and resources.

However, the professional skill required is not knowing how to use AI. It is knowing how to use it well. AI may provide a starting point, but attorneys must still verify sources, review outputs, assess context and determine whether the answer provided is legally and factually sound. In that sense, AI is not reducing the need for professional expertise. It is, however, increasing the need for disciplined review.

When professionals understand the technology's limitations and use it as a tool to enhance independent judgement, it is a massive timesaver. The issues arise when it is trusted blindly.

In California and Nevada, attorneys remain bound by their professional obligations regardless of the technology used. AI can assist with research and organisation, but it does not alter the lawyer's duties of competence and confidentiality.

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Ismail has considerable trial and arbitration experience, having been involved in over 85 trials and arbitration across multiple jurisdictions from the inception of his legal career. He is admitted to practice law in California, Nevada, Texas, North Carolina, and New York.

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Q2

What governance or supervision structures are firms and businesses putting in place to manage AI responsibly?

Firstly, firms should carefully ensure that prompts provided to any large language model (LLM) are not retained or shared with third parties – including being retained by the platform for recursive learning, model training or self-improvement. This is especially important where prompts may contain privileged, confidential, proprietary or otherwise sensitive information.

Second, we recommend that firms and businesses pick a platform, thoroughly vet it and then stick with it consistently throughout the firm or business. Permitting different employees to use different AI tools without oversight creates unnecessary risk. One employee may use a platform with strong privacy protections, while another may use a public tool that retains prompts or uses inputs for training. From a governance standpoint, that inconsistency is dangerous.

Vetting should include a careful review of the provider's terms of use, privacy policy, data retention practices, security protocols and confidentiality commitments. Firms should understand where data is stored, whether it may be reviewed by humans, whether it may be used to improve the model and what contractual remedies exist if the platform mishandles information.

Finally, there should be written AI use policies in place to guide employees on responsible AI use. These policies need to address which platforms may be used, what information may or may not be uploaded, when human review is required and who is responsible for approving AI-assisted work before it is circulated externally. A policy that simply sits in a file and is never explained is not enough. Employees should be trained on it, and the policy should be updated in practice as the technology develops.

> "AI is not reducing the need for professional expertise. It is, however, increasing the need for disciplined review."

All of this sits against California's developing AI and privacy framework. The California Consumer Privacy Act already places significant emphasis on data handling, while newer AI legislation (including SB 53) reflects California's focus on transparency, risk management and accountability in AI use. Here, having these internal policies is especially important.

KEY TAKEAWAYS

AI is a win for efficiency, but professional judgement is indispensable. AI is helping lawyers streamline research, organise complex information, and automate routine administrative tasks. However, its real value depends on professionals who can critically evaluate outputs, verify sources, understand legal context, and recognise the technology's limitations rather than accepting results at face value.

Effective AI governance starts with data protection and clear, frequently revisited policies. Firms should adopt approved AI platforms with robust privacy safeguards and ensure sensitive information is never exposed through public tools. Ideally one vetted and approved platform should be permitted, with written AI use policies supported by regular staff training.

Be cautious of over-reliance. Hallucinations, incomplete legal analysis, confidentiality breaches, and over-reliance on AI can lead to client harm, sanctions, and reputational damage. Lawyers remain responsible for the accuracy of their advice and should continue to hone their interpretation and persuasion skills.

Q3

What liability or risk issues arise when professionals rely on AI-generated analysis or advice?

The biggest risks involve breaches of professional obligations, including duties of confidentiality and attorney-client privilege. If a lawyer or client uploads privileged communications into a public AI platform, those protections may be lost or severely weakened. Even if privilege is not automatically waived in every circumstance, the risk is substantial enough that professionals should proceed with extreme caution.

There is also significant work-product risk if the results of a prompt are not thoroughly reviewed and vetted for accuracy. LLMs have become notorious for producing responses that contain errors, unsupported assumptions and hallucinations. In the legal context, that can be especially dangerous. A fabricated case citation, incorrect statutory summary or inaccurate description of controlling law can create professional embarrassment, sanctions exposure and client harm.

But the risk is not limited to obvious hallucinations. Sometimes the greater danger is context. AI may generate a response that is partially correct but incomplete, or accurate in one jurisdiction but wrong in another. It may miss a factual nuance, overlook an exception or apply the wrong legal standard.

For that reason, professionals should never treat AI-generated analysis as final advice. It should be treated as nothing other than a starting point in this context. Attorneys remain responsible for their work product, their advice and their filings. The fact that a machine generated the first draft does not transfer responsibility away from the professional.

I am also hesitant to see professionals over-rely on AI because doing so may influence research creativity and advocacy. Legal analysis is not always about retrieving information. Judgement, strategy, interpretation and persuasion are all skills which legal professionals must continue to hone. AI is powerful and useful, but it must assist professional work, not replace professional responsibility.

ABOUT US...

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TALG

TALG is a multi-jurisdictional law firm that solves complex problems, leveraging cutting-edge technology for clients, whether in the courtroom or boardroom.

We're forever grateful for outstanding clients with whom we've been fortunate to build long-term relationships. Because of these relationships, we have established a strong presence as a trusted legal team in California, Nevada, Texas, North Carolina, and New York.

We are outside-the-box thinkers who use experience and practical know-how combined with advanced technology to guide our strategies and give our clients every edge possible. We have perfected the art of aggressive representation while maintaining integrity and strict adherence to an ethical code of conduct.

The future of fiduciary services isn't fully automated

Vimal Damry
Managing Director
Premier Financial Services Limited

Q1

How is AI changing the skills of fiduciary and corporate services professionals?

Artificial intelligence is reshaping the fiduciary and corporate services industries. Automation is increasingly being used across a growing number of processes – this shift is not just on the horizon, it is visible today.

Usually, client onboarding is the first step in fiduciary services, and this process in itself is a good example of how AI is being used. Identity verification is now largely automated through biometric checks, and a range of API-driven software tools plug directly into the onboarding workflow to carry out continuous screening, generate registers, prepare incorporation documents and board resolutions, and monitor transactions. Bringing these processes together in this way has delivered real savings in both time and cost. Not so long ago, these were separate tasks performed manually, a process that without question consumed considerably more time and resources. AI has transformed this workflow across fiduciary and corporate services firms.

Today we see AI already at work for many other processes for fiduciaries such as in:

- Drafting emails, reports and presentations, and summarising online meetings.
- Client onboarding, KYC review and chatbots.
- AML screening, sanctions monitoring and transaction monitoring.
- Drafting agreements, research and risk assessment.
- Document summarising.
- Accounts preparation, financial analysis and forecasting.

When you consider the wide range of processes where AI is involved, it is clear it is of great help and assistance. In Mauritius, the government is focusing a lot on AI for future developments in the country as the industry grows exponentially.

That said, firms must ensure that professionals using these AI tools are properly trained, not only in how to use the technology, but in recognising where a task should be handed back or taken over by a professional.

Using AI tools comes with its challenges, with the main one being exactly how they should be used. Professionals must have the appropriate skills to use these tools but equally know when human intervention and oversight is required. This starts with training on the AI software itself; a full understanding of what the software is achieving and, just as importantly, where its limitations lie. Without this grounding, it is difficult to judge which processes genuinely require human intervention and judgement, whatever AI model is being used.

A significant part of fiduciary and corporate services work requires professional judgement and review. Many matters call for the professional to weigh the facts against applicable laws, rules and regulations, and to apply their own professional judgement in arriving at a fiduciary decision. No professional can rely entirely on an AI model, however advanced it may be. Fiduciary decisions are not standardised outcomes; they vary from case to case. They carry a fiduciary duty and a responsibility that AI cannot assume on the professional's behalf. The professional skill, experience and judgement required here simply cannot be found in any AI software.

AI and professional expertise are complementary – not substitutes for one another.

Vimal Damry is the Managing Director, CEO, and Founder of Premier Financial Services Limited (since September 2007) which is an FSC-licensed management company based in Mauritius. He is also a director of UHY Premier Financial Services Limited which is an FSA Seychelles-licensed Corporate Service Provider and Trustee (since June 2014). He has been in the global business and financial industry for more than 25 years.

Vimal's commitment to excellence is evident in his meticulous approach to managing complex financial structures and his ability to navigate the intricate landscape of international regulations.

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KEY TAKEAWAYS

AI is transforming fiduciary workflows. From client onboarding and KYC reviews to AML screening, document drafting and financial analysis, AI is streamlining routine processes, reducing manual work and improving efficiency across fiduciary and corporate services.

Governance is as important as technology. Firms should adopt approved AI tools under a clear AI Use Policy, supported by robust training and mandatory human oversight for decisions involving professional judgement.

Fiduciary responsibility cannot be delegated. AI can support analysis and administration, but it cannot assume fiduciary duties or professional accountability. Professionals remain responsible for applying judgement and making decisions that can withstand regulatory or judicial scrutiny.

Q2

What governance or supervision structures are firms putting in place to manage AI responsibly?

To start with, the use of AI itself should be governed by a defined policy: an 'AI Use Policy'. This policy should set out which tools may be used, and for what purpose, whether that is drafting emails or documents, summarising documents, KYC/AML checks, transaction monitoring, or other tasks. No AI tool should be used outside those approved in the AI Use Policy. This includes public or freely available tools, which should not be authorised for firm use.

Even where an authorised AI tool is used, human approval should be mandatory. As explained earlier, professional judgement is required in many fiduciary decisions, whether these relate to client acceptance, advice, or other matters. The AI tools deployed should be properly vetted, with strong confidentiality controls and independent testing. Inappropriate use, or the use of unapproved AI tools, could be very risky and should be avoided at all costs.

Q3

What liability or risk issues arise when professionals rely on AI-generated analysis or advice?

The main point is that AI cannot, on its own, assume a fiduciary responsibility, however good the AI model may be. Human intervention is a must. Professional decisions or advice are the product of many factors, situations and other important considerations that AI simply cannot weigh. Professionals should assume responsibility for the decisions they take. In the event their decisions come under review by a regulatory authority or a court, the use of a particular AI model in arriving at a decision cannot be used as an excuse.

It should not be forgotten that fiduciary duties require professionals to act with care and skill. Using AI as a means of dispensing with that duty would be a mistake. Fiduciaries will run the risk of a breach of fiduciary duty. In short, AI should be a tool only and remain as such – it need not replace the professional in the decision-making process.

Regulators require fiduciary firms to have effective systems and controls in place. That does not mean sole reliance on AI tools, but rather that such tools should be used carefully as a support to the fiduciary function.

While the use of AI is proving extremely valuable to the fiduciary services industry, it is fast becoming a necessity rather than a choice. AI operates at remarkable speed and with capabilities that are humanly impossible to match. Its use drives efficiency, reduces human error, and delivers real savings in both cost and time.

That said, it is a support to professionals, not a replacement for their thinking. When AI is combined with professionals applying their own mind and judgement, it creates a genuine industry breakthrough. There is no doubt more is to come, as we are yet to reach the limits of what this technology can achieve.

ABOUT US...

premierfinservices.com

PREMIER Financial Services

Premier Group operates mainly through three licensed companies. One based in Mauritius via a Trust and Management Licence from the Financial Services Commission. A second in Seychelles via an International Corporate Service Provider (ICSP) and International Trustee Services Providers (ITSP) by the Financial Services Authority. The third in Dubai, UAE via a Corporate Service Provider (CSP) Licence by the Dubai Multi Commodities Centre (DMCC) and as an Approved Registered Agent of Ras Al Khaimah International Corporate Centre (RAK ICC). It is supported by its representative office in South Africa.

‘The AI said so’ is not a defence

Dominique Gardiner
Associate Attorney
Wilson Wells

Q1

How is AI changing the skills expected of professionals in your jurisdiction?

Artificial intelligence is no longer a concept of the future. It has become part of everyday professional practice, with professionals in law, finance, government and many other fields using AI-powered tools to research issues, draft documents and analyse information.

The immediate impact has not been to replace human expertise. Instead, it has increased the importance of professional judgement.

Clients can now access information instantly and documents can be summarised in seconds. Draft contracts, reports and correspondence can now be produced with remarkable speed. However, speed does not necessarily equate to accuracy.

As a result, legal professionals are spending less time gathering information and more time assessing whether that information is reliable, complete and appropriate to the circumstances. Critical thinking, sound judgement and the ability to identify errors have therefore become even more important.

This is particularly true in a jurisdiction such as the Turks and Caicos Islands, where legal and commercial decisions are often shaped by local legislation, industry practice and business relationships that an AI system cannot fully appreciate. While AI can assist with reviewing documents and analysing large volumes of information, lawyers remain responsible for applying the law correctly and advising clients on the practical realities of their situation.

Technical knowledge remains essential, but so too does the ability to evaluate information critically, understand context and exercise independent judgement.

Dominique Gardiner is an Associate Attorney at Wilson Wells, practising primarily in litigation and dispute resolution. She advises clients on a broad range of contentious and commercial issues, including debt recovery, employment disputes, insolvency proceedings and contractual claims.

Prior to joining Wilson Wells, Dominique served as Crown Counsel at the Attorney General's Chambers of the Turks and Caicos Islands, where she gained valuable experience in public sector legal advisory work and regulatory matters. A member of the Turks and Caicos Islands Bar since 2018, Dominique is also recognised as a Rising Star within the IR Global network.

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Q2

What governance or supervision structures are firms and businesses putting in place to manage AI responsibly?

As AI becomes more accessible, businesses are increasingly recognising that its use requires appropriate oversight.

Globally, organisations are beginning to implement internal policies governing how AI may be used, who may use it and the types of information that can be entered into AI systems. These measures are driven by concerns surrounding confidentiality, data security, regulatory compliance and risk management.

For professional services firms, confidentiality remains a significant consideration. Before information is entered into any AI platform, practitioners must consider where it will be stored, who may have access to it and whether its use could compromise client confidentiality or legal privilege.

KEY TAKEAWAYS

AI increases rather than replaces the value of professional judgement. While AI can rapidly research, summarise information and draft documents, professionals remain responsible for assessing accuracy, reliability and context. In jurisdictions such as the Turks and Caicos Islands, where local laws, business practices and relationships matter, critical thinking and independent judgement are more important than ever.

Responsible AI use requires strong governance and human oversight. Organisations are introducing AI policies, approval processes, training programmes and confidentiality safeguards to manage risks. Human review of AI-generated work is essential, particularly in regulated sectors where accountability for decisions and advice cannot be delegated to technology.

Liability remains with the professional, not the AI. AI can generate convincing but inaccurate information, creating risks ranging from professional negligence to regulatory breaches and confidentiality violations. Courts and regulators expect professionals to verify all AI-generated content – ‘the AI said so’ is not a defence when errors lead to legal, financial or reputational harm.

Many organisations have introduced governance frameworks requiring human review of AI-generated work, supported by internal approval processes, training programmes and acceptable use policies. While AI is a valuable tool for research, drafting and administrative tasks, responsibility for the final work product remains with the individual or organisation using it.

This is particularly important in regulated industries, where decisions relating to legal advice, lending, employment and regulatory compliance continue to require human oversight and accountability. The objective is not to prevent the use of AI, but to ensure it is used responsibly, protects clients and supports professional standards.

Q3

What liability or risk issues arise when professionals rely on AI-generated analysis or advice?

The obvious risk is that AI can produce answers that appear convincing while being entirely wrong, a phenomenon commonly referred to as ‘hallucinations’. AI-generated content should never be accepted without verification, as information that appears accurate at first glance may contain factual errors, omissions or incorrect assumptions.

For legal professionals, the risks can be particularly significant. In the Turks and Caicos Islands, legal analysis often requires careful consideration of legislation, local case law and persuasive authorities from other jurisdictions. While AI can assist with research, it cannot be relied upon to determine whether a particular authority is applicable or whether legislation has been amended.

From a dispute resolution perspective, one of the greatest ‘AI nightmares’ is inaccurate AI-generated content finding its way into court documents, witness statements or legal submissions. Courts expect practitioners to verify the authorities and evidence upon which they rely, regardless of the tools used to prepare them. In court, ‘the AI said so’ is not a defence.

Lawyers remain responsible for the legal advice they give, accountants for the financial advice they provide and consultants for the recommendations they make. If inaccurate AI-generated content or advice contributes to financial loss, regulatory breaches or negligence claims, responsibility is unlikely to shift to the technology itself.

Confidentiality presents another notable risk. Uploading client information, commercially sensitive documents or personal data to AI platforms without appropriate safeguards may expose businesses and professionals to legal, regulatory and reputational consequences. There are also continuing concerns surrounding bias, transparency and intellectual property, particularly as questions regarding the ownership of AI-generated content continue to be debated.

From a litigation perspective, the increasing use of AI is likely to give rise to new areas of dispute, including those arising from decisions made in reliance on inaccurate AI-generated content, misuse of confidential information, professional negligence and regulatory breaches.

AI undoubtedly offers significant benefits and has the potential to improve efficiency across many disciplines. However, technology does not alter professional responsibility. Professional judgement, accountability and independent thinking remain fundamental, regardless of how sophisticated the technology becomes.

> “Courts expect practitioners to verify the authorities and evidence upon which they rely, regardless of the tools used to prepare them.”

ABOUT US...

wilsonwells.com

Wilson Wells is a full-service law firm in the Turks and Caicos Islands, advising local and international clients on litigation and dispute resolution, real estate and development, banking and finance, corporate and commercial matters, employment law, immigration and regulatory issues.

We believe legal advice should be practical, commercially minded and focused on achieving results. Our clients come to us with challenges that require solutions, whether that involves resolving a dispute, navigating a complex transaction, structuring an investment or managing day-to-day legal matters.

Whatever the issue, our goal is to provide our clients with responsive service and clear guidance.

The machine analyses, the advisor decides

Renate Schnürch
Tax Advisor
Kanzlei Schnürch

Q1

How is AI changing the skills expected of professionals in your jurisdiction?

Artificial intelligence is becoming embedded within German tax advisory practices and, while it is unlikely to transform every office overnight, its impact on the profession is already significant.

The direction of travel shows that routine tasks will increasingly be handled by technology, while judgement and accountability remain firmly with human professionals.

AI has the potential to automate repetitive activities such as processing accounting data and reviewing documents, creating capacity for the services clients value most: strategic advice, forward-looking tax planning and trusted support in key business decisions.

Successfully integrating AI, however, requires far more than selecting the right software. Professionals must develop a broader skill set that extends beyond technical tax knowledge. Team members need to be capable of critically assessing AI-generated outputs, identifying errors, understanding the limitations of automated analysis and recognising when human judgement must take precedence. Digital literacy, structured data management, a working understanding of the GDPR and the EU AI Act, and a healthy scepticism towards seemingly authoritative AI-generated results are becoming essential professional competencies. Put simply, the stronger the professional foundation, the more effectively and safely AI can be deployed.

At the same time, AI increases the importance of professional responsibility. Technology may generate outputs, but it does not assume accountability. Submitting AI-generated content to the tax authorities without appropriate review creates significant professional and regulatory risks. The ability to critically evaluate AI-generated work is now therefore a fundamental professional requirement.

For international clients establishing a presence in Germany, there is a further consideration. AI-enabled processes must comply with German and European legal requirements, particularly in the areas of data protection, tax compliance and corporate governance. Many foreign investors underestimate this complexity. This is precisely where a firm with both Big Four experience and an international outlook can add significant value: we understand both the technological opportunities and the regulatory realities.

Renate Schnürch has almost four decades of experience, combining the expertise of a Big Four background with a highly personalised approach to client advisory.

Renate began her career in tax advisory in 1986 through a traditional apprenticeship, laying the foundation for what has become a long and distinguished professional journey. Alongside her training, she worked in a bakery, further shaping her understanding of client service and attention to detail.

Early in her career, she advised a client who later became a global pioneer in online luxury retail, sparking her interest in international tax structures. After qualifying as a Certified Tax Specialist, she joined EY in 1996, advising multinational corporations and implementing modern compliance solutions. She qualified as a Tax Advisor in February 2000 and founded her own practice in April 2001, which she continues to lead today.

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Q2

What governance and oversight structures are organisations implementing to ensure AI is used responsibly?

In Germany, AI governance is not simply a matter of best practice anymore; it is becoming a legal requirement. With the EU AI Act, which began its phased implementation in August 2024, a binding regulatory framework is emerging that directly affects tax advisors and financial service providers. AI systems used in regulated sectors will often be classified as high risk applications, triggering obligations relating to risk assessments, documentation, transparency and demonstrable human oversight.

Professional regulations provide an additional layer of governance. Confidentiality obligations under Section 57(1) of the German Tax Consultancy Act (StBerG) apply equally to digital tools. Client data must not be entered indiscriminately into publicly accessible AI systems, and platforms that use submitted information to train or improve models can quickly create compliance concerns. Data processing agreements with AI providers are essential, yet they remain an area that is frequently overlooked.

At Kanzlei Schnürch, client data is processed exclusively within European, GDPR-compliant cloud environments, a standard maintained in close cooperation with our Data Protection Officer. Tools operating outside European jurisdictions are categorically excluded. Decisions regarding the use of AI applications are not made on an ad hoc basis but are subject to a structured review and approval process that considers both data protection requirements and professional confidentiality obligations.

We are currently evaluating purpose-built compliance platforms such as LexTrace, which support organisations in assessing AI use cases against the requirements of the EU AI Act through structured risk classification and audit-ready documentation. Technology can assist the process, but responsibility for decision-making remains firmly with people.

KEY TAKEAWAYS

- **Automation allows a shift for tax advisors towards higher-value advisory work.** As AI automates routine tasks such as data processing and document review, tax advisors are spending more time on strategic planning and client decision-making. Success now depends on critical thinking and the ability to assess AI-generated outputs.
- **AI subjects businesses operating in the EU to strict legal and compliance obligations.** German firms must navigate strict requirements under the EU AI Act, GDPR and professional confidentiality rules. Structured approval processes, risk assessments and secure data environments are necessary for responsible AI adoption.
- **Accountability remains with the human.** Incorrect AI-generated advice, data protection breaches or inadequate governance can expose advisors and management teams to personal liability. AI is a powerful tool, but final responsibility and decision-making remain firmly with professionals.

Q3

What liability or risk issues arise when professionals rely on AI-generated analysis?

The fundamental principle of German liability law remains unchanged in the age of AI: responsibility rests with the tax advisor or the company's management, regardless of the tool used to generate a result. An AI system cannot bear professional liability; only an individual can.

In practice, one of the most significant risks stems from so-called AI hallucinations. AI systems can produce highly convincing content that is legally incorrect, based on outdated tax rules or entirely fabricated. Professionals who rely on such outputs without appropriate verification risk submitting inaccurate tax returns, breaching compliance obligations, causing financial losses and, in the most serious cases, jeopardising their professional licence.

Data protection presents an equally important and often underestimated risk. The use of AI tools hosted outside European jurisdictions to process sensitive client information may constitute a clear breach of both the GDPR and professional confidentiality obligations, with potentially serious consequences for internationally active businesses and corporate groups.

From a corporate governance perspective, management teams that implement AI without adequate documentation, oversight mechanisms or internal controls expose themselves to increased regulatory scrutiny and potential personal liability.

Our position is therefore straightforward: AI should be used as a carefully selected and closely supervised tool, always subject to human oversight and ultimate accountability.

International clients entering the German market do not need a fully automated compliance process. They need a trusted advisor who understands the complexity of German tax and regulatory requirements, communicates clearly in both German and English and remains available when challenges arise. That has been our commitment since 2001 and no algorithm will change it.

ABOUT US...

kanzlei-schnuerch.de

Renate Schnürch
Steuerberaterin

Kanzlei Schnürch is a boutique tax advisory firm specialising in international taxation founded in 2001, located in the heart of Munich. With a multilingual team of more than 20 professionals from over ten countries, the firm advises businesses entering the German market, established mid-sized companies and internationally mobile private clients.

The firm's expertise includes tax planning, compliance management, financial statements, payroll, global mobility and tax audits. Serving clients across sectors including fashion, technology, food and beverage, hospitality, software and the arts, Kanzlei Schnürch is recognised for its tailored solutions, long-term client relationships and proactive, cross-border advisory approach.

Protecting litigation skill in the age of AI

Rebecca Torrey
Partner
The Torrey Firm

Q1

How is AI changing the skills expected of professionals in your jurisdiction?

Presently, the availability of AI tools has not changed the skills expected of litigation attorneys in California. Some attorneys may be using AI for drafting and editing to improve their writing abilities. Others may use it in research to identify authorities they were not able to locate, or to locate more quickly what they could find using the many legal research and writing tools already available. AI usage among litigators appears to have increased rapidly within a very short period of time, but it has not replaced the varied skills and experience needed to be an exceptional litigator. In other words, it may assist with speed and organisation, but cannot replace advocacy, courtroom instinct or the ability to understand how a judge may react to an argument.

Litigators are expected to have superior skills without the use of AI tools. However, as of the past year or so, attorneys are expected to also have an awareness of the misuse of AI by themselves, colleagues, opposing counsel, and the courts. AI usage currently creates a heightened need to identify fake citations, misquotes, hallucinations and omissions. These errors can easily find their way into research, written work, court filings or advice if outputs are not checked carefully. Outputs must be verified in order to practice law without facing court sanctions, professional misconduct and harm to clients. This includes misuse within a law firm, by opposing counsel, possibly by clients and especially by court personnel, including judges. The monitoring of AI abuse has added further worries about professional liability risk and requires additional effort by everyone involved to ward off the many possible pitfalls of misusing AI tools in litigation.

There is a deep concern in the profession that future reliance on AI tools by inexperienced attorneys will result in much lower levels of skills, personal experience and strategic judgement than what is required to obtain the best results possible for clients. While junior attorneys will become savvier about the use of AI tools through their law school curriculum and personal interests, that knowledge does not take the place of the experience and judgement needed to win in court or advise clients in complex and contested matters. Much of litigation skill is developed through the repetition AI often removes: reviewing records, drafting arguments, testing authorities and learning from mistakes under supervision. To any extent that law firms replace junior attorneys with AI time-saving tools, they run the risk of losing the next generation being ready to step up to the challenge of litigating against accomplished opposing counsel.

Rebecca Torrey represents companies in litigation in federal and state courts nationwide. She is an across-the-board employment lawyer with significant trial experience representing management in bet-the-company cases involving wage and hour and fair credit class actions, trade secret, wrongful termination, discrimination and fair pay claims.

Rebecca provides strategic advice to companies aimed towards aligning personnel practices with an employer's culture, values and priorities and minimising legal risk. She is committed to developing a client's understanding of the law to improve human resources practices and guide businesses forward. A frequent speaker and writer on key developments and cutting-edge legal issues, Rebecca is known for pragmatic, out-of-the-box solutions that support strategic growth.

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KEY TAKEAWAYS

- **AI does not provide a shortcut to skill.** AI is a powerful improvement to research speed, but it cannot replicate the experience required to understand how judges may respond to arguments.
- **Misuse creates serious litigation risk.** Fake citations, hallucinated authorities, misquotes and omissions can lead to sanctions, professional misconduct issues, client harm and reputational damage if AI-generated work is not carefully verified.
- **Firms must protect both clients and future talent.** Law firms need clear AI use policies, regular training and strict review processes, while ensuring junior lawyers still develop the judgement, drafting discipline and litigation experience needed to become effective advocates.

Q2

What governance or supervision structures are firms and businesses putting in place to manage AI responsibly?

Most employers in white collar businesses, including law firms, should have already put in place a carefully considered AI usage policy and trained, and retrained, employees on the availability and proper use of AI tools at work. An adequate AI usage policy is not an off-the-shelf template circulated among employees or something added without fanfare to the employee handbook. Furthermore, training should continue to be repeated regularly, because both the available tools and the risks associated with them are changing quickly.

Based on knowledge of the AI tools available for the business as well as the ones their employees are already using to shortcut work, management should develop carefully considered policies in light of existing and future technology, with an eye to how to detect and address misuse of AI. This should include clear guidance on what tools may be used, what information may be entered into those tools, who is responsible for reviewing outputs, and what steps must be taken when misuse is suspected. The policy should be circulated with intentionality, emphasised through training, enforced systematically, abuses discovered, and employees counselled on misuse.

With respect to law firms in particular, the misuse of AI risks public exposure of attorney-client privileged information, attorney work product, and confidential and proprietary information of clients that attorneys are bound by ethical rules to protect. It may also create avoidable risks in court filings, client communications, internal work product and regulatory compliance if AI-generated material is relied upon without adequate review.

Q3

What liability or risk issues arise when professionals rely on AI-generated analysis or advice?

There are numerous examples of attorneys throughout the US who have been publicly reprimanded and sanctioned by state and federal court judges for their imprudent reliance on AI. These have involved AI-generated analysis, citation of erroneous legal authorities, mistaken facts, or all three. All examples have made it clear that courts will not excuse inaccurate filings simply because AI was involved in preparing them.

Litigators risk losing at court, being dumped by their clients and harming their own reputation by misusing AI to try to shortcut the process of analysing complicated legal issues and providing sound client advice. The damage can extend beyond a single case, particularly where sanctions or judicial criticism become part of the public record.

As attorneys increase their reliance on AI tools without careful monitoring and checking results, the risk of liability will increase and with it the expense of insurance for professional liability. Firms may also face greater scrutiny from clients, insurers and regulators regarding the controls they have in place. A deeper understanding of how AI technology actually works, along with the time-saving tools coupled to AI engines, is one of the best ways to stay on top of the many changes ahead and the increasing pressure to implement AI into the practice of law.

ABOUT US...

torreyfirm.com

The Torrey Firm

The Torrey Firm represents employers in litigation and advise management on a broad range of employment matters. From creating effective personnel practices to defending employers at trial, we have the experience and judgement to help manage the maze of regulation and the risk of litigation that comes with it.

Having spent years in large law firms with a hefty overhead, Rebecca Torrey founded The Torrey Firm on the principle that employers should have extraordinary resources available at reasonable rates. We provide those resources both virtually and in person as businesses assess and recreate their own workplaces.

What regulators really want

Building capability in Europe's new regulatory era

Cristina Bergner
Partner
Case IQ

Cristina Bergner works at the intersection of law, technology and organisational risk, supporting clients in navigating Europe's rapidly evolving legal and regulatory landscape.

Drawing on extensive experience in business law, contract law, dispute resolution, regulatory matters, investigations, anti-money laundering (AML) and economic crime, she understands that organisations must balance legal obligations with commercial realities, strategic growth and effective corporate governance.

Her work focuses on helping boards, management teams and business leaders manage complex legal and regulatory challenges while building the governance, competence and accountability increasingly required by European regulators.

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The organisations that thrive in the AI era will not be those that automate the fastest, but those that govern the best.

For years, organisations viewed compliance as a support function, a necessary safeguard operating alongside the business. Regulations were monitored, audits conducted, policies updated and advisors consulted when questions arose.

That world no longer exists.

Today, organisations face a convergence of artificial intelligence, cyber threats, operational risk and an unprecedented wave of European regulation. The AI Act, DORA, NIS2 and emerging data governance frameworks are reshaping expectations across every sector.

Yet many organisations misunderstand what is actually changing. The real transformation is not that Europe is regulating more technology. The real transformation is that Europe is regulating an organisation's ability to govern technology.

This distinction fundamentally changes what clients must prioritise and how advisors can create value. Many organisations still ask the wrong question: Are we compliant?

Unfortunately, that question is becoming increasingly irrelevant. As AI evolves, compliance has become a moving target rather than a fixed destination. A better question is: Can we continuously identify our risks and demonstrate control over them?

A company can be compliant today and exposed tomorrow. New technologies, suppliers, regulations and business models can alter the risk landscape almost overnight. Regulators are not expecting companies to prove perfection, they simply require them to demonstrate competence.

This shift is visible across modern EU regulation. While public debate often focuses on technology, the most significant requirements concern governance, accountability, training, documentation, risk assessments, incident management and leadership oversight.

When regulators investigate a cyber incident, they rarely begin by asking which software was installed. They ask who was responsible, how risks were assessed, what training was provided, how decisions were documented and what actions were taken when warning signs appeared.

Over the past few years, I have participated in discussions with boards, management teams and compliance leaders across different sectors. What strikes me is that most of those conversations begin with uncertainty.

Most leaders already know that AI will transform their business (in most cases, it already is). So instead, they now ask: Who is responsible? What will regulators expect? How do we govern this? How do we avoid becoming tomorrow's headline?

In my experience, the greatest challenge is a lack of clarity. Many organisations know they need to act. Far fewer know how to organise themselves to act responsibly. That is why the real competitive advantage today is not access to AI. It is the ability to make informed decisions about AI.

While investment in AI, cybersecurity and compliance technology continues to grow, investment in organisational capability often falls behind. Many businesses forget that while technology can be purchased, capability must be built.

A lot of organisations focus on acquiring tools while underestimating leadership engagement, employee competence, accountability and effective decision-making structures. Yet these are precisely the factors regulators increasingly expect to see.

Clients should focus less on individual compliance projects and more on building organisational resilience. Leadership teams must understand technology-related risks. Responsibilities must be clearly assigned. Employees need ongoing training. Risk assessments should be updated regularly, and decision-making processes continuously improved.

One practical starting point is visibility. Across Europe, AI is already influencing recruitment, procurement, customer service, investigations, finance and cybersecurity. Yet many organisations cannot confidently explain where AI is being used, who is accountable for it or how associated risks are monitored. Before organisations can manage risk, they must understand where it exists. You cannot govern what you cannot see.

Another lesson from recent regulatory developments is that compliance can no longer be delegated exclusively to legal, compliance or IT functions. Legal teams interpret regulations. Compliance teams design controls. Technology teams implement solutions.

But accountability usually sits with management and boards. European regulators are focusing less on what organisations do and more on how they make decisions. This places leadership at the centre of governance. Compliance should not be viewed as a cost of doing business. It is a condition for doing business.

Traditionally, lawyers, auditors, accountants and consultants were engaged when organisations faced disputes, investigations or regulatory change. Oftentimes, that is too late.

Clients now need help building capability and the most valuable advisors will be those who can connect regulation, governance, technology and business strategy. Our role is evolving from answering questions to helping organisations build resilient decision-making frameworks.

Instead of analysing failures after they occur, we should help clients strengthen governance before incidents emerge. Cyber incidents rarely become regulatory crises because systems fail. They usually become regulatory crises because governance fails.

Perhaps the most surprising lesson from recent years is that some organisations investing most aggressively in technology are not necessarily the ones best prepared for regulatory scrutiny. The gap between technological sophistication and governance maturity is widening. Organisations are becoming smarter technologically while remaining vulnerable organisationally. That is a risk no software can solve.

The advisor of the future is a capability builder. Over the next decade, advisors creating the most value will be those helping organisations become more resilient, accountable and adaptable.

AI will evolve. Cyber threats will increase. Regulation will continue to expand. To succeed, organisations must focus on having the strongest capabilities. Capability creates trust, and in Europe's new regulatory era, trust may be the most valuable asset an organisation can build, and the most expensive one to lose.

KEY TAKEAWAYS

- **Compliance is the journey, not the destination.** European regulation is increasingly focused on whether organisations can continuously identify, manage and evidence control over their risks.
- **Technology without capability is not enough.** AI, cybersecurity and compliance tools can support risk management, but organisations also need clear accountability, leadership oversight, training and documented decision-making.
- **Visibility is the foundation of governance.** Before organisations can manage AI, cyber and operational risk, they must understand where technology is being used, who is responsible for it and how those risks are monitored.

ABOUT US...

caseiq.se

Case IQ helps organisations achieve clarity when legal questions grow complex and conditions shift. We work at the intersection of law, security, and knowledge, where decisions demand a holistic perspective rather than isolated answers.

Our work is built on close collaboration and long-term partnerships. As a boutique law firm, we advise clients in compliance, AML, contract law, dispute resolution, employment law and financial family law. We also advise on security and operational requirements.

Through Case IQ Security & Compliance, we translate legal and regulatory requirements into clear structures, priorities, and ways of working. We help organisations identify and manage risks within information security, governance, and compliance, making the requirements understandable, actionable, and firmly anchored in sound business practice.

The result is stronger decision-making and an organisation that can act confidently and proactively, even as conditions change.

The risk reset

Against a backdrop of tighter regulatory scrutiny and geopolitical instability, organisations are moving beyond reactive crisis management towards earlier intervention and more resilient transaction strategies. This is redefining how businesses and their advisors approach financial distress and investment.

In DR Congo, Amani Cibambo explores how investment in critical minerals is creating opportunity in the midst of financial risk. He stresses the value of robust governance and proactive creditor engagement for businesses facing commodity volatility and operational disruption.

From Italy, Tina Gulli advocates a culture of early intervention, arguing that financial distress should not automatically be viewed as business failure. Her guidance shows how timely restructuring can preserve viable businesses and protect long-term value.

Thomas H. Curran examines the evolution of restructuring itself in the US, where negotiated restructurings and distressed acquisitions are frequently viewed as tools for attracting investment and driving business transformation, rather than measures of last resort.

A selection of members broaden the conversation with perspectives on board governance, arbitration and economic policy. Together, their insights reflect a reset to the risk landscape, where anticipating challenges has become just as important as responding to them.

FEATURING...

When markets tighten

Rana Chatterjee
Head of Corporate / Commercial Department
Colman Coyle

Q1

What trends are driving restructuring, distressed transactions, and deal activity in your jurisdiction?

The UK market continues to experience a mixed economic environment that is driving both restructuring activity and opportunistic dealmaking. Persistent cost pressures, higher borrowing costs than those seen during the previous decade, and ongoing geopolitical uncertainty have placed strain on businesses with leveraged balance sheets or tight cash flow positions. As a result, I have noted that many of my clients are seeking to refinance existing debt, renegotiate contractual arrangements, reduce operating costs, or undertake more formal restructuring processes.

At the same time, these conditions have created opportunities for investors and acquisitive businesses. We are seeing distressed and special situations transactions remaining a feature of the market, particularly where otherwise viable businesses are experiencing short-term liquidity challenges. Purchasers are often attracted by the ability to acquire assets, business divisions, intellectual property, or entire companies at valuations below levels which were previously common.

The UK continues to benefit from a mature legal and insolvency framework, providing a range of restructuring tools, including company voluntary arrangements, restructuring plans, schemes of arrangement, and administration processes. These mechanisms can help businesses preserve value and support investment if stakeholders are willing to engage constructively.

Technology, professional services, healthcare, and certain infrastructure-related sectors continue to attract investment activity, while businesses exposed to discretionary consumer spending and rising operating costs have generally faced greater challenges.

Private equity remains an important source of capital, although transaction structures have become increasingly sophisticated, with greater emphasis on earn-outs, deferred consideration arrangements, completion accounts, and warranty protection. Overall, while economic uncertainty continues to influence decision-making, it is also generating opportunities for strategic acquisitions, consolidations, and business restructurings across a range of sectors.

Rana Chatterjee is the Head of the Company Commercial Department at Colman Coyle. He joined the firm in 2024 and has more than 22 years of experience in the legal sector, including over 17 years of post-qualification experience advising businesses across a range of industries.

His department focuses on corporate transactions including M&A, company advice, and commercial contracts with a specialism in technology and IT agreements. Rana has advised both private and public sector organisations, ranging from start-ups and owner-managed businesses to established national and international companies operating in sectors including financial services, technology, property, media, healthcare, fashion, and food and drink.

Before starting at Colman Coyle, Rana held legal roles in private practice and in-house environments, offering perspectives from both an external legal advisory standpoint, as well as on the practical commercial considerations faced by organisations.

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Q2

What are the most common triggers during financial distress, and how can businesses mitigate these risks?

Financial distress is often the result of a combination of operational, financial, and market factors rather than a single event. Common triggers include sustained cash flow pressures, declining revenue, rising operating costs, increased debt servicing obligations, loss of key customers or contracts and wider economic uncertainty. Businesses may also encounter difficulties where growth has been funded through borrowing that becomes difficult to service as interest rates rise or trading conditions deteriorate.

In my experience, warning signs emerge well before a business reaches a critical position. These may include persistent working capital shortages, breaches of banking covenants, increasing creditor pressure, delayed payments to suppliers, or an inability to meet tax liabilities as they fall due, and it is the role of good advisors to help alert clients to these and to manage them.

The most effective mitigation strategy is early intervention. Businesses should maintain robust financial reporting and cash flow forecasting processes so that emerging issues can be identified at an early stage. Regular reviews of funding arrangements, customer concentration risks, contractual commitments, and operational costs can also help management respond proactively to changing circumstances.

Open engagement with lenders, investors, suppliers, landlords, and other stakeholders is also critical. Many restructuring options become more limited as financial difficulties intensify, whereas early discussions can create opportunities to refinance debt, renegotiate contractual obligations or to secure additional investment before value is lost.

Directors should also remain mindful of their legal duties when a company is approaching insolvency. Obtaining appropriate legal and financial advice at an early stage can assist directors in evaluating available options, protecting stakeholder interests, and maximising the prospects of a successful turnaround or restructuring.

KEY TAKEAWAYS

- **Economic pressure is driving both restructuring and investment opportunities.** Higher borrowing costs, persistent inflationary pressures and geopolitical uncertainty are prompting many UK businesses to refinance, restructure or reduce costs, while creating attractive opportunities for investors seeking distressed or undervalued assets.
- **Early action gives businesses the best chance of recovery.** Cash flow forecasting, robust financial reporting and proactive engagement with lenders, suppliers and other stakeholders allow businesses to identify warning signs early and preserve restructuring options before financial difficulties escalate.
- **Deals are becoming more sophisticated and risk focused.** Due diligence now extends well beyond financial performance to include cybersecurity, ESG, sanctions, tax and regulatory compliance. Buyers are trending towards relying on enhanced contractual protections – such as earn-outs, deferred consideration and warranties – to manage uncertainty.

Q3

How are transaction structures and due diligence priorities evolving amid regulatory scrutiny, tax considerations, and geopolitical changes?

Transaction structures and due diligence processes in the UK have become increasingly sophisticated in response to heightened regulatory scrutiny, evolving tax rules, and broader geopolitical uncertainty. Buyers are placing greater emphasis on identifying and allocating risk at an early stage, particularly in transactions involving regulated sectors, cross-border operations, technology assets, or complex corporate structures.

Due diligence has expanded beyond traditional financial and legal reviews to include a more detailed assessment of regulatory compliance, data protection, cybersecurity, sanctions exposure, supply chain resilience, and environmental, social, and governance (ESG) matters. Businesses are also paying closer attention to operational dependencies, customer concentration, and the potential impact of geopolitical developments on markets, suppliers, and trading relationships.

Tax considerations continue to influence transaction structuring. Our clients, whether purchasers or sellers, are carefully evaluating the relative benefits of share acquisitions and asset acquisitions, as well as the implications of changes to corporate tax rates, international tax frameworks, and tax authority scrutiny. Tax due diligence is often more detailed, with a focus on historical compliance, potential liabilities, and the availability of reliefs and allowances.

Transaction documentation has similarly evolved. I note that buyers frequently seek enhanced warranty and indemnity protection in areas where regulatory or compliance risks have been identified. Earn-outs, deferred consideration mechanisms, and completion accounts remain common tools for bridging valuation gaps and managing uncertainty around future performance.

In cross-border transactions, parties are also paying closer attention to foreign investment controls, sanctions regimes, and regulatory approval requirements. As a result, deal timetables can be longer, and transaction structures may need to accommodate additional conditions, approvals, or risk allocation mechanisms. Overall, the trend is towards more rigorous diligence, greater contractual protection, and increased flexibility in deal structuring.

ABOUT US...

colmancoyle.com

Colman Coyle

Colman Coyle is a Central London-based law firm founded in 1984, providing practical, commercially-focused legal advice to businesses, property investors, organisations and private individuals. The firm offers expertise across company and commercial law, property and property litigation, dispute resolution, immigration and wills and probate. Its partner-led approach combines technical legal knowledge with a strong understanding of clients' commercial objectives, enabling the delivery of clear, pragmatic and cost-effective solutions. Colman Coyle acts for clients ranging from SMEs and entrepreneurs to larger national and international organisations, with a reputation for building long-term client relationships based on trust and responsiveness.

Arbitration as the reliable commercial dispute resolution forum

Old wisdom, new clarity

Edward G. Lindsey, LL.M., FCIArb
Director
The Oklahoma Arbitration Center

Edward G. Lindsey, LL.M., FCIArb, is a Tulsa based attorney, mediator, and arbitrator with more than three decades of experience in complex dispute resolution. Licensed in all Oklahoma state and federal courts, the Muscogee Creek Nation, the Tenth Circuit, and the United States Supreme Court, he founded the Oklahoma Arbitration Center to provide efficient, confidential, and cost-effective alternatives to litigation. Lindsey earned his J.D. from the University of Tulsa College of Law and an LL.M. in Alternative Dispute Resolution from the University of Aberdeen. In 2024, he became Oklahoma's only Fellow of the Chartered Institute of Arbitrators and joined IR Global in 2026.

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"If you want a new idea, read an old book."

The observation, attributed to Ivan Petrovich Pavlov (1849–1936), frames the present moment well.

Commercial arbitration is that "old book" – a centuries old method of resolving business disputes that has quietly delivered expertise, efficiency, and neutrality while legislatures experiment with specialised business courts that sometimes cannot survive their own constitutions. Arbitration has been here the whole time: time tested, durable, and consistently effective.

Today, as businesses demand efficient, predictable, and neutral mechanisms for resolving disputes, arbitration continues to expand. International institutions are reporting record caseloads (World Arbitration Caseload 2024) and modernising their rules (ICC), but the more urgent question for American practitioners is domestic: what forum works when designated business courts run headlong into constitutional limits?

Oklahoma's recent experience offers clarity. When legislative innovation exceeds constitutional limits, business courts do not just falter, they fail. Arbitration, by contrast, endures. It remains the only structurally durable forum providing expertise, efficiency, confidentiality, and enforceability without inviting the legal challenges nullifying Oklahoma's business court experiment.

States have long pursued specialised business courts to improve the handling of complex commercial litigation. Delaware's Court of Chancery remains the model: deep subject matter expertise, a robust body of written opinions, and national influence in corporate governance. Other states – New York, North Carolina, Georgia, Texas, and Utah – have followed suit (NCSC).

Business courts offer a number of clear advantages. Specialist judges bring expertise in complex commercial matters, published judgments help build predictable precedent, cases are often resolved more quickly than in general civil courts, and transparent proceedings reinforce public accountability. These qualities explain why specialist business courts have become an attractive model across a number of jurisdictions.

But those strengths are balanced by several structural weaknesses. In states with elected judiciaries, constitutional constraints may limit how specialist courts can be created, while courts established by statute remain vulnerable to legislative or constitutional challenge. Judicial appointments can become politically contentious, proceedings are generally public, exposing commercially sensitive information, and the model itself is difficult to replicate consistently across jurisdictions.

These weaknesses are not theoretical. Oklahoma's experience shows how quickly a business court can collapse when it conflicts with constitutional text.

In 2024, Oklahoma enacted Senate Bill 632, creating business court divisions in Oklahoma and Tulsa Counties. Judges would be appointed by the Governor from lists provided by the Speaker of the House (subject to Senate confirmation), bypassing the constitutional requirement that district judges be elected.

In *White v. Stitt, 579 P.3d 636 (Okla. 2025)*, the Oklahoma Supreme Court struck down the Act. The Court held that the legislation establishing the business courts was unconstitutional because: (a) Article VII, Section 9 requires district judges to be elected rather than appointed; (b) the Legislature lost the power to create new courts in 1967; (c) the proposed business courts constituted a new judicial structure requiring a constitutional amendment; and (d) the unconstitutional provisions were inseverable, rendering the entire Act void.

The decision exposes a structural paradox: states with elected judiciaries may be constitutionally unable to create specialised business courts through ordinary legislation. Efficiency and expertise cannot override constitutional viability.

Arbitration avoids the constitutional pitfalls that doomed Oklahoma's business courts. As a creature of contract rather than public law, it allows parties to select arbitrators with the expertise their dispute requires, tailor procedural rules and timetables, and keep commercially-sensitive information confidential. Proceedings can often be completed in months rather than years, awards benefit from broad domestic and international enforceability, and limited judicial review provides a greater degree of finality. Most importantly, because arbitration derives its authority from private agreement rather than legislative design, it is insulated from the constitutional constraints that can frustrate judicial reform.

With Senate Bill 632 invalidated, Oklahoma faces a practical gap in commercial dispute resolution. Civil litigation often spans two to five years, and national studies place the average cost of resolving a commercial dispute well into six figures. For many regional and mid market businesses, these burdens are prohibitive.

Private institutions must step forward to meet this need. The Oklahoma Arbitration Center (OAC), based in Tulsa, provides a streamlined, confidential, and cost effective forum for commercial and civil disputes. OAC aims to resolve cases within six months and allows parties to select arbitrators, choose governing law, design procedures, and schedule hearings efficiently.

This model delivers the efficiency and expertise associated with business courts without the constitutional infirmities.

OAC's approach reflects a wider trend: when legislative innovation is constrained by constitutional text, private arbitration becomes the practical mechanism for delivering specialised dispute resolution. Our structure, grounded in party autonomy rather than statutory authority, allows us to operate where business courts cannot.

Oklahoma's experience demonstrates a fundamental truth: specialised judicial forums, however well intentioned, remain fragile when they depend on legislative experiments that collide with constitutional limits. Business courts require political alignment, constitutional compatibility, and judicial approval – a combination that should not be assumed. Arbitration requires none of these. It is flexible, party driven, confidential, and constitutionally resilient.

Arbitration provides businesses seeking efficiency and enforceability with what business courts promise but cannot reliably deliver. In the end, the lesson mirrors Pavlov's reminder that sometimes the most effective solutions are the ones that have been with us all along. Arbitration is that enduring, time tested method; the "old book" that continues to work even as newer judicial experiments falter.

As states continue to explore judicial specialisation and as arbitration frameworks mature, the case for commercial arbitration as the preferred forum becomes stronger.

KEY TAKEAWAYS

Constitutional limits can undermine business court reform. Oklahoma's business court experiment demonstrates that legislative innovation must operate within constitutional boundaries. Even well-intentioned reforms designed to improve commercial dispute resolution can fail if they conflict with existing constitutional requirements.

Arbitration offers a resilient alternative. Unlike specialist business courts, arbitration derives its authority from private agreement rather than legislation. This provides businesses with expert decision-makers, procedural flexibility, confidentiality, enforceability and greater certainty, without the constitutional vulnerabilities affecting some judicial reforms.

Businesses are prioritising efficiency and certainty. As commercial disputes become increasingly complex, organisations are seeking forums that deliver faster resolutions, specialist expertise and predictable outcomes. The continued growth of arbitration suggests it is well positioned to meet these demands, even as jurisdictions continue to explore new approaches to commercial dispute resolution.

ABOUT US...

okarbcenter.com

THE OKLAHOMA ARBITRATION CENTER

The Oklahoma Arbitration Center (OAC), founded in Tulsa by Edward G. Lindsey, LL.M., FCIArb, provides a local, streamlined, confidential, and cost-effective forum for resolving commercial, civil, and family law disputes. Supported by a roster of 28 well-respected panelists from across Oklahoma, OAC allows parties to select their arbitrator, choose governing law, design procedures, and schedule hearings efficiently, with a goal of resolving cases within six months. Built on principles of neutrality, expertise, and accessibility, OAC offers an alternative to lengthy litigation and large national providers, delivering modern dispute resolution services grounded in proven arbitration and mediation practice.

Extracting value

Amani Cibambo
Founder & Managing Partner
Amani Law Firm

Q1

What trends are driving restructuring, distressed transactions, and deal activity in your jurisdiction?

In the Democratic Republic of the Congo, restructuring and distressed deal activity are being shaped by two apparently opposite forces: resilient growth and heightened risk. The mining economy continues to attract capital, particularly in copper, cobalt, energy, logistics and infrastructure. At the same time, the concentration of growth in extractive industries exposes companies to commodity price cycles, export measures, foreign exchange pressures, supply chain disruption and the security situation in the eastern provinces.
For investors, this creates both distress and opportunity. Businesses that are fundamentally viable may become stressed because their revenue is delayed, their inputs are imported, or their regulatory assumptions change faster than their financing documents.

The most visible activity is around strategic minerals. The cobalt export suspension and subsequent quota regime forced many operators to revisit offtake arrangements, stock management, financing covenants, force majeure positions and working capital needs. The broader race for critical minerals is also encouraging acquisitions, joint ventures, infrastructure-linked transactions and value addition projects. Investors are increasingly interested in logistics corridors, energy supply, mineral processing and services supporting major mines. This is not limited to large producers; contractors, transporters, laboratories, security providers and local suppliers are also being consolidated or refinanced as mining groups demand more reliable partners.

Outside mining, distress is emerging where businesses depend on imported goods, public contracts, foreign currency debt or long payment cycles. SMEs and local suppliers often face delayed receivables, limited access to bank credit, tax audits and rising compliance costs. In practice, many restructurings begin informally: renegotiating maturities, rescheduling supplier debt, converting debt into equity, improving security packages or selling non-core assets. Formal OHADA procedures remain available, but early negotiation is usually preferred because it preserves confidentiality and business continuity. These informal solutions are often faster, but they require careful sequencing so that emergency funding, creditor concessions and operational changes reinforce one another rather than create later disputes.

Q2

What are the most common triggers during financial distress, and how can businesses mitigate these risks?

Amani Cibambo is the Founder and Managing Partner of Amani Law Firm in Kinshasa. Admitted to the Kinshasa/Gombe Bar since 29 March 2005, he advises companies, investors, financial institutions and entrepreneurs on corporate, commercial, banking, tax, employment, telecommunications, mining and dispute matters in the Democratic Republic of Congo. His practice combines OHADA business law, negotiations, conciliation and arbitration representation, with a pragmatic understanding of local institutions and cross-border transactions. Since 2022, he has served as IR Global's exclusive corporate law advisor for the DRC, helping clients coordinate reliable legal solutions across jurisdictions and sectors in a demanding business environment.

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The most common triggers are liquidity pressure, delayed receivables, tax reassessments, loss of a key contract, banking covenant breaches, weak documentation, shareholder disputes and operational shocks linked to logistics, power supply or security.
In mining and infrastructure, additional triggers include changes in export conditions, permitting delays, community issues, environmental and social claims, subcontractor disputes and fluctuations in commodity prices.
In import-dependent sectors, depreciation risk and higher transport or fuel costs can rapidly turn a profitable contract into a distressed position.
Another frequent trigger is informal decision-making: companies may grow quickly, but without board minutes, clean accounts, tax reconciliations or properly registered security.

Businesses can mitigate these risks by treating distress as a governance issue, not merely as a financing problem. The first protection is discipline in documentation: clear contracts, enforceable security, reliable corporate records, tax files, employment compliance and board approvals.
The second is liquidity monitoring. Companies should maintain rolling cash-flow forecasts, test covenant headroom and identify early warning indicators before arrears accumulate.
The third is creditor management. In the DRC, relationships with banks, tax authorities, suppliers, landlords, employees and public counterparties must be managed proactively and transparently. A business that explains its recovery assumptions and proposes credible milestones will usually preserve more value than one that waits for enforcement.

Where distress becomes foreseeable, management should consider preventive tools under OHADA law, including conciliation and preventive settlement, alongside negotiated standstill arrangements. Early legal intervention is critical because directors may face personal and professional exposure if they continue trading without a credible recovery plan. A practical mitigation strategy combines operational restructuring, tax risk review, asset protection, stakeholder communication and, where appropriate, a controlled sale or refinancing process before value is destroyed. The objective is not only to avoid insolvency, but to keep the company bankable and investable.

KEY TAKEAWAYS

Growth and distress are moving together in the DRC. Mining, infrastructure, energy and logistics continue to attract investment, but commodity cycles, export controls, foreign exchange pressure, supply chain disruption and security risks are creating stress for otherwise viable businesses.

Early governance and creditor management are essential. Businesses can reduce distress risk through stronger documentation, cash flow monitoring, tax compliance, enforceable security and proactive engagement with banks, suppliers, tax authorities and public counterparties before arrears or enforcement action escalate.

Transactions are becoming more structured and compliance driven. Investors are placing greater emphasis on tax exposure, licensing, sanctions, anti-corruption, environmental obligations, local content, community relations and regulatory approvals, with more deals using conditions precedent, escrows, earn-outs, indemnities and staged closings.

Q3

How are transaction structures and due diligence priorities evolving amid regulatory scrutiny, tax considerations, and geopolitical changes?

ABOUT US...

amanilf.law

Amani Law Firm is a business law firm based in the Democratic Republic of the Congo. Established in Kinshasa in 2010, the firm advises and represents companies, financial institutions, investors, executives and private clients on transactions, regulatory matters and disputes. Its core practices include corporate and commercial law, OHADA business law, banking and finance, tax, employment, telecommunications, mining, real estate, NGOs, public institutions and litigation. ALF's approach combines technical rigour, confidentiality, commercial awareness and practical execution. Through its IR Global membership, the firm supports clients requiring coordinated advice for cross-border investments, restructuring, negotiations and contentious matters involving the DRC and OHADA.

Transactions in the DRC are becoming more conditional and compliance driven. Buyers no longer focus only on price and title, but require a full risk map. This will cover licensing, tax exposure, beneficial ownership, sanctions, anti-corruption, environmental and social obligations, labour compliance, land rights, community relations, foreign exchange rules and enforceability of security. In mining, due diligence now extends deeply into the chain of title, state participation, royalties, export rules, subcontracting, local content, traceability and relationships with regulators and local communities. In regulated sectors such as banking, telecoms, energy and mining, parties must also build authorisation timelines into the commercial timetable.

Tax has also become central. As the government and international institutions focus on the effectiveness of tax incentives and domestic revenue mobilisation, investors must examine whether exemptions, stabilisation clauses, customs benefits or investment approvals are valid, transferable and properly documented. A transaction that looks attractive commercially may lose value if tax arrears, parafiscal charges or unfulfilled reporting obligations are discovered late. For sellers, tax readiness has become part of value preparation: cleaning historical filings, reconciling payroll and withholding taxes, documenting incentives and anticipating questions from the tax administration.

Structurally, parties are using more conditions precedent, regulatory-clearance covenants, escrow mechanisms, deferred consideration, earn-outs, indemnity packages, warranty insurance where available, and staged closings. Joint ventures are being drafted with stronger governance, reserved matters, deadlock clauses, audit rights and exit mechanisms. Lenders are asking for tighter collateral, direct agreements, assignment of receivables and step-in rights.

Geopolitics adds another layer. Competition between Western, Chinese, Gulf and regional investors for critical minerals is changing negotiation dynamics and increasing scrutiny of source of funds, counterparties and supply chains. Successful transactions therefore depend on integrated legal, tax, regulatory and political-risk due diligence. The best structures are those that are commercially flexible, locally enforceable and credible to regulators, financiers and communities.

Director's duties

Acting before insolvency

James Conomos
Director
JCL Law Partners

Q1

What trends are driving restructuring, distressed transactions, and deal activity in Australia?

Restructuring and distressed transactions in Australia are being influenced by a number of key trends. These include but are not limited to the broader economic downturn; sector-specific challenges; access to capital; regulatory challenges; sustainability considerations; investment in technology; increased M&A activity; and continuing interest from private equity investors.

At present, I am finding that financial distress in Australia is primarily being driven by global economic challenges, ongoing inflationary pressures fuelled by higher interest rates, increased recovery action by the Australian Taxation Office (ATO), and industry-specific difficulties affecting sectors such as airlines, mining and construction.

These factors have placed significant pressure on cash flow and profitability for many businesses, particularly those with higher borrowing costs or reduced consumer demand. Despite these challenges, there are restructuring mechanisms available for companies of all sizes and across all industries. In many cases, businesses are seeking to restructure at an earlier stage in order to preserve value, protect employment and improve long-term viability rather than waiting until financial difficulties become critical.

Corporate restructures in Australia are primarily governed by the Corporations Act 2001 (Cth). These include both informal operational reorganisations, where businesses seek to improve efficiency or refinance existing obligations, and formal insolvency procedures. The Act provides the framework for solvent restructures and formal insolvency processes, including external administration, creditor rights and the conduct of administrators and liquidators. It is therefore central to how businesses assess their options when financial pressure begins to rise.

In addition to the Corporations Act, directors must remain mindful of their duties when a company is approaching insolvency, including the need to avoid insolvent trading and to act in the best interests of the company and its creditors where appropriate. These obligations often influence the timing of restructuring decisions, as directors who delay taking advice may reduce the options available to the business and increase their own exposure. This makes early assessment of the company's financial position, creditor pressure and available restructuring pathways particularly important in the Australian context.

The principal formal restructuring options include the Small Business Restructuring (SBR) process for eligible small companies and Voluntary Administration, which is available to companies of all sizes. The SBR process is intended to give qualifying small businesses a simplified and lower-cost pathway to restructure debts while directors remain in control of day-to-day operations. Voluntary Administration, by contrast, involves the appointment of an external administrator who investigates the company's affairs and works with creditors to determine whether the business can be rescued, restructured through a deed of company arrangement or placed into liquidation.

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

Jim's impressive career has seen him serve as the Queensland State Chair of the Insolvency and Reconstruction Committee of the Business Law Section of the Law Council of Australia, Queensland State Chair of the Insolvency and Reconstruction Committee of the Queensland Law Society (where he is now a council member), and the National Chair of the Insolvency and Reconstruction Committee of the Business Law Section of the Council of Australia.

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KEY TAKEAWAYS

Financial pressure is encouraging earlier restructuring. Higher interest rates, inflation, ATO enforcement activity and sector-specific challenges are prompting businesses in Australia to restructure before financial difficulties become critical, helping preserve value and improve long-term viability.

Directors have more options when they act early. Strong cash flow forecasting, adequate working capital and timely professional advice enable directors to identify problems sooner, fulfil their legal duties and access a wider range of restructuring solutions before insolvency becomes unavoidable.

Transactions require greater regulatory and tax scrutiny. Buyers are undertaking more detailed due diligence to assess competition, tax and regulatory risks, while geopolitical uncertainty and increased enforcement activity are driving more carefully structured M&A transactions, with a greater focus on long-term risk management.

Q2

What are the most common triggers during financial distress, and how can businesses mitigate these risks?

The most common trigger for financial distress in Australia, for both small and large businesses, is a lack of working capital. However, even businesses with adequate working capital can be affected by broader economic issues, including a downturn in the domestic economy, ongoing global uncertainty arising from conflicts in Ukraine and the Middle East, and increasing pressure to meet taxation obligations as the Australian Taxation Office continues to take a more active approach to debt recovery.

Many businesses also experience pressure from rising operating costs, higher financing expenses and tighter lending conditions, making it more difficult to maintain liquidity and continue investing in growth.

In order to mitigate these risks, businesses should ensure that they do the following:

- Maintain adequate working capital, including by attracting new investors or additional funding where appropriate.
- Develop robust cash flow forecasts to allow directors to identify potential problems early and respond before financial pressures escalate.
- Identify operational pitfalls and address them promptly.
- Secure appropriate borrowing to assist with short-term liquidity issues where available.
- Ensure the productivity of their workforce.
- Perhaps most importantly, directors should seek professional advice as early as possible.

Australia has many experienced restructuring, legal, accounting and financial professionals who can assist businesses facing financial distress. Accessing this advice from the start provides directors with a critical range of restructuring options and significantly improves the prospects of achieving a successful outcome.

Q3

How are transaction structures and due diligence priorities evolving amid regulatory scrutiny, tax considerations, and geopolitical changes?

Australian regulatory bodies such as the Australian Securities and Investments Commission (ASIC) and the Australian Competition and Consumer Commission (ACCC) continue to impose strict compliance requirements on transactions, particularly larger acquisitions. As a result, buyers are undertaking more detailed due diligence to assess regulatory risks before proceeding with a merger or acquisition.

As the Federal Government continues to encourage greater competition and prevent monopolistic behaviour, due diligence will now often include a strict and detailed assessment of competitive positioning, market concentration and potential anti-trust issues.

Also, with the Australian Taxation Office taking a more active approach to enforcement and implementation of laws and reforms, more careful transaction structuring is required. Ongoing reforms affecting capital gains tax and amendments to multinational taxation obligations justify businesses optimising their tax effectiveness to avoid unnecessary penalties, or worse, government intervention.

Finally, geopolitical tensions, including changing international trade relationships and shifts in international relations, continue to influence investment decisions and the attractiveness of certain sectors within Australia. These factors are shaping both transaction structures and due diligence priorities, requiring investors to take an increasingly comprehensive approach when assessing risk and long-term value.

ABOUT US...

jcl.com.au

JCL Law Partners, based in modern offices in the heart of Brisbane's central business hub, was established by James (Jim) Conomos in July 1992 as a boutique legal firm offering specialist expertise in commercial litigation and insolvency. The firm came into being because he is passionate about achieving positive outcomes for clients and providing real value for money.

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

Mexico hits the headlines

Martha Villalobos Partner,
Hector Noriega Partner,
Wong Fleming

The wellbeing transformation behind Mexico's changing economic story

Mexico has experienced significant transformation following initiatives undertaken by the Mexican Federal Government during the last two presidential administrations. Through a combination of social programmes and legal and policy reforms, the living conditions of millions have improved. This has occurred without a significant increase in public debt and with federal tax rates remaining largely unchanged.

One of the most relevant indicators for evaluating the success of these policies is the measurement of poverty levels. According to Mexico's National Council for the Evaluation of Social Development Policy (CONEVAL), between 2020 and 2022 the number of people in poverty decreased from 51.9 million to 46.8 million, a reduction of approximately 5.1 million individuals. The percentage of the population living in poverty declined from 43.9% to 36.3%.

Key factors for these changes include the strengthening of social programmes and increased labour income. Programmes such as the Pension for the Wellbeing of Elderly Persons, the Women's Wellbeing Pension, and the Welfare Support Programme for Children of Working Mothers, among others, have expanded their coverage in recent years, improving income for millions of households.

Regarding fiscal policy, unlike many countries across the Americas, Mexico has not implemented structural reforms involving generalised increases in Income Tax (ISR) or Value Added Tax (VAT). Nevertheless, tax revenues have reached historic highs in recent years, driven primarily by greater administrative efficiency, digitalisation of tax processes, and strengthened enforcement mechanisms by the Tax Administration Service (SAT).

The government's strategy has prioritised combating tax evasion and incorporating taxpayers into the formal economy, allowing public revenues to increase without significantly modifying existing tax rates. Federal Government revenues grew from approximately four trillion pesos in 2019 to more than six trillion pesos in 2025, a cumulative growth of nearly 50% over six years that has contributed to maintaining fiscal stability while financing various social programmes and infrastructure projects.

Perhaps the most profound changes have occurred in the labour sector. For decades, Mexico ranked unfavourably among member countries of the Organisation for Economic Cooperation and Development (OECD) regarding minimum wages, working hours, and work-life balance. In response, several reforms have been implemented to strengthen workers' rights.

In 2018, the general minimum wage was MXN $88.36 per day; by 2025, it had reached MXN $278.80 per day, representing one of the most significant wage recovery processes in the country's recent history. This cumulative increase of more than 215% has improved the purchasing power of millions without having an adverse impact on inflation, which remains at low levels.

These measures have been accompanied by the expansion of the statutory minimum vacation period from six to twelve days for employees who complete one year of service, the regulation of subcontracting (outsourcing) schemes, and provisions designed to promote substantive equality between women and men in the workplace.

Additionally, Mexico is currently undertaking the gradual implementation of a reduction in the standard work week from 48 to 40 hours. This initiative represents one of the most significant labour reforms in recent decades and aims to strengthen work-life balance while bringing Mexican labour legislation closer to international standards for developed economies.

These modifications reflect a broader trend toward modernising Mexican labour legislation and aligning it with international standards that prioritise dignity at work, occupational health, equal opportunities, and the overall wellbeing of workers.

Contrary to concerns often raised regarding the potential impact of these reforms on economic competitiveness, investment indicators have shown a positive trend. Mexico has registered historically high levels of Foreign Direct Investment (FDI), driven by factors such as macroeconomic stability, trade integration with the United States and Canada, and the country's growing manufacturing capacity.

According to the Ministry of Economy, foreign direct investment increased from USD 31.6 billion in 2021 to USD 40.8 billion in 2025, a growth of more than 29% in four years.

This suggests that improving labour and social conditions is not necessarily incompatible with attracting investment. On the contrary, a population with higher incomes, better working conditions, and stronger social protections contributes to strengthening the domestic market, increasing productivity, and creating a more attractive environment for long-term investment.

Mexico's recent experience demonstrates that strengthening labour rights and expanding social programmes can coexist with macroeconomic stability, higher tax revenues, and substantial inflows of foreign investment. Although challenges remain, the available evidence suggests that social wellbeing and economic competitiveness can reinforce one another.

Another relevant aspect has been the evolution of public security indicators. Intentional homicide rates decreased by approximately 42% between September 2024 and January 2026, falling from a daily average of 86.9 victims to 50.1 victims. This downward trend was reflected across most federal entities, representing a reduction of approximately 36 homicides per day. These results suggest significant progress in institutional efforts aimed at strengthening peace and social stability, essential factors for promoting economic development, attracting investment, and improving living conditions.

At the same time, the Federal Government has promoted a series of strategic infrastructure projects intended to strengthen competitiveness and regional development: the Mayan Train, which connects the principal tourism and economic hubs of southeastern Mexico through a railway network exceeding 1,500 kilometres, and the Interoceanic Corridor of the Isthmus of Tehuantepec, conceived as a logistical alternative for global trade by connecting the Pacific and Atlantic Oceans, efforts complemented by various railway, highway, and logistics projects designed to improve national connectivity, facilitate the movement of goods and people, and generate employment opportunities.

KEY TAKEAWAYS

Social investment and economic growth can reinforce one another. Mexico has expanded social programmes, strengthened labour protections and reduced poverty while maintaining fiscal stability, demonstrating that improved living standards and economic competitiveness need not be mutually exclusive.

Stronger enforcement has increased tax revenues without raising rates. Rather than introducing tax increases across the board, the government has focused on digitalisation, administrative efficiency and tackling tax evasion, delivering record public revenues while keeping federal tax rates largely unchanged.

Reform is helping to strengthen investor confidence. Rising foreign direct investment, major infrastructure projects and improving security indicators suggest that labour reforms, social policies and long-term economic development can work together to create a more attractive environment for domestic and international investment.

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Wong Fleming is an AV-Rated law firm known for representing Fortune 500 companies in commercial law, asset recovery, creditors' rights, bankruptcy, labour, environmental, insurance, IP, immigration, real estate, and liability matters. Its Mexico offices, led by Partner, Martha Angélica Villalobos Murillo, focus on corporate law, M&A, company formation/liquidation, due diligence, public bids, permitting, and contract negotiation. With offices in the U.S., Mexico, Canada, and Germany, Wong Fleming handles cross-border matters with local expertise. The firm is NMSDC and WBENC-certified and a member of NAMWOLF, reflecting its commitment to diversity and client service.

Deals in difficult markets

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

Q1

What trends are driving restructuring, distressed transactions, and deal activity in your jurisdiction?

In the United States, restructuring and distressed transaction activity continue to be shaped by elevated interest rates, refinancing pressure, persistent inflation, and ongoing geopolitical uncertainty. Although corporate credit conditions improved somewhat during 2025, many companies remain burdened by debt incurred during the low-rate environment and are facing increasingly complex refinancing challenges as maturities approach.

One of the most notable trends has been the rise of out-of-court restructurings and liability management exercises. According to S&P Global Ratings, distressed exchanges accounted for roughly 60% of U.S. corporate defaults in 2025, making them the most common restructuring tool and underscoring the growing preference for negotiated restructurings over formal insolvency proceedings.

At the same time, distressed M&A remains an important mechanism for preserving enterprise value. Strategic buyers and private equity investors continue to pursue acquisitions of fundamentally viable businesses experiencing temporary liquidity constraints. Formal Chapter 11 processes remain relevant, particularly where a Section 363 sale can facilitate a rapid transfer of assets free and clear of liabilities.

Recent restructurings, such as that of Spirit Airlines, illustrate these trends in practice. Spirit emerged from Chapter 11 in March 2025 after completing a court-approved restructuring that converted approximately $795 million of debt into equity and secured an additional $350 million equity investment from existing investors.

The transaction reflected the growing use of balance sheet restructuring and creditor-supported recapitalisations to address leverage challenges while preserving enterprise value and demonstrates how companies can utilise restructuring tools not simply to address insolvency, but to attract new capital, stabilise operations, and position themselves for long-term recovery.

Thomas H. Curran has developed his practice over the past three decades, focusing primarily on bankruptcy and insolvency proceedings. He often represents secured and unsecured creditors, committees of creditors, trustees and equity security holders in bankruptcy and insolvency proceedings as well as financial institutions and other lenders in out-of-court loan restructurings, assignments for the benefit of creditors, foreclosures, repossessions, and the sale of distressed assets and businesses. Furthermore, he also has experience representing business debtors in workout, restructuring and bankruptcy matters.

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Another notable trend is the growing use of liability management transactions and consensual restructurings. Companies are increasingly seeking to address capital structure challenges through debt exchanges, amendments, and negotiated solutions before a formal insolvency proceeding becomes necessary. Lenders and borrowers alike are demonstrating greater willingness to pursue cooperative approaches aimed at preserving value and avoiding the costs and uncertainties associated with litigation.

Artificial intelligence also influences deal activity. Buyers are increasingly evaluating AI capabilities, cybersecurity resilience, and data governance frameworks as core value drivers, particularly in technology, healthcare, and financial services transactions.

Q2

What are the most common triggers during financial distress, and how can businesses mitigate these risks?

Financial distress is rarely caused by a single event. More commonly, it results from a combination of declining revenues, margin compression, rising labour and input costs, covenant pressure, customer concentration, supply chain disruption, and limited access to capital.

The prolonged higher-interest-rate environment continues to be one of the most significant drivers of distress. Fitch recently reported that private credit borrower defaults reached a record 9.2% during 2025, with many companies struggling under floating-rate debt structures that significantly increased borrowing costs. Businesses that relied heavily on leveraged financing during the previous decade are particularly vulnerable as debt maturities come due.

Geopolitical developments further complicate the operating environment. Trade tensions, tariff uncertainty, sanctions regimes, and supply chain realignment efforts can create sudden disruptions to cash flow, inventory management, and customer demand. Industries with significant international exposure are especially susceptible to these risks.

One of the most common mistakes management teams make is delaying action. Early warning indicators, including declining liquidity, reduced borrowing capacity, and deteriorating vendor relationships, should trigger immediate evaluation of strategic alternatives. Companies that act proactively generally preserve more value and maintain greater flexibility than those that wait until a liquidity crisis develops.

Businesses can mitigate these risks by implementing rigorous cash flow forecasting, stress testing multiple operating scenarios, maintaining regular lender communication, and conducting periodic reviews of covenant compliance and debt maturities. Boards should also ensure that governance structures remain robust during periods of distress, as heightened scrutiny from creditors, regulators, and stakeholders increasingly accompanies restructuring situations.

KEY TAKEAWAYS

Early intervention preserves optionality. Companies that proactively address liquidity concerns, covenant pressures, and operational challenges typically have access to a broader range of restructuring and financing alternatives than those that delay action.

Distressed transactions are increasingly strategic. Restructurings, liability management exercises, and Chapter 11 processes are no longer viewed solely as tools of last resort; they are increasingly being used to preserve enterprise value, attract capital, and facilitate long-term business transformation.

Due diligence has become multidimensional. Beyond traditional financial and legal reviews, buyers and investors are placing greater emphasis on cybersecurity, AI governance, regulatory compliance, supply chain resilience, and geopolitical risk when evaluating transactions.

ABOUT US...

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Thomas H. Curran Associates, LLC, with offices in Austin, Boston, New York & London, represent a wide variety of individuals, businesses, corporate entities, and governmental agencies in litigation and transactional matters throughout the United States and Western Europe.

We have navigated a broad range of commercial litigation cases, including cross-border insolvency, institutional creditors' rights, bet-the-company litigation, and have earned a winning track record throughout the United States.

Q3

How are transaction structures and due diligence priorities evolving amid regulatory scrutiny, tax considerations, and geopolitical changes?

Transaction structures are becoming increasingly sophisticated as buyers seek to manage risk in a more uncertain regulatory and geopolitical environment. Earn-outs, contingent consideration mechanisms, representations and warranties insurance, and targeted indemnification provisions are now frequently used to bridge valuation gaps and allocate risk more effectively.

Due diligence has expanded well beyond traditional financial and legal reviews. Cybersecurity, data privacy, AI governance, and regulatory compliance have become central components of transaction planning. Recent industry research indicates that approximately one third of companies now utilise AI throughout portions of the M&A process, while the vast majority incorporate AI in at least one transaction-related function. As a result, buyers are increasingly scrutinising data quality, governance frameworks, and cybersecurity controls during diligence.

Regulatory scrutiny also continues to intensify. Companies must evaluate potential exposure arising from data privacy obligations, sanctions compliance, anti-corruption regulations, and sector-specific oversight. In cross-border transactions, national security reviews and foreign investment restrictions have become increasingly important considerations.

Tax planning remains a critical driver of deal structure. Buyers and sellers are paying closer attention to entity selection, cross-border tax implications, successor liability concerns, and evolving international tax frameworks. These considerations often influence whether transactions are structured as asset purchases, equity acquisitions, or more complex hybrid arrangements.

Finally, geopolitical uncertainty is reshaping investment priorities. Rather than focusing exclusively on cost efficiency, many organisations are prioritising supply chain resilience, operational redundancy, and geographic diversification. As a result, successful transactions increasingly require a multidisciplinary approach that integrates legal, financial, tax, regulatory, technology, and operational expertise from the earliest stages of planning.

Conclusion

The current restructuring environment reflects a fundamental shift in how businesses, lenders, and investors manage financial risk. While rising interest rates, refinancing pressures, and geopolitical uncertainty continue to create challenges, organisations are increasingly utilising proactive restructuring strategies, distressed transactions, and innovative capital solutions to preserve value and maintain operational continuity. As regulatory scrutiny expands and technology becomes increasingly central to enterprise value, successful transactions will depend on disciplined planning, comprehensive due diligence, and early stakeholder engagement. Companies that identify risks early and adopt a forward-looking approach to restructuring and transaction planning will be best positioned to navigate uncertainty and capitalise on emerging opportunities.

A longer, clearer welcome for global wealth

Uruguay's tax holiday 2.0

Sofía Sorhuet
Partner, Legal & Notarial Practice
Sorhuet & Sapelli Business Consulting

For two decades, Uruguay has been Latin America's safe harbour for internationally mobile families: politically stable, institutionally predictable, and governed by a tax system that leaves most foreign-source income untouched. On 1st January 2026, the country recalibrated that proposition. Budget Law 20.446, the National Budget for 2025 – 2029, renewed Uruguay's tax-residency regime. It preserves the central benefit that newcomers already enjoyed, adds a structured set of preferential phases, and redefines what it takes to qualify.

What has changed for international families considering Uruguay?

The centrepiece is unchanged. Individuals who establish Uruguayan tax residency may elect to be taxed as non-residents on qualifying foreign income for the year of the move plus the following ten: an eleven-year holiday that has applied since 2020 and that Law 20.446 leaves intact. What the reform adds is what comes after it, and what it now takes to reach it.

For the first time, the newcomer who completes the eleven-year holiday is no longer returned abruptly to the ordinary regime. They may elect a further five years taxed at half the standard rate on foreign passive income (an effective 6%), provided a qualifying investment is maintained. Beyond that, a fixed-amount option can extend preferential treatment year-by-year for up to twenty fiscal years from the original election. The genuine headline is not a longer holiday but a longer welcome: a structured glide-path that can keep families in a benign, predictable regime for the better part of two decades.

What are the main routes to qualification?

One distinction we often clarify for clients is that establishing tax residency in Uruguay and qualifying for the holiday are two separate questions. Tax residency itself can still be configured through several routes, all left untouched by the reform: spending more than 183 days a year in the country; centring one's economic or vital interests here; investing in real estate above 15 million UI (approx. US$2.5 million) with no minimum-presence requirement; or, more modestly, investing in real estate from roughly US$575,000 (approx. 3.5 million UI) combined with at least sixty days of annual presence each year. A business investment route also remains available, broadly from 15 million UI where the project creates at least fifteen jobs, or 45 million UI for a venture of declared national interest.

Sofía Sorhuet is a partner of Sorhuet & Sapelli, where she leads the firm's legal and notarial practice as part of its second generation of leadership. A qualified lawyer and notary (escribana), she advises international families and corporations on the legal and notarial dimensions of fiscal residency, cross-border structuring and succession across Uruguay, Brazil and Europe – from the acquisition and conveyancing of qualifying investments to the structuring of cross-border estates. Her work centres on the point where private wealth meets regulatory change, including Uruguay's evolving residency regime and its consequences for high-net-worth clients relocating to the country. Sofía advises clients in Spanish, English and Portuguese.

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A DIFFERENT PATH TO THE TAX HOLIDAY

For many families, the innovation fund route may be the most attractive pathway. An annual contribution of approx. 625,000 UI (US$100,000) to funds financing productive, technology and innovation projects unlocks the full eleven-year regime, and the same commitment keeps the door open to the additional five-year phase that follows.

Entrepreneurs and investors who would rather deploy capital into the real economy than into a single trophy property – and who value keeping their physical footprint light – preserve access to the holiday at a materially lower commitment, while aligning private wealth with Uruguay's innovation agenda.

Access to the eleven-year holiday, however, follows its own conditions. From 2026, only the newcomer who qualifies through genuine presence, more than 183 days in each year of the holiday, reaches the exemption without investing. Anyone qualifying on another basis must commit capital: either real estate above 12.5 million UI (approx. US$2 million), or an annual contribution of at least 625,000 UI (approx. US$100,000) to funds financing productive, technology and innovation projects. The former light-touch combination of a modest property and sixty days a year, which once opened the holiday, no longer does so: it still earns residency, but not the exemption.

What happens to existing holders or those outside the holiday?

Individuals who already held the tax holiday as of 31 December 2025 retain their original terms in full; the new rules do not reach back to erode acquired positions.

Uruguay's appeal also extends beyond the holiday itself. A resident who does not hold the exemption is taxed on foreign source capital income, which since the reform includes real estate income and certain capital gains, at a standard rate of just 12%, with a credit for tax already paid abroad. For families arriving from jurisdictions with far heavier personal tax burdens, that headline rate is attractive in its own right.

Why is this especially relevant for Brazilian families?

Nowhere is this recalibration more consequential than for Brazilian families. Brazil's Law 14.754/2023 dismantled long-standing deferral on offshore entities and trusts, subjecting Brazilian-resident individuals to current taxation on the income of their controlled foreign structures. Overnight, holdings that had quietly compounded abroad became annual taxable events. Uruguay's eleven-year holiday, reinforced by the Uruguay-Brazil double-taxation treaty, offers a coherent and treaty-protected destination, provided the move is structured with genuine substance and proper sequencing.

Beyond personal residency, what can Uruguay offer businesses?

For many families, relocation is also a question of where to build. Companies that develop software in Uruguay may access an exemption of up to 100% from corporate income tax (IRAE) on the resulting income, calculated under a nexus ratio aligned with the OECD's BEPS Action 5. For larger operations and technology or shared-service centres, the free-zone regime offers a broad exemption from national taxes in exchange for genuine local employment.

Uruguay's general investment-promotion framework under Law 16.906 also remains relevant. A promoted project may earn a credit against IRAE, together with relief from net worth tax on project assets, exemptions from duties on imported capital goods and recovery of VAT on locally sourced equipment, works and services. That package reinforces a foreign investor's ability to align personal and corporate planning under a single roof.

What should families consider before making the move?

This is precisely where good guidance turns an opportunity into a smooth landing. A move of this kind is an integrated exercise spanning immigration, real estate or fund investment, corporate structuring, succession planning and ongoing compliance across two or more jurisdictions. Choosing between the property route and the innovation fund pathway, sequencing the change of residency around an existing structure and coordinating with the home-country exit all reward a multidisciplinary, anticipatory approach. Four decades of integrated legal, notarial, fiscal and accounting practice – including welcoming international families and corporations to Uruguay – allow us to design and execute that transition end to end.

Uruguay is not closing its doors; it has opened them wider and for longer. For families seeking stability, a benign tax environment and a genuine home in the region, Tax Holiday 2.0 is among the most compelling propositions Latin America has offered in a generation and, with the right guidance, a remarkably attainable one.

ABOUT US... sys.com.uy

Sorhuet & Sapelli Consultoría Empresarial
Founded in Montevideo in 1984, Sorhuet & Sapelli Consultoría Empresarial is an independent, multidisciplinary professional services firm that brings legal, notarial, tax, accounting and real estate advisory together under one roof. A team of 40 professionals serves its clients, led by a second generation that pairs four decades of institutional continuity with a distinctly international outlook. For over thirty years, the firm has advised foreign families and corporations investing and operating in Uruguay – including long-standing European agricultural and industrial groups – with particular depth in cross-border structuring between Uruguay, Brazil and Europe.

A culture of early intervention

Tina Gullì
Partner
Studio Gullì

Q1

What trends are driving restructuring, distressed transactions, and deal activity in your jurisdiction?

In Italy, restructuring and distressed transactions are being driven not only by financial pressure, but also by the need to preserve businesses that are often still commercially viable. Markets have not disappeared, but the economic environment around them has changed dramatically. Energy price volatility from geopolitical uncertainty, alongside higher financing costs, have placed considerable pressure on liquidity and working capital.

This is particularly relevant for Italian SMEs, many of which are family-owned businesses with strong industrial know-how, loyal employees and long-standing customer relationships. In these cases, restructuring is increasingly seen not merely as a crisis response, but as a way to protect going-concern value, employment and local economic ecosystems. Activity is especially strong in Northern Italy, particularly Lombardy, Veneto, Emilia-Romagna and Piedmont, where industrial and export-oriented businesses are concentrated.

In Central and Southern Italy, distressed activity is more commonly linked to SMEs, tourism, real estate, construction and businesses that depend heavily on bank credit, public incentives or seasonal revenues. Delays in collections or reduced access to credit and changes in public incentive schemes have made some companies more vulnerable, even where the underlying business remains sound.

As a result, deal activity is becoming more selective and solution oriented. Investors and creditors opt for structures that preserve continuity, safeguard jobs and maintain customer and supplier relationships. Business transfers, transfers of business branches, negotiated restructuring procedures and other tools under the Italian Crisis and Insolvency Code are being used to avoid unnecessary value destruction. The priority is to distinguish between businesses that are no longer sustainable and businesses that can recover if given the right financial and operational structure.

Q2

What are the most common triggers during financial distress, and how can businesses mitigate these risks?

Financial distress in Italy usually does not appear overnight. It often begins with small warning signs that may initially seem manageable: a supplier paid late, a tax deadline postponed, increasing reliance on overdraft facilities, slower customer collections or forecasts that prove too optimistic. Over time, these signals can develop into serious liquidity pressure, especially when management waits too long before addressing the problem.

The most common triggers include cash shortages, rising interest rates, declining revenues, higher operating costs, delayed payments from customers, excessive leverage and difficulty refinancing existing debt. Other triggers include the loss of important contracts, supply chain disruptions, tax and social security arrears, weak financial planning and dependence on a small number of customers or lenders. For many Italian SMEs, the real risk is not the trigger itself, but the delay in recognising its seriousness.

Businesses can mitigate these risks by acting early and with transparency. Regular cash flow monitoring, realistic short-term forecasts, frequent management reporting and a clear understanding of margins by business line are essential. Companies should also monitor tax and supplier positions carefully, as these often provide early evidence of deteriorating financial health.

Early communication with banks, creditors, suppliers, landlords and tax authorities can make a big difference. If stakeholders are approached before the situation becomes critical, it is often possible to negotiate payment extensions, revised repayment plans or new financing. Disposal of non-core assets and debt restructuring may also help stabilise the business.

Where appropriate, companies should consider preventive restructuring tools under the Italian Crisis and Insolvency Code, including negotiated crisis settlement procedures and restructuring plans. These tools can help create a protected environment in which the business has time to reorganise and preserve value. Ultimately, the most effective mitigation strategy is cultural: management should treat early warning signs as an opportunity to intervene, not as a failure to be hidden.

Q3

How are transaction structures and due diligence priorities evolving amid regulatory scrutiny, tax considerations, and geopolitical changes?

Transaction structures in Italy are becoming more cautious and risk-sensitive. Buyers are less interested in price or historical financial performance and far more interested in whether the business can withstand shocks and comply with increasing regulation while generating reliable cash flows. This is especially important in distressed situations, where speed is often necessary but uncertainty is higher.

As a result, there is greater use of asset deals, business-branch transfers, earn-outs, deferred payments, escrow arrangements, conditions precedent and stronger contractual protections. Buyers often prefer to acquire selected assets or business units instead of the entire company. This allows them to preserve commercial value while reducing exposure to tax, labour, financial or regulatory risks.

Due diligence priorities have also evolved. Reviews now focus more deeply on regulatory compliance, tax exposures, labour and social security liabilities, environmental matters, sanctions, supply chain risks, foreign investment screening, ESG issues and the reliability of financial forecasts. In Italy, tax due diligence remains particularly important because potential liabilities may arise from VAT, withholding taxes, corporate income tax, regional tax, tax credits, public incentives, transfer pricing and previous restructurings.

Labour and social security matters also require careful attention, especially in transactions involving transfers of employees, collective bargaining agreements, accrued benefits or potential joint liability. In addition, geopolitical uncertainty has made buyers more attentive to sanctions, export controls, dependency on foreign suppliers, exposure to unstable markets and the resilience of the supply chain.

The overall approach is more pragmatic and protective. Buyers seek certainty, while sellers, particularly in distressed contexts, often need speed, execution and limited post-closing exposure. Successful transactions therefore require close coordination between legal, tax, financial and operational advisors from the earliest stages. The goal is not simply to complete the transaction, but also to structure it in a way that protects value and gives the business a credible future after closing.

Tina Gullì, born in Caracas, Venezuela, is an Italian Chartered Accountant, Legal Auditor, and Founder of Studio Gullì, based in Orbassano, near Turin, with an international presence in Dubai and New Jersey through Studio Gullì America.

A native Spanish and Italian speaker with intermediate English proficiency, she specialises in tax consulting, corporate advisory, international taxation, extraordinary finance transactions, tax litigation, business valuation, and appraisal reports. Enrolled in the Order of Chartered Accountants of Turin since 2003 and in the Register of Legal Auditors since 2008, she also serves as Statutory Auditor for major Italian companies.

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KEY TAKEAWAYS

Not every distressed business is a failing business. Many Italian SMEs remain commercially strong but are under pressure from inflation and liquidity constraints. The focus must be on preserving viable businesses rather than managing insolvency.

Culture can determine the outcome. Financial distress often develops gradually, but many businesses wait too long to solve the problem. Treating early warning signs as an opportunity to act will significantly improve restructuring prospects.

The right structure can protect long-term value. Buyers are favouring flexible deal structures that preserve operations while limiting historic liabilities, with successful transactions balancing speed and compliance with the sustainability of the business.

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STUDIO GULLÌ

Studio Gullì was founded on a simple principle: no business owner should feel alone when facing tax, corporate, and accounting matters. The firm stands alongside companies in both challenging times and periods of growth, helping transform compliance from a source of stress into a foundation of security, clarity, and trust.

Studio Gullì supports entrepreneurs, CFOs, family-owned businesses, private clients, and foreign nationals with day-to-day advisory services and complex tax matters, both in Italy and internationally. Its expertise includes tax and corporate consulting, accounting assistance, extraordinary transactions, international taxation, tax litigation, business valuations, and the drafting of appraisal reports in the context of corporate reorganisations, acquisitions, and extraordinary finance operations.

With a local and international perspective, Studio Gullì empowers entrepreneurs to grow with confidence.

Beyond compliance

The legal power of a sophisticated board of directors

León Patiño
Managing Partner
Patiño Cáceres

In many companies, the board of directors is still treated as a statutory formality – a group that approves minutes, ratifies management decisions and appears only when the law requires it. That view is increasingly obsolete. Accelerated regulation, geopolitical uncertainty, complex capital structures, reputational fragility and family business transitions all mean that today, a sophisticated board is a legal and strategic asset.

A modern board should not merely exist *de jure*. It must function *de facto* as the highest forum of judgement, discipline and accountability within the enterprise. The difference is not cosmetic. It can determine whether a company survives a crisis, attracts capital, professionalises succession, avoids litigation and creates sustainable value across generations.

From a legal perspective, the first impact of a sophisticated board is the strengthening of fiduciary conduct. Directors are not ceremonial figures. They are guardians of the corporate interest. Their duties of loyalty, care, confidentiality and prudent oversight require informed deliberation, independent judgement and documented decision-making. A serious board creates the evidentiary record that demonstrates that decisions were not improvised, conflicted or arbitrary.

This is particularly relevant in closely held companies and family enterprises, where the lines between ownership, management and family dynamics are often blurred. In such environments, a professional board introduces structure where there might otherwise be informality. It separates affection from administration, ownership from execution and legacy from entitlement. It helps the company move from *intuitu personae* relationships to institutional governance. This transition is often the difference between a family business and a business family.

A sophisticated board also reduces legal risk by improving the quality of corporate process. Many disputes are not born from bad outcomes alone, but from defective processes: insufficient information, lack of minutes, undisclosed conflicts, informal approvals, related party transactions without safeguards or decisions taken outside the proper corporate bodies. A serious board mitigates these risks through agendas, committees, conflict protocols, independent advice, well-drafted minutes and periodic reporting. Process does not guarantee correctness, but it provides legitimacy. *Forma dat esse rei:* form gives being to the thing.

The second legal impact is the creation of a true risk-governance system. Today, risk is no longer limited to debt, insurance, litigation or compliance. Risk includes cybersecurity, data protection, sanctions, supply chain exposure, artificial intelligence, anti-corruption, labour practices, tax transparency, ESG claims, consumer protection and reputational volatility. No managing director, however talented, should be the sole interpreter of these risks. A board with specialised directors and well-designed committees can identify issues before they mature into liabilities.

The audit committee especially has become one of the most important legal instruments of corporate governance. Its value is not limited to financial statements. A strong audit committee can oversee internal controls, related-party transactions, whistleblower mechanisms, enterprise risk, regulatory compliance, internal audit and the integrity of management reporting. It acts as the board's disciplined conscience. When properly designed, it becomes a shield against negligence and a sword against opacity.

The third impact is access to capital. Sophisticated investors, lenders, strategic partners and institutional counterparties increasingly evaluate governance as part of enterprise value. A company with independent directors, reliable reporting, clear approval thresholds, functioning committees, transparent ownership records and documented controls is easier to finance, insure, value and sell. Governance becomes a commercial language, telling the market: 'this company is not managed by impulse; it is governed by standards'.

This is particularly important in emerging markets, where legal systems may be perceived as slower, enforcement more uncertain and business groups more concentrated. In that context, private governance can compensate for institutional uncertainty. A serious board sends a signal of trust. It can reduce perceived country risk, improve lender confidence and support cross-border expansion. In practical terms, better governance may lower the cost of capital, facilitate joint ventures and increase valuation multiples.

The fourth impact is succession. Many companies fail not because the business model is weak, but because transition is unmanaged. Founders often carry the enterprise through charisma, intuition and personal authority. But charisma is not a governance system. A board helps convert founder-led success into institution-led continuity. It can supervise succession plans, evaluate next-generation talent, define family employment policies, establish emergency leadership protocols and protect the company from improvisation when clarity is needed most.

Here, the Latin maxim *nemo dat quod non habet* – one cannot give what one does not have – is useful. A company cannot transmit institutional continuity if it has never built institutional discipline. The board is where that discipline is cultivated before the crisis arrives.

The fifth impact is protection against conflicts of interest. While every company faces conflicts, not every company manages them well. Related-party transactions, intra-group loans, founder compensation, family employment, asset transfers, guarantees and business opportunities must be handled with transparency and procedural rigour. A sophisticated board does not necessarily prohibit these transactions; it civilises them. It requires disclosure, abstention when appropriate, fairness analysis, independent valuation and proper approval. This protects the company, the directors and the transaction itself.

Ultimately, the legal impact of a sophisticated board is not defensive only. Good governance is the architecture of judgement. It creates the conditions under which intelligence, experience, independence and accountability can interact. The board becomes the place where strategy is tested, risk is translated, management is challenged, and the long-term interest of the enterprise is protected.

The lawyer's role, therefore, should not be limited to drafting bylaws or reviewing minutes after the fact. The modern corporate lawyer must help design governance systems: board charters, committee mandates, conflict policies, reserved matters, succession frameworks, reporting calendars, director onboarding programmes and crisis protocols. In this sense, legal counsel becomes a governance architect.

Companies that will endure are those capable of institutionalising judgement. The board of directors is the legal organ through which that institutional judgement is expressed.

A sophisticated board is not an ornament of corporate sophistication. It is a mechanism of survival, credibility and value creation. In corporate governance, as in law, substance and form must converge. *Ubi societas, ibi ius:* where there is an organised enterprise, there must be law, order and responsibility.

THE FIVE LEGAL IMPACTS OF A SOPHISTICATED BOARD:

- **It strengthens fiduciary accountability through informed, documented decision making.**
- **It creates a structured system for identifying and managing strategic risk.**
- **It improves access to investment by demonstrating robust governance.**
- **It supports orderly succession and long-term institutional continuity.**
- **It protects against conflicts of interest through transparent procedures.**

León A. Patiño Cáceres is a distinguished legal professional with extensive experience in corporate law, estate planning, transnational transactions and trade negotiations. His expertise spans private sector leadership, academic contributions, and board-level governance.

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Patiño Cáceres is a premier boutique law firm in the Dominican Republic, widely recognised for advising business families, investors and leading companies on their most complex legal and governance matters. With a commitment to excellence, our team of highly skilled attorneys delivers tailored legal solutions to clients navigating complex regulatory and commercial landscapes.

We provide comprehensive legal counsel across a broad spectrum of matters, representing clients with precision and strategic insight in both litigation and arbitration. Our firm also has a distinguished track record of successfully handling administrative proceedings before regulatory agencies, international financial institutions, and leading investment banks.

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IR Global was founded on the belief that business can be a force for good, creating positive change in the business world while supporting meaningful social impact. Through its long-standing support of the Sinchi Foundation and Treesistance, IR Global has worked closely with its members to help address human rights violations, challenge illegal extractive activities and provide Indigenous communities with the tools and resources they need to protect their territories and the environment.

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