Financier Worldwide canvasses the opinions of leading professionals around the world on the latest trends in transfer pricing.

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In recent years, transfer pricing has become an area of focus for companies and for tax authorities. Indeed, the transfer pricing policies of many multinational companies have attracted widespread attention – and criticism – and, as a result, are being subjected to stringent assessment. Tax issues involving some of the world’s largest companies, including Apple, Amazon and Microsoft, have made headlines and highlighted renewed interest in the tax planning and transfer pricing practices of multinationals.

The OECD’s base erosion and profit shifting (BEPS) initiative has also brought the issue into sharper focus, introducing a uniform set of reporting standards and exchange of information mechanisms which has created a compliance imperative for organisations around the world.

Given the impact of BEPS and the current state of tax disputes across many jurisdictions, it is crucial that companies continually evaluate and update their transfer pricing policies; failure to do so could be hugely damaging. Tax authorities are ramping up enforcement activities. Companies must regularly review their transfer pricing policies and documentation and take action where required.

Achieving compliance with transfer pricing regulations can be arduous, but corporates must treat the issue with care. They must prepare high quality transfer pricing documentation that can be submitted to national tax authorities in a timely fashion. Furthermore, if they are subjected to a tax audit or investigation, companies should engage with transfer pricing advisers as quickly as possible. The right adviser can help organisations navigate the minefield of a transfer pricing audit.

Moving forward, the demand for advance pricing agreements is expected to grow, particularly in jurisdictions such as the US, Canada and across Europe.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

GREGOR: Historically, companies’ attention to their global transfer pricing policies has been spotty, focusing just on those jurisdictions with the most active enforcement or most developed rules. With the advent of the OECD’s BEPS initiative, companies need to update their policies to Undertake a more holistic approach, considering every possible jurisdiction’s transfer pricing. For US-based companies, this means that care should be given to consider rules being implemented throughout the world, and incorporating those rules into policies. Forms of related-party documentation and valuation methodologies will need to be constantly updated to account for the quick pace of development we are seeing around the world. With other jurisdictions’ laws increasingly becoming more sophisticated, the likelihood and number of conflicts between jurisdictions’ policies has been increasing. As a result, we are expecting demand for advance pricing agreements (APAs) to be strong in the next few years – a trend that will put stress on the shrinking resources of the Internal Revenue Service (IRS). The IRS is preparing for this trend, including by modernising its model APA.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN THE US PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

GREGOR: Transfer pricing has, and will continue to be, a key area of focus for the IRS. Continuing a trend of several high profile losses in recent years, the US tax court recently ruled in Eaton v. Commissioner that the IRS decision to cancel an APA constituted an abuse of discretion, and ordered the IRS to stand by its agreement with the taxpayer. For many large US companies, this ruling came with a sigh of relief, as the process of obtaining an APA is intended to provide taxpayers with predictability and finality. The IRS is not, however, slowing down. In early 2017, it announced a campaign to focus on pricing and documentation of related-party transactions, with a particular focus on inbound distributors and compliance programmes for ‘mid-market’ companies. This signals a shift by the IRS from its prior strategies, bringing aggressive transfer pricing challenges to large multinational companies, to a broader focus on achieving compliance by
smaller, growth companies. This also means that companies that are in the process of expanding internationally will need to take extra care to ensure that their tax compliance and risk management functions grow in step with business expansion.

GREGOR: First and foremost, having frank discussions with the IRS team about the focus of the audit will save time and resources, while ensuring that a company can be working efficiently and effectively toward resolution. IRS examination teams are moving to issue-based audits, meaning that the examiner likely knows before their first request what issues they will be focusing on. Second, when an indication of focus is established, care should be taken to give the IRS a full and complete picture of the taxpayer’s positions. Establishing credibility is critical, particularly in transfer pricing where taxpayers bear a heavy burden of establishing the reasonableness of any particular position. Accordingly, care should be taken to work with the examiner, rather than against them. Throughout the process, however, taxpayers should be fully aware of the nature of internal documentation at the outset, both of facts and contemporaneous legal advice. As the US’ rules on privilege have shifted, more and more contemporaneous advice has found its way into IRS examinations – failing to identify ‘bad’ documents up front can waste time and resources on a losing battle.

GREGOR: Supporting documentation is critical to a later defence, but care must be given to the methodology adopted to ensure it is still viable as laws are changing around the world. In particular, the IRS and taxpayers are locked in a tight battle over the appropriate methodology for valuing transfers of intangibles through buy-in payments and cost-sharing agreements. Recent litigation has shown that the IRS is fighting hard against the use of anything other than the ‘income method’ for...
calculating cost-sharing arrangements and intangible buy-ins, a method now required by regulation. Notwithstanding a recent, stinging loss against Amazon, the IRS is pushing to apply a version of the income method to years prior to the introduction of the current regulations – arguing for use of a discounted cash flow basis for calculating a buy in, effectively still looking to future income in each jurisdiction. This same issue is about to be litigated by Microsoft – and the IRS has just announced it will appeal the Amazon decision.

GREGOR: Related-party transactions are one of the IRS’ key focus areas. Not only is the IRS actively litigating pricing methodologies that it views as non-compliant with regulatory requirements, there is a perception at the IRS that there is widespread non-compliance among smaller companies. Thus, the IRS is now shifting resources toward a campaign to increase scrutiny of ‘mid-market’ companies with international operations. While these companies may not be pushing the edge of the pricing envelope to the extent of large multinationals, often less care is given to up-front pricing planning and documentation. This provides the IRS with the ability to question and adjust related-party prices early and easily in an examination process. Thus, smaller companies, particularly those without developed internal tax risk management functions, need to pay more attention to up-front planning and documentation to ensure positions are defensible and documented in compliance with the IRS’ pricing regulations.

GREGOR: Because the IRS has had a long history of fighting base erosion and has long adopted an arm’s-length pricing standard, it is unlikely to directly affect the IRS’s approach to regulating and enforcing transfer pricing. Further, the IRS’s own rules are largely in line with the proposed guidance, meaning that the US is not playing catch up in the way that many other countries must. A report issued by the US Government Accounting Office noted that many US multinationals will be burdened by the new rules, because the OECD guidance does not provide detailed rules for how to evaluate risk shifting between related parties.
“Simply ‘refreshing’ prior policies is no longer good enough, and companies must consider the interplay among various countries’ changing laws on substance and pricing.”

Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

GREGOR: The current slate of litigation in the US, the impact of the OECD’s BEPS initiatives and the potential for tax reform mean that transfer pricing policies need to be evaluated on a continuous basis. Simply ‘refreshing’ prior policies is no longer good enough, and companies must consider the interplay among various countries’ changing laws on substance and pricing. When a company adds the extra layer of potential, material changes to the US tax system under the recently-released framework for tax reform, it may find its old policy is not only outdated, but that it no longer makes economic sense. Companies are likely to react to the various changes in law by changing behaviour and any change in behaviour, even if simply shifting administrative employees around a global workforce, could impact pricing policies.

Kathleen Saunders Gregor is a tax partner and co-founder of the tax controversy group. She regularly handles disputes with the IRS and other administrative bodies, and assists clients in managing disputes with non-US tax authorities. Ms Gregor represents public companies, private investment funds, institutional investors, private companies and high net worth individuals before the IRS, US Tax Court, US Court of Federal Claims and other federal and state courts. Her practice encompasses a wide range of partnership and international tax issues, with a focus on the asset management and life sciences industries.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

KURJANOWICZ: Awareness of transfer pricing continues to increase. In today’s global economy, most businesses of a significant size operate across borders, and in the context of a multinational business the question of how much profit to recognise within a particular jurisdiction has become one of, if not the, most important questions in tax. Canada has a long history of transfer pricing law, longer than most other developed nations. The Canada Revenue Agency’s (CRA) transfer pricing audit mechanisms are well established. What has changed recently has been a shift in audit selection strategy – whereas in the past the CRA focused its transfer pricing enforcement efforts mostly on multi-billion dollar ‘blue-chip’ enterprises, more recently transfer pricing audits have been extended to the small and medium-sized businesses. Companies with less than $50m in revenues, perhaps with a presence in only one foreign jurisdiction, are routinely being selected for transfer pricing audits in Canada.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN CANADA PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

KURJANOWICZ: The CRA has identified transfer pricing as a primary area of enforcement focus. In the two most recent years, the government has committed nearly $1bn in funds over the next five years to finance tax enforcement efforts – $444.4m in the 2016 federal budget and $523.9m in the 2017 federal budget. These funds will support the hiring of a great many new auditors. It is fair to state that Canada has entered a new era of transfer pricing law enforcement and it is critical for companies to be prepared.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

KURJANOWICZ: The CRA has operationally separated its international audit division from its other divisions. We have dedicated transfer pricing auditors in Canada and transfer pricing audits may run in parallel to other audits, such as domestic income tax audits or value-added (GST/HST) tax audits. Companies may therefore be working with multiple CRA auditors simultaneously. The commencement of a transfer pricing audit will be defined by the issuance of a ‘247(4) Contemporaneous Documentation Request’ letter by CRA. Companies are given three months to comply with the request by delivering transfer pricing documentation. Getting your transfer pricing adviser involved right at the start is highly recommended. All transfer pricing audits are highly complex and having someone who can talk the transfer pricing talk with the auditor right from the get-go is crucial.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

KURJANOWICZ: The CRA has several long-established administrative positions with respect to the interpretation of the arm’s length principle – the valuation concept that underlies most of the world’s transfer pricing laws, including Canada’s. The CRA’s administrative positions can be inconsistent with the interpretations of authorities in other jurisdictions. For instance, US treasury regulations generally require a service provider to earn a profit mark-up on an intragroup service transaction, but the CRA will generally look to deny mark-ups on inbound centralised service charges. A robust package of documentation can go a long way to minimising the audit risk. A best-practice approach to documentation would include three elements: a transfer pricing policy document, an intragroup legal agreement and a transfer pricing report which conforms to the requirements of Subsection 247(4) of the Income Tax Act (Canada).
“We have had orders of magnitude more transfer pricing cases in the courts in the past two years than at any other time in our history.”

KURJANOWICZ: The CRA does not publish detailed reports; however, it is clear that transfer pricing disputes are rising in Canada at a dramatic pace. We have had orders of magnitude more transfer pricing cases in the courts in the past two years than at any other time in our history. The number of Competent Authority Mutual Agreement Procedure (MAP) cases also continues to rise. The most noticeable trend, however, is the increase in disputes between the CRA and small or medium-sized organisations. Our observation has been that the CRA treats the transfer pricing audit of a small or medium-sized organisation similarly to that of a large multinational from a procedural standpoint. This, of course, leads to significant controversy, as small or medium-sized organisations do not have the resources or in-house expertise to address transfer pricing compliance at the level of diligence that is expected from a large multinational.

KURJANOWICZ: The CRA has been a highly-active participant in the working groups responsible for drafting all of the BEPS reports. The CRA has also officially stated that the transfer pricing guidance in the BEPS reports is aligned with its interpretation of the arm’s length principle, save for two areas: low value-adding services and the definition of a risk-adjusted return. These are minor areas and it is fair to state that the CRA intends to administer transfer pricing laws in Canada consistently with the guidance of the OECD. Unfortunately, this creates substantial uncertainty for taxpayers because the Canadian courts have a long history of respecting the legal form of transactions. One of the main outputs of the BEPS work has been guidance to the effect that the legal form of a transaction serves only as the starting point for transfer pricing analysis, and legal form can be entirely overridden for transfer pricing purposes if the substance of the transaction differs from its legal form. How the OECD’s approach will fare in the Canadian courts is anybody’s guess, but the entire transfer pricing community in Canada is eagerly awaiting the result. Several cases that speak to this point are scheduled to be heard this year.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

KURJANOWICZ: The time to reevaluate transfer pricing policies is now. The transfer pricing world has changed, especially in Canada. A transaction structure or transfer pricing policy established as recently as two or three years ago has a low likelihood of being aligned with the best practices or the new administrative guidance that is relevant to Canada today. If you operate in the small or medium-sized organisation space and have foreign operations, transfer pricing should be foremost on your to-do list, especially if it has never been seriously looked at before. Transfer pricing penalties are some of the most severe penalties in the Income Tax Act (Canada) and can seriously damage the cash flow position of a small or medium-sized enterprise. If nothing else, companies should have a high-level risk assessment conversation with their advisers. A one or two hour conversation should be more than sufficient for any transfer pricing adviser worth his or her salt to lay out the risk areas for a small or medium-sized business.

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Peter Kurjanowicz is a leader of Grant Thornton’s transfer pricing group in central Canada and is based in Toronto. His experience includes assisting many of Canada’s largest public and private companies in a multitude of industries, including transportation, banking, financial services, resources, professional services, manufacturing, automotive, oil & gas, information technology, distribution and retail, among others. Mr Kurjanowicz was recognised in 2015 and 2016 by Euromoney as a rising star in transfer pricing, one of only two practitioners to receive the award in all of Canada.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

FEENEY: With the increased focus on transfer pricing matters over the last few years, particularly since the OECD work on Base Erosion and Profit Shifting (BEPS), we are seeing companies in Ireland pay more attention to transfer pricing. Many companies are finding that existing policies need to be reviewed in light of the changes arising from BEPS, which are now formalised in the 2017 OECD Transfer Pricing Guidelines. The changes, in a lot of instances, are quite complex, especially the Action 8 to 10 paper which seeks to align transfer pricing outcomes with value creation. Companies need to ensure that existing policies and operating models are sufficiently robust and align with the changes.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN IRELAND PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

FEENEY: Ireland’s transfer pricing regime was formalised in 2011 and is based upon the OECD Transfer Pricing Guidelines. Irish Revenue introduced the regime to ensure Ireland’s tax base is protected and there is an active audit and competent authority regime in place. Over the last two years we have seen an increase in transfer pricing audits underway as Irish Revenue devotes more resources to administer Ireland’s domestic regime. In addition, Irish Revenue engages with other tax authorities in dispute resolution matters involving Irish companies – dealing with transfer pricing adjustments and entering into advance pricing agreement (APA) negotiations.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

FEENEY: Companies should be aware that upon the initiation of a transfer pricing, Irish Revenue has a list of commonly asked questions and information requests. Where possible, companies should plan in advance and ensure this information is readily available. This includes group organisation structure and company organisation chart showing the key functional areas of the company, employee titles and reporting lines; related-party transaction details including a description of each transaction, the name of the counterparty company and summary of the material terms and conditions of each transaction and supporting legal agreements; a summary of the functions, assets and risks of the relevant companies; the pricing methodology adopted; details of the basis showing that the arm’s length basis is met and supporting transfer pricing documentation; and detailed financial analysis which shows the application of the transfer pricing policy for each transaction under review.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

FEENEY: From an operational transfer pricing perspective, one of the main challenges is that the responsible parties that set the transfer prices and the personnel who have responsibility for implementing transfer prices in the business are different and may not be engaged. It is critical, particularly in today’s environment, that the finance or tax department of a company and the business unit managers are clear on how the policies are established and clear communication protocols are in place between the relevant personnel. Supporting documentation, such as transfer pricing reports, memos, legal agreements, operating policy documents and other working papers, is critical as this supporting evidence can impact the outcome of a transfer pricing audit.
“Since 2015, a dedicated transfer pricing audit team has been undertaking formal transfer pricing audits in Ireland.”

**FEENEY:** Since 2015, a dedicated transfer pricing audit team has been undertaking formal transfer pricing audits in Ireland. Per Irish Revenue’s annual report for 2016 there were 12 transfer pricing audit cases open. The focus since inception has been companies that are dealt with by the large cases division (LCD) within Irish Revenue. LCD deals with the largest Irish headquartered and multinational group companies. In its annual report, Irish Revenue indicated that the audit programme would be extended to other divisions outside LCD in 2017. Therefore, we can expect medium sized groups to be a focus of scrutiny from this point forward. Over the last 12 months we have also seen Irish Revenue recruit additional personnel to resource its audit programme and we expect this trend to continue.

**Q HAVE YOU SEEN AN INCREASE IN TRANSFER PRICING DISPUTES BETWEEN COMPANIES AND TAX AUTHORITIES IN IRELAND?**

**FEENEY:** Ireland’s domestic transfer pricing law is aligned with the OECD Transfer Pricing Guidelines. At present, the domestic law refers to the 2010 version of the guidelines. We expect that the law will be updated shortly to align with the 2017 version of the guidelines which includes the transfer pricing changes arising from the BEPS project. Legislation with respect to country-by-country reporting is already in place in Ireland.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

FEENEY: We would recommend that companies have a formalised annual review procedure in place to review existing transfer pricing policies and operating models and ensure that they are sufficiently robust to withstand tax authority scrutiny. In addition, there are now many compliance deadlines to be aware of, such as country-by-country reporting notifications and filings and changes in transfer pricing documentation rules, for example, master file and local file requirements. Where companies decide to update their operating models to align to the latest transfer pricing laws, an awareness of the tax impact under other tax heads – exit taxes, compensation payments due for any business restructuring, indirect taxes, customs and so on – must be considered.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

DE PRETER: With the ongoing and increased focus on transfer pricing by the Organisation for Economic Co-operation and Development (OECD), this topic is high on the agenda of any multinational enterprise. Accordingly, it is difficult for companies to ignore the Base Erosion and Profit Shifting (BEPS) initiative, the EU Anti-Tax Avoidance Directive (ATAD) and state aid cases. There is a general awareness that transfer pricing policies and the resulting profitability of the transacting parties must be aligned with operational reality. When delving into the details, companies realise the complexity of transfer pricing and the importance of OECD-compliant transfer pricing documentation to demonstrate the arm’s-length nature of the pricing they apply.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN LUXEMBOURG PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

DE PRETER: In line with global trends, the Luxembourg tax authorities have increased attention for transfer pricing aspects. Recent updates to the Luxembourg tax law and the 2017 transfer pricing circular on intragroup financing have incorporated the OECD’s transfer pricing guidelines.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

DE PRETER: Best practice experience shows that waiting for the tax audit to start before looking into transfer pricing may not be the best approach. Following the 2017 update of the OECD transfer pricing guidelines, companies need to review their transfer pricing policies and documentation and take action if required. If a tax audit is announced, companies must make sure that the relevant transfer pricing data and documentation is available and accessible while appointing a single point of contact to ensure clear and open communication with the tax authorities.

DE PRETER: Compensation and profitability must be appropriate for the functions performed, assets owned and risks taken. Given the increasing complexity of global value chains, companies need to take up the challenge ‘to get it right’. Essentially, the relative contribution of each entity to the overall profitability of the global value chain requires serious analysis and needs to be properly documented in line with the recently updated OECD documentation requirements. Specifically, the OECD initiative addressing hard to value intangibles will most likely create additional challenges. Compliant transfer pricing documentation may not eliminate any exposure to corrections but is vital, as it generally avoids penalties and prevents the reversal of the burden of proof.
“Failure to satisfy the Luxembourg tax authorities may result in ignoring or replacing the transaction in whole or in part.”

DE PRETER: Since the introduction of new mandatory transfer pricing documentation in 2015, enquiries into the arm’s-length nature of transfer prices have increased, as have disputes. Going forward, we expect that formal disputes, such as court and mutual agreement procedures (MAP), will also increase. Transfer pricing connects two transacting parties and if a tax audit in one of the countries involved results in transfer pricing adjustments and an increased taxable basis, there should be a corresponding adjustment in the other country to avoid double taxation. A voluntary adjustment, just by providing the tax audit report of the other country, may not work and formal procedures will then be required. In this respect, a circular with further guidance on the MAP procedure was issued in the summer. It should also be expected that the Luxembourg tax authorities will proactively initiate audits after the corporate income tax returns have been filed.

Q HAVE YOU SEEN AN INCREASE IN TRANSFER PRICING DISPUTES BETWEEN COMPANIES AND TAX AUTHORITIES IN LUXEMBOURG?

DE PRETER: For the application of the arm’s length principle, which is enshrined in Luxembourg tax law, the Luxembourg tax authorities generally follow the OECD guidelines. The recent update covers several BEPS aspects and the continuation of OECD initiatives, and requires companies to keep a close eye on the OECD developments. An important element is the concept of ‘substance over form’ and the focus on actual conduct of the transacting parties. Furthermore, multinational companies should be prepared to demonstrate the economic rationale of a series of intragroup transactions. Failure to satisfy the Luxembourg tax authorities may result in ignoring or replacing the transaction in whole or in part.

Q COULD YOU OUTLINE THE ROLE AND INFLUENCE OF THE OECD ON TRANSFER PRICING REGULATION IN YOUR REGION OF FOCUS, INCLUDING THE LATEST DEVELOPMENTS ON BASE EROSION PROFIT SHIFTING (BEPS)?
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

DE PRETER: ‘Cornerstone’ is a proper functional and value chain analysis which addresses the functions, assets and risks of the transacting parties and their relative contribution to overall profitability. In this respect, the decision-making functions and where they are exercised will become a central focal point. This is also politically addressed with the call on multinational companies to pay their fair share of tax. Country-by-country reporting will highlight, among others, whether there is a material profit level in a jurisdiction and minimal substance. This will most likely trigger a tax audit to focus on the functions. In this context, virtual management and the impact of the digital economy will put a lot of pressure on traditional thinking. The OECD is also working on the transfer pricing aspects of the digital economy. Consequently, not only will this ensure that the past is properly documented, but a proactive process is essential in order to guarantee that the transfer pricing aspects of any business restructuring are adequately addressed.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

FREUDENBERG: The awareness of transfer pricing and its proper implementation, in line with national and international regulations and guidance, is often driven by the tax audit experience of the taxpaying company and the experience of the people in charge. Thus, the picture is still mixed. Many German companies, especially small- and medium-sized groups, have taken a more centralised approach with a focus on German tax matters. This was driven by the fact that entrepreneurial functions and risks have been pooled in Germany and the likelihood of being challenged by tax authorities outside of Germany has previously been low. However, this is changing rapidly and awareness of this is increasing due to some significant tax adjustments. Finally, the tax department is often not involved in the decision-making process when operations determine internal pricing and changes in the value chain that might have an impact on transfer pricing. The consciousness is there, but many companies are still a long way from considering tax aspects at an early stage in the planning process.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN GERMANY PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

FREUDENBERG: Although Germany introduced transfer pricing documentation requirements back in 2003, there has only been a more consistent and nationwide approach taken by the German tax authorities to tackling transfer pricing in tax audits over the past three to five years. This is reflected in the increasing number of transfer pricing specialists, as well as the involvement of the German federal tax office in tax audits. The federal tax office is trying to develop a common stance with regard to the application of transfer pricing methods across different industries, making the competent authorities less vulnerable in APAs and MAPs. It is also clear that the German tax authorities are focusing on technical specialisation. In an increasing number of tax
audits, local field auditors are involving specialists trained in valuation and loan pricing, as well as benchmark analyses, in order to gain the expertise to deal with highly qualified tax departments as well as tax advisers.

FREUDENBERG: There are two factors to be considered if your company is audited – know your rights and have a strategy. There have been a number of cases where German tax auditors have interpreted the burden of proof beyond the legal requirements knowing that the taxpayer is, for various reasons, not willing or able to file a MAP or bring the case to court. In those cases, taxpayers should ensure that they maintain the initiative during the audit process. The German tax authorities often try to make a deal to close the audit. Thus, it is important to develop a strategy and to ask some key questions before the audit process starts: Where do I have a good chance of winning at court? Where is it worth filing a MAP? And is there a mismatch between the costs and benefits of defending my position?

FREUDENBERG: Resulting from BEPS Action 13, the German authorities took the opportunity to expand the documentation requirements with regard to the documentation necessary in connection with the pricing of intercompany transactions. This includes information about the date of the transfer price setting, as well as the scope of information available at that time. The burden of proof for intangible assets is even higher, as this often requires a more prospective view, including detailed
planning data as well as considering the perspective of the counterparty, for example, any synergies. It is important for taxpayers to be ready to share more detailed financial data and information regarding the business model in tax audits that demonstrate that one has followed the arm’s length principle.

FREUDENBERG: The number of disputes has significantly increased over the past few years, although the picture is uneven across Germany, depending on which region you are looking at. This is also reflected in the growth of filed MAP cases, as well as the backlog. The number of court cases in the area of transfer pricing is still rather small, which is probably due to the excessive duration and the high uncertainty, but it is increasing, especially regarding financial transactions. The German federal tax office has reacted to the tense situation in many tax audits and has established a new unit focused on joint and simultaneous audits, which it promotes as an alternative to lengthy tax audits and MAPs.

FREUDENBERG: The direct impact of the OECD transfer pricing regulations and especially the latest developments on transfer pricing in Germany is, besides new filing requirements such as country-by-country reporting, rather low. The reason is that Germany has probably been one of the key drivers in drafting the BEPS reports. Most of the OECD recommendations and requirements have already been implemented in German tax law or administrative guidelines. German tax authorities consider the latest developments to be a confirmation of the methods chosen by the German authorities years ago.
“Most of the OECD recommendations and requirements have already been implemented in German tax law or administrative guidelines.”

Freudenberg: Although the German tax authorities have already paid significant attention to these issues in the past, it will become even more important in the future for the allocation of profits and losses to be consistent with the assignment of responsibilities across legal entities and permanent establishments. Tax authorities will be keen to explore which significant people are actively involved in decision making. The guiding principle ‘tax follows operations’ is key. Written contracts and policies are still important, but should reflect actual business conduct.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

CASTOLDI: Transfer pricing has been a hot issue in the Italian tax environment for almost 10 years. During that period the attention and aggressiveness of the tax authorities has continually increased, as it has in many other jurisdictions. Multinational enterprises have been gradually adapting to the changing environment, adopting formal transfer pricing policies and documenting them consistently. Nevertheless, when it comes to maintaining compliance between transfer pricing policies and the arm’s length standard over time, not all companies are devoting enough time and resources. For example, both functional and risk economic analyses updates are not performed regularly enough. As a result, the applied transfer pricing policy sometimes turns out to be inconsistent with the underlying business profile or leads to transfer prices which are not in line with actual market benchmarks.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN ITALY PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

CASTOLDI: Intercompany transactions have, over the last five years, become a constant focus for tax audits and are often the only issue investigated in-depth in the event of an audit concerning an Italian based multinational or an Italian subsidiary or a branch of a foreign company operating in Italy. Large taxpayers, with a turnover equal to or greater than €100m, are now audited almost every year and transfer pricing is always top of the list. Exchange of information with other tax authorities during an audit is becoming more frequent, together with joint audits. Hidden permanent establishments, management fees, unpaid exit charges and financial transactions are among the most common topics on which the tax office conducts its investigations, which in almost every case are concluded with an assessment.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

CASTOLDI: In general, whether or not compliant with the penalty protection transfer pricing regime provided under Italian regulations, companies should provide tax auditors with transfer pricing documentation within a week or so, if possible. Then, the company should appoint one person as the first ‘point of contact’ for tax auditors and ensure that they actually deal with them in the first instance. It is also paramount to try to establish, from the first moment, a strong communication flow with tax auditors, because it is normally easier to make them ‘change their minds’ during their investigation work, than in any subsequent phase. The audited company should cooperate with tax auditors and the tax office, however it should not feel obliged to provide everything the auditors may ask for.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

CASTOLDI: First, conduct a thorough analysis of the functions, risks and assets of the parties involved, to understand the business profiles of the parties involved in the transactions to be assessed, so that an appropriate economic analysis can be performed, to then develop a transfer pricing model consistent with the arm’s length standard. Second, create and apply an efficient system to monitor ongoing compliance of the model’s results with those expected, to enable the company to perform any necessary adjustments in a timely way. IT based operational transfer pricing tools may be of great help. The role of appropriate transfer pricing documentation is, among others, to support the company’s efforts and results in setting up a consistent transfer pricing policy, maintained over time and adapting to changing circumstances. In addition, having consistent transfer pricing documentation in place often reduces the likelihood of tax penalties in the event of an adjustment.
Q HAVE YOU SEEN AN INCREASE IN TRANSFER PRICING DISPUTES BETWEEN COMPANIES AND TAX AUTHORITIES IN ITALY?

CASTOLDI: The number of tax audits focused on transfer pricing matters has increased sharply over the last five to seven years, resulting in transfer pricing assessments roughly in four cases out of five. Notwithstanding a preference by both the companies and the tax office to resolve cases by means of domestic administrative procedures, the claims raised in tax assessments notices are frequently so big and on recurrent items, that more often companies are ‘forced’ to commence ‘ordinary’ litigation in tax court or take the case to the competent authorities’ table, to have the dispute resolved bilaterally.

Q COULD YOU OUTLINE THE ROLE AND INFLUENCE OF THE OECD ON TRANSFER PRICING REGULATION IN YOUR REGION OF FOCUS, INCLUDING THE LATEST DEVELOPMENTS ON BASE EROSION PROFIT SHIFTING (BEPS)?

CASTOLDI: The OECD, although still not a direct or indirect source of law, has been increasingly influential on Italian transfer pricing regulations since the 1980 publication of the first tax agency’s instructions on transfer pricing, which made explicit references to the OECD guidelines on transfer pricing. Since then, the OECD guidelines have not only been considered the most authoritative interpretation tool of the arm’s length standard by both the tax administration and the tax courts, they are explicitly referred to in a number of other instructions and regulations, including those on the introduction of penalty protection documentation or, very recently, in the introduction of the country-by-country reporting package. Also recently, the OECD position within the BEPS project has probably strongly influenced the approach adopted by the Italian tax agency in tackling the intercompany pricing system put in place by certain ‘digital giants’.

Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

CASTOLDI: Pursuant to the arm’s length standard, intercompany transfer prices should always reflect the conditions at which the relevant transactions would be conducted among third parties at a given moment in time, hence transfer pricing policies and structures should ensure this happens. To achieve this goal, companies should start by accurately mapping their functions, risks and assets and then set up and carry out a consistent benchmarking analysis for comparison purposes and, eventually, establish the ‘right’ pricing. It is also very important
that intercompany written contracts are put in place, or amended if they already exist, to make them consistent with the actual policy and group structure. Once a transfer pricing policy has been implemented, it becomes necessary to regularly monitor that policy to ensure that it remains consistent with the underlying business model and market trends. To do this, an efficient monitoring, checking and amending system must be developed and adopted. Apart from cases in which intercompany transactions are negligible, and hence do not require much effort to be changed or adjusted, strong IT support is advisable to allow the development and deployment of powerful operational transfer pricing tools.

“The number of tax audits focused on transfer pricing matters has increased sharply over the last five to seven years.”

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Aldo Castoldi is a partner and leader of the transfer pricing practice in Italy. He has 18 years of international tax experience, and has served a wide range of foreign-owned multinationals, as well as Italian concerns. He has extensive experience in transfer pricing and international tax issues. Since 1999 he has been in charge of all major transfer pricing projects carried out by Deloitte in Italy. He has worked for a large number of Italian, European, US and Far-East multinationals in a wide range of industries, including the chemical, consumer goods, software, life sciences, electronics, e-commerce and TMC industries.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

TRIFONOVA: There has not been sufficient attention paid to transfer pricing in Ukraine in recent years and there are several factors which explain this. First of all, the practice of transfer pricing audits and reviews of transfer pricing documentation have been limited. Therefore, many businesses believed that transfer pricing was not a priority for the tax authorities, but this is no longer the case. The second factor was the lack of experience in transfer pricing among Ukrainian companies, in particular among local businesses. Over the last year there has been increased interest in transfer pricing among both local and multinational businesses, which is reflected in a significantly increased number of companies seeking transfer pricing assistance this year.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN UKRAINE PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

TRIFONOVA: Given that Ukraine’s transfer pricing rules came into force in 2013, transfer pricing practices in the country have been limited in recent years. However, the situation has changed dramatically over the last year. The growing number of transfer pricing audits and their importance for the tax authorities are becoming obvious. As of September 2017, 20 transfer pricing audits have been already completed, all resulting in assessments. Thirty transfer pricing audits are in progress. More and more companies are being requested to provide transfer pricing documentation. This concerns not only very large businesses, but medium-sized firms as well. This points to the priority which transfer pricing matters are being given by the tax authorities. A further indicator of this is the authorities’ willingness to discuss transfer pricing matters with businesses within the Advance Pricing Agreement procedure.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

TRIFONOA: In Ukraine, transfer pricing monitoring works in such a way that after filing a report on controlled transactions, a taxpayer may receive a request to provide transfer pricing documentation. At this stage, the request is not yet a transfer pricing audit, but rather an internal procedure performed by the tax authorities. Failure to submit transfer pricing documentation will result in penalties and will likely attract a transfer pricing audit. This is more likely to happen if the authorities identify risks or suspect violations while reviewing the documentation. In the event of an audit, the company should expect to receive transfer pricing assessments, since the tax authorities use a risk-based approach to select businesses for transfer pricing audits. If this is the case, companies are recommended to take a critical look at the documentation filed, to identify weaknesses, assess risks and prepare a strong defence file supporting the company’s position during a potential dispute.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

TRIFONOA: Inconsistent pricing is a red flag for the tax authorities. Having consistent transfer pricing policies and supporting documentation in place is crucial for transfer pricing risk management. Moreover, in the current BEPS environment, we would stress the importance of having consistent transfer pricing documentation, not only on a year-to-year basis, but also from jurisdiction to jurisdiction. For example, if a Ukrainian company has transactions with a related party, say, in Germany, we would reasonably expect that the transfer pricing documentation prepared by both parties involved would be consistent in terms of policies, methods and approaches, and so on, of course with some specifics based on local requirements. Any inconsistency would be a big question mark for the tax authorities of both countries, should they have access to the transfer pricing documentation filed in another jurisdiction, and may be a big risk for both companies involved.
“We would recommend companies monitor the consistency of their transfer pricing policies and bring their business models up-to-date on a regular basis.”

TRIFONOVA: Of the 50 audits either completed or currently underway in Ukraine, five of the completed audits saw the taxpayers and the tax authorities reach agreements on the assessments. At the same time, the assessments from eight audits are being appealed through the administrative procedure while the results of the remaining seven audits are being appealed in court. As of September, there were two decisions by appeal courts on transfer pricing assessments available, and in both cases the courts ruled in favour of the taxpayers. These are the first cases of Ukrainian courts dealing with transfer pricing matters and courts still lack the necessary sophistication in this area.

TRIFONOVA: Ukraine is not an OECD member country; however, the Ukrainian transfer pricing rules are, in general, based on the OECD transfer pricing guidelines, with some local specifics. Therefore, when assisting parties on transfer pricing issues, we use the OECD transfer pricing guidelines, wherever the issue is not clear in the law, to the extent they do not contradict existing Ukrainian legislation. Recently, the tax authorities issued a letter in which they clarified that the OECD transfer pricing guidelines can be used, even though Ukraine is not a part of the OECD. In addition, Ukraine joined the inclusive framework for BEPS implementation and committed to implement the four actions from the BEPS Action Plan, including Action 13 – transfer pricing documentation and country-by-country reporting, now that the relevant draft law is being developed.

TRIFONOVA: Methods such as relying on sophisticated structures to avoid transfer pricing controls or covering certain information, which were widely used in the past, are no longer sustainable. In light of various international initiatives aimed at transparency, such as the BEPS Action plan, the automated exchange of information between the tax authorities of various jurisdictions, and so on, we would recommend...
businesses build transparent legal and trading structures based on sustainable transfer pricing policies and documentation. Furthermore, we would recommend companies monitor the consistency of their transfer pricing policies and bring their business models up-to-date on a regular basis. There are cases where companies use transfer pricing policies developed a number of years ago even though their business models and commercial relationships within the group have changed. At the end of the day, this may result in transfer pricing issues for the group as a whole. Moreover, with the rapidly growing practice of transfer pricing audits and disputes, we would recommend companies monitor the practices and approaches used by the tax authorities and the courts and assess and manage transfer pricing risks accordingly.

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Olga Trifonova is a director with the tax and legal services practice in PwC Ukraine. She leads the transfer pricing practice in PwC Ukraine. She has 10 years of extensive experience providing consultancy services on taxation for large international and Ukrainian companies on tax related issues (including transfer pricing issues) and on tax structuring of domestic and cross-border transactions (including intercompany transactions). Ms Trifonova managed the PwC Ukraine team that advised the Ukrainian authorities on developing and improving the new TP rules based on best TP practices. She has extensive experience in delivering transfer pricing projects.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

TCHANDE: Recently, we have seen an increase in the frequency of transfer pricing documentation requests from companies in Cameroon. Most companies are in the process of updating their current fiscal year transfer pricing documentation. The tax authorities are emphasising the importance of discipline, particularly with regard to tax audits, which encourage companies to achieve compliance with transfer pricing regulations as they are aware of the consequences of non-compliance.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN CAMEROON PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

TCHANDE: Transfer pricing legislation was introduced in Cameroon under the 25 January 2007 finance law, which stipulated parties request information in the event of a tax audit. This finance law has been updated through Law No. 2014/026 of December 2014, which stipulates documentation requirements and the mandatory submission of a certain level of documentation to substantiate transfer prices. In Cameroon, companies are required to submit their transfer pricing documentation, along with their corporate income tax, by 15 March after the previous fiscal year. The tax authorities have been training their inspectors. They also provide guidance on tax audits relating to intercompany transactions.
**Q** WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

**TCHANDE:** In Cameroon, there are no particular steps companies should take when subject to a tax audit. Companies will have to ensure that their transfer pricing documentation demonstrates that the prices of their intercompany transactions are at arm’s length. Generally, in Cameroon, when subject to a tax audit, companies will follow the common law; the first step will be an administrative exchange between the taxpayer and the tax authority. In the event that they cannot reach an agreement, they will then have the option to take the case to court.

**Q** WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

**TCHANDE:** In some cases, there is very limited access to data which makes it hard to assess the appropriateness of intercompany transactions. Most of the information included in tax-related databases is usually from Europe; they are missing information from Africa.
“Companies should seek expert advice on developing their transfer pricing policies and related documentation.”

**Q HAVE YOU SEEN AN INCREASE IN TRANSFER PRICING DISPUTES BETWEEN COMPANIES AND TAX AUTHORITIES IN CAMEROON?**

**TCHANDE**: The number of disputes has increased of late. A number of companies have received a notice from the tax authorities. Among those recent cases, some of the main remedies were the rejection of the functional analysis and the rejection of selected comparables, including foreign comparables.

**Q COULD YOU OUTLINE THE ROLE AND INFLUENCE OF THE OECD ON TRANSFER PRICING REGULATION IN YOUR REGION OF FOCUS, INCLUDING THE LATEST DEVELOPMENTS ON BASE EROSION PROFIT SHIFTING (BEPS)?**

**TCHANDE**: Cameroon’s legislation has been strongly influenced by OECD rules. In addition, Cameroon has recently signed two conventions; the convention on mutual administrative assistance in tax matters and the multilateral convention for the implementation of measures to fight tax evasion by multinational enterprises. Recent documents on BEPS have not yet been implemented in Cameroon.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

TCHANDE: Companies should always ensure that the prices of their intercompany transactions are at arm’s length. They should also respect the deadline for the submission of transfer pricing documentation to avoid penalties. Companies should seek expert advice on developing their transfer pricing policies and related documentation.

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Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

LE BRAS: Most companies which have not yet been challenged over their tax audits consider transfer pricing policies as ‘nice to have’ rather than essential. Typically, they prefer waiting for an audit to prepare documentation despite a number of attempts to convince them that transfer pricing is receiving greater attention from the tax authorities. Moreover, companies tend to think that having a master file is enough. The introduction of the compulsory annual filing of a simplified transfer pricing documentation should lead companies to pay more attention to transfer pricing.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN THE DEMOCRATIC REPUBLIC OF CONGO PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

LE BRAS: The Finance Law 2015 introduced transfer pricing rules to combat illicit transfers of profits, requiring companies from the Democratic Republic of Congo (DRC) to have documentary evidence on transfer prices for transactions with foreign-related undertakings. This documentation should be made available to the tax authorities at their request. In addition, and in order to reduce capital flight, as well as tax avoidance, the DRC is strengthening its transfer pricing rules, through, among others, the 2017 Finance Law. Companies must now subscribe to a specific declaration containing simplified transfer pricing documentation before 1 November. The simplified transfer pricing documentation, which does not replace the complete documentation, must include general information on the group of related companies – deployed activity, intangible assets, transfer pricing policy – and specific information about the DRC company, such as deployed activity, summary of intragroup transactions and transfer pricing method used.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

LE BRAS: Considering the high tax pressure in the DRC, companies should be well prepared before an audit is initiated. Companies should be able to provide transfer pricing studies demonstrating the arm’s-length nature of prices used, as well as supporting underlying documentation as the intercompany transactions agreements. Consistency between the transfer pricing study and the underlying documents is very important. Again, a master file is not sufficient. A local file has to be prepared and note that, in the DRC, all this documentation should be available in French. Non-compliance and failing to present a complete set of transfer pricing documentation upon request of the DRC tax authorities would trigger a penalty for every day of delay and may be perceived as a willingness to evade taxation.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

LE BRAS: The biggest challenge in the DRC is to obtain comparable figures in Sub-Saharan Africa. Both tax authorities and companies have difficulty in obtaining adequate information to apply the arm’s length principle. Indeed, the arm’s length principle requires a comparison as if transactions had occurred between independent parties, and the available information may not be reliable. A consistent transfer pricing policy, as well as appropriate supporting documentation, are required to demonstrate compliance to tax authorities. In the DRC, most transactions consist of expenses for DRC local companies – in the form of loans, management fees and royalties. The lack of appropriate documentation can trigger a rejection of part of the expenses for corporate tax purposes, a reclassification of this part of expenses into an informal distribution subject to 20 percent withholding tax, and application of significant penalties.
LE BRAS: There has been no notable spike in the number of transfer pricing disputes in the DRC in recent years, but this issue is clearly being raised more frequently than in the past. No specific procedures have been laid down by the DRC in relation to transfer pricing investigations, and currently queries on transfer pricing issues form part of the normal tax audit process. Tax authorities in the DRC have not yet fully mastered transfer pricing but it should be noted that the DRC tax inspectors are currently being trained in Europe on transfer pricing practices. This will undoubtedly lead to an increase in the number of transfer pricing disputes in the coming years.

LE BRAS: Like most African countries, the DRC is not a member of the OECD. It is nevertheless clear that the OECD plays a central role in strengthening African transfer pricing regulations. Most of the legislation and practices in Africa refer to the OECD transfer pricing guidelines or the United Nations transfer pricing manual. The DRC does not refer to either of them and does not provide specific guidance regarding the method to assess the arm’s length standard. In the absence of guidelines and methods, companies rely on the OECD to build their transfer pricing studies.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

LE BRAS: First, ensure that the transfer pricing documentation is in good order and is available in French. Second, local management has to be able to explain to the DRC tax inspectors how the transfer pricing study is constructed – the method, comparable figures, risks and forecast, and so on. A transparent and proactive approach to tax authorities is crucial, rather than taking a ‘wait and see’ approach until a tax audit starts. Transfer pricing is a crucial issue in corporate tax planning for companies. There are two main reasons for this. First, the increasing volume of intragroup transactions, and second, the strengthening of transfer pricing regulations. Companies must ensure that they have their transfer pricing policy centralised, efficient and auditable.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

GACHEWA: Historically, companies enjoyed the absence of specific transfer pricing legislation to circumvent transfer pricing compliance matters. Since the implementation of the Income Tax (Transfer Pricing) Regulations in 2014, we have noted that the majority of the multinational enterprises operating in Tanzania have become aware of the requirement to maintain contemporaneous transfer pricing documentation, and maintain compliant transfer pricing policies. Most multinational enterprises have begun to appreciate the challenges and complex intricacies of maintaining compliant contemporaneous documentation, which conforms to the documentation requirements stipulated in the transfer pricing regulations. However, there is room for improvement, as we have often seen companies seeking assistance in preparing transfer pricing documentation after receiving a notification of a tax audit, or in the wake of an impending tax audit by the Tanzania revenue authority.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN TANZANIA PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

GACHEWA: The Tanzania revenue authority has invested heavily in formulating a specialised unit of its international tax unit, which is mandated to carry out transfer pricing audits and investigations. The specialised transfer pricing unit continues to receive extensive specialised technical training from international transfer pricing experts, and has access to revenue authorities from other jurisdictions in order to gain insights on emerging transfer pricing trends. Transfer pricing audits have increased and transfer pricing has become an area of interest for any tax audit team, which is empowered to refer any transfer pricing issues to the specialised transfer pricing team for investigation.
Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?

GACHEWA: The best way to prepare for a transfer pricing audit or investigation is to prepare contemporaneous transfer pricing documentation, covering all related-party transactions, in accordance with Regulation 7 of the transfer pricing regulations. While the transfer pricing regulations do not compel companies to submit the transfer pricing documentation, companies are required to have their transfer pricing documentation ready before filing their annual income tax returns. One of the key ways of avoiding prolonged and complicated audits is to engage the Tanzania revenue authority transfer pricing audit team from the outset, in order understand the issues raised and to collate the relevant information required, to present the company’s position on any related-party transaction. Having identified the issues under audit or investigation, companies should seek assistance from tax consultants with experience in handling transfer pricing audits, to guide them on the best way to engage the tax audit or investigation teams, how to present technical transfer pricing submissions and provide guidance on how to navigate the various avenues available for legal dispute resolution.

Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?

GACHEWA: Based on our experience with the Tanzania revenue authority, we have found that the biggest challenge in calculating appropriate transfer prices is agreeing on an appropriate transfer pricing method to be applied in analysing related-party transactions. The transfer pricing regulations in Tanzania dictate that companies must follow a hierarchy of transfer pricing methods, giving preference to traditional transaction methods over transactional profit methods. This is often a challenge as companies in Tanzania, and the rest of Africa, often lack readily available comparable information of companies in African countries, which can be used to benchmark related-party transactions. Companies operating in Tanzania are therefore obliged to rely on data of comparable companies in other developing countries, which may be distorted due to economic incompatibilities. It is therefore crucial...
“Most companies are yet to experience a transfer pricing audit and therefore we expect an escalation in transfer pricing disputes in the future.”

to maintain all relevant documentation in order to corroborate the transfer pricing documentation. The transfer pricing regulations mandate companies in Tanzania maintain contemporaneous documentation for all related-party transactions, which should be substantiated with documents, such as supporting agreements, details of controlled transactions and invoices. Failure to do so automatically attracts penalties for non-compliant companies.

GACHEWA: The commissioning of a specialised transfer pricing audit team within the Tanzania revenue authority has prompted a substantial increase in transfer pricing disputes between the Tanzania revenue authority and multinational enterprises in Tanzania. We have seen that recent and ongoing transfer pricing audits have targeted various lucrative industries and high net worth companies, and we expect transfer pricing audits to trickle down to all multinational enterprises operating in various industries in Tanzania. Most companies are yet to experience a transfer pricing audit and therefore we expect an escalation in transfer pricing disputes in the future.

GACHEWA: The transfer pricing regulations in Tanzania are modelled on the OECD transfer pricing guidelines, and any variations thereof. The Tanzania revenue authority transfer pricing guidelines (TRA TP Guidelines), which are supplementary guidelines to the transfer pricing regulations, encompass expanded provisions from the OECD transfer pricing guidelines. The release of the final OECD reports on Base Erosion and Profit Shifting (BEPS) has caused the Tanzania revenue authority to reevaluate the robustness and appropriateness of the transfer pricing regulations in a broader sense, and the impact on multinationals doing business in Tanzania. We expect to see some legislative changes, possibly in the next financial year, to the current transfer pricing regulations, to consolidate the transfer pricing regulations with the TRA TP Guidelines, and to include the changes introduced by several BEPS Actions, such as Actions 8 to 10: aligning transfer pricing outcomes with value creation.

Q HAVE YOU SEEN AN INCREASE IN TRANSFER PRICING DISPUTES BETWEEN COMPANIES AND TAX AUTHORITIES IN TANZANIA?

Q COULD YOU OUTLINE THE ROLE AND INFLUENCE OF THE OECD ON TRANSFER PRICING REGULATION IN YOUR REGION OF FOCUS, INCLUDING THE LATEST DEVELOPMENTS ON BASE EROSION PROFIT SHIFTING (BEPS)?
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

GACHEWA: Compliance is the best tax planning. Companies should begin by ensuring that they are compliant with the transfer pricing regulations and specifically, ensuring that they prepare and maintain contemporaneous transfer pricing documentation in line with regulation seven of the transfer pricing regulations. Secondly, it is imperative that companies reevaluate their related-party transactions annually to ensure that all related-party transactions are analysed appropriately and documented accordingly in the company’s transfer pricing documentation. Companies should take the initiative to seek professional insight from experienced transfer pricing professionals in order to identify potential areas of transfer pricing risks, and take steps to address them. Partnering with firms equipped with transfer pricing expertise makes a world of difference when the potential risk of non-compliance may result in multibillion shilling tax assessments, enforceable by crippling operational bank accounts and seizing business assets.

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David Gachewa has over 20 years of experience in providing taxation services to a wide range of KPMG clientele, especially multinational companies. He is the engagement partner in transfer pricing documentation, advisory and transfer pricing dispute resolution engagements. Mr Gachewa is a regular participant in international transfer pricing forums such as the TP Minds International Conference and the KPMG Tax Academy Transfer Pricing Trainings held across the globe.
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

KINUTHIA: There is increased attention by companies on transfer pricing partly due to increased focus and aggressive assessments by the tax authorities in the East Africa region. However, many companies rely on parent company documentation and have not taken the additional step of localising their global policies. Another concern is that unlike the tax authority, companies have not paid adequate attention to the base erosion and profit shifting (BEPS) initiatives and the impact that they will have on existing supply chains and transfer prices.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN KENYA PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

KINUTHIA: Transfer pricing is an area of great importance to the tax authorities. In Kenya, there is a dedicated team that handles transfer pricing. The tax authorities see transfer pricing as an important source of future revenue and have increased resources and enhanced capacity building, especially on training and international partnerships with organisations such as the African Tax Administration Forum (ATAF) and the Organisation for Economic Co-operation and Development (OECD). The tax authorities initially carried out audits on organisations under the large taxpayer office with large related party transactions but have, in recent times, increased their scope to target medium and small taxpayers.
**Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?**

**KINUTHIA:** Preparation for transfer pricing audits and investigations should start well before the company receives a notice of intended audit through the preparation of the transfer pricing policy supporting documentation. When the company becomes aware of an intended audit it should immediately involve its tax advisers in all stages of the audit.

**Q WHAT KINDS OF CHALLENGES ARISE IN CALCULATING APPROPRIATE TRANSFER PRICES, BOTH FOR TANGIBLE AND INTANGIBLE ASSETS? HOW CRUCIAL IS IT TO HAVE CONSISTENT SUPPORTING DOCUMENTATION?**

**KINUTHIA:** The biggest challenge for companies is the availability of comparables for purposes of computing transfer prices. For Kenya and other African countries, there is limited data on African comparables, forcing companies to rely on data from other jurisdictions. While country risk adjustments are not common, this is likely to be an area of focus in the future.
“We expect that in the near future, Kenya will incorporate the BEPS initiatives into the local legislation.”

KINUTHIA: The number and quantum of transfer pricing disputes has increased in Kenya. In the wider East Africa region, many countries have recently introduced transfer pricing rules and are building capacity to commence audits. However, there have been questions in specific sectors, for instance mining, where governments are starting to question transfer prices.

KINUTHIA: The tax authorities in Kenya have been a key participant in OECD forums, especially on transfer pricing. Kenya has signed the Multilateral Convention on Mutual Assistance in Tax Matters, which is an important step in the success of country-by-country reporting, and a critical step in preventing BEPS. We expect that in the near future, Kenya will incorporate the BEPS initiatives into the local legislation.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

KINUTHIA: For companies that are developing or reviewing their transfer pricing policies, it is important to pay attention to global developments as these will impact how the revenue authorities review their transfer pricing policies in the future. Apart from BEPS, other important initiatives include the move toward responsible tax and increased disclosures by companies of their tax philosophies.
THAILAND
SUMET MINGMONGKOLMITR
BLUMENTHAL RICHTER & SUMET LTD.

Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

MINGMONGKOLMITR: In Thailand, large companies pay very close attention to the challenges and complexities of maintaining compliant transfer pricing policies. Transfer pricing is subject to review by the revenue department and the risk of a tax investigation is always present. As such, group companies and multinationals implement transfer pricing strategies as part of their tax planning. Having a proper transfer pricing model in place is cost-efficient in the long run and large companies recognise this. Rules are in place and guidelines have been issued for operators to follow as a basis for establishing appropriate prices for sales and services among intragroup companies. When reviewing their tax planning options, operators normally consult with a qualified accountant and a legal adviser in order to ensure compliance and minimise the risk of a dispute with the revenue department or, in case a dispute does arise, so that they are in a good position to clarify their compliance.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN THAILAND PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

MINGMONGKOLMITR: Under existing Thai tax law, companies are required to submit an annual income tax filing and pay corporate income tax on net profit calculated from the difference between total revenue and total deductible expenses in the relevant fiscal year. There are no provisions that specifically govern price setting between or among related companies. However, transfer pricing is now under review by the tax authorities, and the monitoring and enforcement activities of the revenue department regarding transfer pricing have started to increase. The revenue department is currently authorised to demand adjustment if the company is viewed as transferring goods or providing services with unreasonable or without any charges, or providing loans with unreasonable or without any interest. The revenue department may also assess the cost of imported goods in accordance with the cost of goods of the same kind imported into other countries.
Further, the price of exported goods must be comparable to the price of goods for domestic sale, and the revenue department will reply on the market price of domestic sales when determining the market price of exported goods.

**MINGMONGKOLMITR:** The revenue department is authorised to review and assess each company’s tax filing. In this regard, revenue department officials may request that the company presents additional documentation related to items declared in the filing. In the case of suspected tax evasion, the revenue department has the authority to enter the company’s place of business to search and seize its accounting books and records, as well as other documents. The law requires companies retain accounting information for at least five years. Companies should seek advice from qualified counsel regarding the various documents that are required to support transactions in the event of a tax assessment or audit by the revenue department. Companies should also be aware of any sensitive components of their tax planning strategy and behaviour that may appear questionable to the revenue department, and prepare answers to those questions likely to be asked during a tax assessment or audit.

**Q WHAT STEPS SHOULD COMPANIES TAKE IF THEY BECOME THE SUBJECT OF A TAX AUDIT OR INVESTIGATION?**

**MINGMONGKOLMITR:** When calculating transfer prices companies should follow three main steps. First, characterise the type of transaction and specify the economic activities under it. Second, select an appropriate method for calculating the transfer price. Third, apply the selected method to calculate the transfer price. For tangible assets, the challenge in determining an appropriate transfer price is in selecting the appropriate method, especially if a transfer price has been set between related companies that is different from that offered...
or paid to another independent contractor. The revenue department has issued guidelines containing suggested methods for determining appropriate transfer prices. These methods include the ‘comparable uncontrolled price’ (CUP) pricing method, the ‘resale price method’, the ‘cost plus’ pricing method, and other internationally accepted pricing methods, such as those adopted by the Organisation for Economic Co-operation & Development (OECD). The company should select the most appropriate method and use it for every transaction of the same type. For intangible assets, the challenge is in proving the actual occurrence of the transaction and calculating the appropriate value of the asset.

MINGMONGKOLMITR: In the past, the Thai tax authorities rarely made allegations or investigated issues regarding transfer pricing. However, a draft Transfer Pricing Bill has now been issued for public consultation. If passed, then we expect the revenue department to take a more active role in monitoring the transfer pricing policies of related companies, which may lead to an increase in disputes.

MINGMONGKOLMITR: Thailand is not a member of the OECD, but it does participate as an ‘invitee’ in the OECD’s inclusive framework on BEPS. Also, Thai tax rules regarding transfer pricing contain references to OECD guidelines, but Thailand is not committed to implementing the guidelines issued by the OECD. The ASEAN Economic Community (AEC), of which Thailand is a member, issued its AEC Blueprint 2025, in which tax cooperation among member states is discussed. One commitment that AEC members have agreed to undertake is to discuss appropriate measures to address the issue of BEPS. However, the AEC has yet to formally declare how it intends to deal with the issue in practice or the extent to which the OECD’s guidelines will be used going forward.
Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

MINGMONGKOLMITR: In the first instance, companies should ensure that transactions with related companies pass the ‘benefit test’, meaning that there is actual benefit provided by one company and received by another company in return for payment of the transfer price. When performing the benefit test, companies should also compare the transaction in question with similar transactions that they would or would not enter into with an independent party. Then, companies should make sure that they can justify the transfer price determination by referring to any one of the methods suggested in the guidelines issued by the revenue department. Companies must be able to demonstrate the appropriateness of the selected method and use it to calculate appropriate transfer prices.

“Companies should make sure that they can justify the transfer price determination by referring to any one of the methods suggested in the guidelines issued by the revenue department.”
Q IN YOUR OPINION, DO COMPANIES PAY ENOUGH ATTENTION TO THE CHALLENGES AND COMPLEXITIES OF MAINTAINING COMPLIANT TRANSFER PRICING POLICIES?

RITCHIE: In terms of transfer pricing policies, we see a wide variety of situations – from no policies or agreements, to basic, to comprehensive covering all transactions. Most companies would fall into the lower to mid quartile in this regard. Multinationals operating in Australia tend to be cognisant that the ATO is a sophisticated tax authority when dealing with transfer pricing matters. In our experience, most groups will seek to cover their Australian transfer pricing risk through the preparation of Australian specific transfer pricing documentation in order to minimise transfer pricing penalties. Additionally, Australian law requires taxpayers ‘self-assess’ their transfer pricing position and so some level of analysis is required to satisfy this obligation. The key issue we are seeing relates to whether the quality of the documentation is fit for purpose in a tougher BEPS environment and whether the ATO will accept it is sufficiently comprehensive in nature to provide eligibility for penalty mitigation.

Q TO WHAT EXTENT HAVE THE TAX AUTHORITIES IN AUSTRALIA PLACED GREATER IMPORTANCE ON THE ISSUE OF TRANSFER PRICING IN RECENT YEARS, AND INCREASED THEIR MONITORING AND ENFORCEMENT ACTIVITIES?

RITCHIE: The government has funded a programme within the ATO which is taking a harder line on aggressive tax positions, bolstered by high success rates in the courts, high levels of engagement with taxpayers and the increased use of data and technology to combat tax avoidance. The ATO has made transfer pricing adjustments in the past year amounting to approximately $2bn on a handful of larger taxpayers in the natural resources and high tech sectors. Earlier this year the ATO launched its ‘Justified Trust’ initiative that takes taxpayers through an ongoing engagement and review through ‘pre-lodgement compliance reviews’ (PCRs) or ‘annual compliance arrangements’ (ACAs) focusing on tax performance and tax governance, in addition to tax risks and significant transactions of companies. The ATO is targeting the ‘top 1000’ via this process, known as the ‘tax performance programme’. The ‘Justified Trust’ programme does not exclusively apply to transfer pricing arrangements, but it is inevitable that international tax dealings, related-party transactions and profit shifting manifestations, such
as thin capitalisation, hybrid structures are part of the focus. Financing arrangements and asset transfers are often scrutinised. The ATO has paid particular attention to marketing hubs and financing arrangements, issuing practical guidance on how the ATO will risk assess such arrangements.

RITCHIE: Ideally, multinationals would have put in place high quality transfer pricing documentation that can be submitted in a timely fashion to the ATO. Prior to submitting any documentation to the ATO, we would advise that multinationals, together with advisers, critically look at their transfer pricing documentation from a defence against the ATO review perspective and assess if there is adequate support for the position. The company needs to be one step ahead of the ATO and often an independent risk review at the outset can identify or confirm known risks so these can be managed carefully through the process. In addition, evidence to support positions will be key and companies would be wise to review any and all such material of relevance which the ATO is likely to call upon. For example, budgets, emails, board presentations and tenders. In our experience, the ATO is moving toward obtaining primary records to evidence assertions in transfer pricing reports, as well as conducting its own functional analysis to verify facts.

RITCHIE: Any analysis should be consistent across all jurisdictions impacted by the transfer pricing arrangements as tax authorities exchange information more regularly than is known. Action 13 on transparency is likely to flush out potential inconsistencies for large groups and knowing what inconsistencies may exist is crucial to managing the position effectively. The ATO and other tax authorities are attacking principal tax structures, sales and procurement hubs where intellectual property or sales or procurement activities are carried out in a low tax jurisdiction, such as Singapore. The ATO has introduced a risk assessment framework designed as a traffic light system for offshore
marketing hubs that provides a green light for those hubs where the profit is no more than 100 percent of the cost base. Many hubs and IP holding structures will have a much higher level of profitability and will be seen as a high transfer pricing risk. Under these circumstances, it is crucial for multinationals to consider the commercial rationale of the arrangements and the economic substance of the offshore principal.

RITCHIE: In August 2017, Chevron Australia reached a settlement in its long-running dispute with the ATO on the pricing of cross-border intragroup funding. This is considered the most significant transfer pricing decision in Australian history and will play an important role in reaching consensus on the OECD’s first ever financing guidance expected later this year. The ATO’s win will boost its confidence to pursue other multinational organisations which fund their operations in Australia with significant levels of related-party debt, especially if the interest rates charged do not appear to be commercial, not only in the Australian subsidiary’s context but also in the context of the whole group. The ATO issued draft guidance on financing and the ATO has stated that two thirds of groups may need to restructure their funding arrangements to bring the pricing of intragroup funding closer to that of external funding arrangements. The ATO has been carrying out audits of natural resources hubs in relation to their sales and marketing hubs in Singapore. The ATO has also been using the Multinational Anti-avoidance Law (MAAL) to attack large groups that had avoided a taxable presence in Australia.

RITCHIE: Australia follows the OECD and is an active member and driver of BEPS initiatives. Our law has adopted most of the OECD’s BEPS recommendations including Action 13 and Actions 8-10 specifically dealing with transfer pricing measures. Australia has taken a tough line on the implementation of Action 13 on BEPS documentation which requires a specific electronic local file be submitted to the ATO, together with the master file and country-by-country report, unless the report can be obtained by mutual agreement. This is backed up by harsh penalties for failure to
submit within one year of the year end. This is more onerous than most other countries globally.

RITCHIE: We encourage groups to take a risk-based approach to reviewing their transfer pricing policies and arrangements. Groups need to identify higher risk transfer pricing policies, specific transactions or structures and also countries and regions that may be higher risk, such as South America, which may not be OECD compliant or countries such as Australia with sophisticated tax authorities and more onerous transfer pricing requirements. These risks need to be tabulated and sorted from high to low risk. Resources should be allocated to reevaluate and improve the quality of transfer pricing documentation and level of comprehensive analysis and evidence existing for higher risk countries and transactions.

Q IN GENERAL, WHAT ADVICE WOULD YOU GIVE TO COMPANIES ON REVIEWING AND AMENDING THEIR TRANSFER PRICING POLICIES AND STRUCTURES?

Zara Ritchie is the head of global transfer pricing services at BDO. She has specialised in transfer pricing for more than 20 years, advising clients on complex transfer pricing matters, resolving transfer pricing disputes and negotiating bilateral and unilateral advance pricing agreements. Her experience covers the full transfer pricing life cycle across the areas of planning, controversy, compliance, documentation, benchmarking and policy setting. She has negotiated more than a dozen advance pricing agreements (APAs), as well as more than 30 transfer pricing risk reviews and audits for Australian clients. She has a degree in Business (Accounting).