Are you reframing your future or is the future reframing you?

Reimagining your cross-border remote workforce: responding to challenges and unlocking opportunities for durable change

People Advisory Services | ey.com/en_gl/workforce
“Trends that we would have expected to play out over 10 years are now happening in 10 days.

Gil Forer
EY Global Markets Digital and Business Disruption Leader
Why look at cross-border remote work policies now?

The rapidly accelerated shift to flexible ways of working across the global workforce presents multiple challenges requiring robust protective measures at scale, and opportunities for operational transformation. Today’s workplace is becoming radically different from that demanded by previous generations and there are two factors driving the cross-border remote work discussion.

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<th>Challenges</th>
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<td>• Stranded employees at risk</td>
<td>• Broadened global talent pool</td>
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<td>• Difficult personal circumstances</td>
<td>• Enhanced D&amp;I, ESG¹ performance</td>
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<td>• Physical office closures</td>
<td>• Continued relevance amidst value re-alignment</td>
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<td>• Border closures</td>
<td>• Operational resilience against talent supply shock</td>
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<td>• Immigration restrictions</td>
<td>• Shifting employee expectations</td>
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<td>• Complex, cross-cutting, regulatory frameworks</td>
<td>• Competitive advantage</td>
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These require protective, controlled responses

These require enabling, transformational responses

¹ Environment, Social and Governance
Of organizations are using this crisis as an opportunity to transform how they operate in the long-term
Source: EY analysis, MIT Technology Review, POD Group Survey results, Gartner analysis

59%

Of firms do not have cross-border remote working policies in place
Source: EY Analysis, ThinkTank Survey

86%

Of firms are updating or considering updating their global mobility policies due to COVID-19

50%

Of CEOs think that COVID-19 will accelerate their company’s technological transformation
Source: Fortune 500 CEO survey

75%
Deal with the **now**, and keep the **next** and **beyond** front of mind. Leaders who view this as a **transformation** will emerge from the current crisis with the motivation to reimagine how to operate their businesses while using cross-border remote working talent.

### Now

**Protect**
- Focus on health, safety, operational continuity, workforce wellbeing and talent retention
- Support **dislocated employees and those caught under second wave restrictions**, in a more robust and cohesive way
- Identify vulnerabilities highlighted by COVID-19 in your operations, processes, and technology
- Use that review to inform and improve performance and efficiencies
- Manage and prioritise your resources carefully, and look at how your tools and tech can be repurposed to support your workforce

### Next

**Thrive**
- Understand long-term behavioral and mental well-being impacts of the crisis, and how they will drive demand for **flexible cross-border remote working** while physical offices remain at risk of cyclical closures
- Consider the resulting impacts this may have on your business, ways of working, global mobility and business travel
- Rely on employee listening to understand experience, drive engagement, and protect wellbeing, which will all deliver higher value for your business
- Use external and internal data to get ahead of trends and deliver competitive advantage

### Beyond

**Reimagine**
- Focus on achieving change while managing risk
- Capitalise on this moment to reimagine how you can **use cross-border remote work to optimize** your global workforce, talent and mobility strategies
- Approach this as an inflection point to redefine the way your organization operates across borders, embracing a more strategic role
- Consider where accelerated positive changes have enhanced D&I and ESG performance and protect those gains
- Hit reset on your market brand with thoughtful actions that provide flexibility and value
- Be mindful of geostrategic macro-trends and future risk

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| Maintain human centric, values driven behaviors | Engage with key stakeholders to streamline processes and deal cohesively with risks and opportunities |

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Move towards opportunities presented by cross-border remote work, or prepare for the market to move you

1. **Organization**
   Cross-border remote working opens up new opportunities for better organizational design.

2. **Talent**
   Flexible policies around cross-border remote working allow you to build on your D&I, and attract the best talent, no matter the location.

3. **Data**
   Integrated data that talks to the global workforce can support compliance and help manage your risk profile.

4. **Program**
   Designing a policy provides an opportunity to engage with all corporate stakeholders and drive company-wide buy in, which will support implementation and help ensure adherence to risk controls.

5. **Technology**
   A technology review will show you how readily you can adapt to cross-border remote working, and will identify gaps, highlight investment required to inform your policy decisions and determine immediate priorities.

6. **Performance**
   Use this moment to bring your performance and career development strategies in line with a new way of working.

7. **Process**
   Proactively building appropriate processes, efficiencies, controls and governance will help you enable change while managing risk.

Reimagining your cross-border remote workforce
Designing a reframed cross-border remote work model

As temporary ways of working take on permanency, challenge prior thinking to stay relevant in a new norm. Innovative models must be built within the constraints and boundaries of operational and regulatory risk. This will require a carefully integrated approach, considering how different workforce personas are impacted, where flexibilities can be introduced and where risk responsibility lies within the corporate stakeholder group, across four key areas:

1. Immigration and travel regulations
2. Individual tax and regulatory risk
3. Corporate tax and transfer pricing
4. Workforce and talent

Adopt a future-back approach to chart your journey through recovery, readiness and renaissance. Retain agility in your operating model to adapt to changing macro conditions. Consider strategic and operational footprint change.
Key immigration challenges

Employees working remotely in a jurisdiction where they do not have a qualified right to work, can lead to civil and/or criminal liability for the employee and employer, and reputational damage. While some jurisdictions are implementing innovative ‘nomad visas’ to allow visa holders to work remotely while being paid overseas, productive/paid work typically requires a work-permitting visa for non-settled nationals.

- **Company Policy:** What is our company risk tolerance?
- **Immigration Requirements:** Are any visas held still valid and what conditions apply? Will a work permit be needed? Are there any notifications that need to be made to immigration authorities? What level of oversight is expected of employers who are sponsoring work visas? Are home working and flexible work arrangements permitted under work visas?
- **Post-entry Conditions:** Will employees and family members be able to access healthcare systems for routine and emergency treatment? Do we need to ensure private healthcare cover? Will contact tracing be imposed or other personal data required to secure entry? What social distancing policies are in place, and how are these enforced? How will any restrictions impact performance of the role?
- **Exit restrictions:** What if temporary arrangements are unexpectedly lengthened due to exit restrictions or future border closures? Will this create immigration breaches or are there flexible government policies in place? If stranded in another country, how does this impact immigration status in the normal country of residence?
- **Insurance and medical:** Do any existing or newly purchased insurance policies cover any anticipated issues such as medical care and repatriation? Does our insurance policy have any COVID-19 related exceptions?
- **Business travel:** How do these risks similarly impact any required business travel? With some jurisdictions restricting travel to those within protected corridors and travel bubbles, what restrictions apply to travel from the remote work destination?

Key actions to take now

- Communicate personal and corporate risks associated with remote working and be clear who is responsible for compliance
- Determine an efficient and ongoing catch-all method of identifying employees who are, or may start, working outside of their country of home employment
- Review employee right-to-work documents, record and document the check – particularly where discretion has been applied by authorities
- Seek counsel in complex cases and be mindful of overarching employment law obligations
Key individual tax and regulatory challenges

Employees may trigger tax residence and associated income tax obligations by working in another jurisdiction. Employers also need to consider domestic regulations and laws applicable to cross-border remote workers.

- **Tax Residence Status**: Will employees trigger tax residence and potential worldwide tax in another jurisdiction? Will COVID-19 related government concessions apply?

- **Social Security and access to Health Care**: Does involuntary stay trigger social security obligations? How is access to healthcare and other benefits impacted? Do my teams know how to fulfil their social security obligations?

- **Payroll obligations**: Payroll obligations vary by jurisdiction and different country combinations can give rise to different outcomes. Will there be a need to operate a shadow payroll for remote workers? What is the payroll position for pensions and benefits?

- **Employment Tax Compliance**: Location of work and the benefits package received are key drivers of much employment tax compliance. What is the taxability of employment income for my cross-border remote workers? And, if so, is there a need to register my company in this other jurisdiction? What are my employer tax obligations and key risks? Are COVID-19 concessions subject to employment tax in another jurisdiction?

- **Employment Law**: Which laws will apply to employment contracts and also to the employer duty of care? Local employment laws such as working time requirements, overtime and leave entitlements or termination rights may be deemed to apply – how does this impact my employees terms and conditions?

- **Industry and Professional Regulatory Requirements**: Consider whether professional qualifications are recognised and whether there are any industry regulatory barriers to cross-border remote working. Are employees undertaking regulated activity? Are they licensed to undertake those activities based on local laws and regulations?

- **Costs**: Have I considered the additional costs, such as social security, and the additional compliance effort associated with my remote workforce and resourced accordingly?

Key actions to take now

- Prioritise immediate risk areas e.g. those approaching domestic residence thresholds
- Adopt a cohesive next wave strategy as travel restrictions fall away for those looking to combine vacation with work duties
- Monitor changing government policies around exceptional policies
- Assess potential social security cost/coverage risk and prioritise remediation cases
Key corporate tax and transfer pricing challenges

Employees working remotely could create a new taxable presence for entities in an overseas jurisdiction, exposing it to liability for corporation income tax or VAT.

• **Corporate tax residency:** One of the key determinations for the tax residency of a corporate entity is where the meetings of the board of directors take place. How do I manage risk where this cannot happen in the right location?

• **Virtual Working:** Where my teams are working virtually, how do I ensure that value is allocated appropriately?

• **Permanent Establishment Risk:** How am I managing PE risk and PE controversy with people working from home or remotely? Do I have a process in place to monitor these risks over time?

• **Value Chain and Alignment:** Where value chain and alignment have shifted, do I have the right people (in the right locations) to manage my new value chain?

• **Centralized models and IP structure:** Centralized models and IP structures mean that it is critical that key activities such as management/DEMPE\(^2\) take place in the location where profits accrue. How do I manage that within a travel restricted world?

• **Compliance activities:** If I am required to register locally for remote workers, how does this impact my risk profile?

**Key actions to take now**

• Consider whether existing operating guidelines remain relevant in the short to medium term

• Consider the individual’s roles and duties being performed when setting blanket de minimus thresholds

• Consider the level of substance in each key jurisdiction to identify where there is a current (or potential future) mismatch

• Consider how patterns of remote work may shift as the numbers of people working from different locations evolve

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2 DEMPE - Development, Enhancement, Maintenance, Protection and Exploitation
Key Workforce and Talent Challenges

While ensuring a safe transition of people back to the physical workplace where required, many organizations are simultaneously looking to reimagine the work of the future. This presents an opportunity to capitalize on this moment and reframe, redefine the way you operate, and reconsider the mix of individuals (including domestic employees, contractors, assignees, and business travellers) engaged in business activities.

Organizations should consider their roadmap to enable a shift between ‘two gears’ of transition and transformation as we move beyond COVID-19. Key transformation considerations include:

- **Experience:** How do you help work colleagues operate, grow and develop within a safe, inclusive and productive environment? This could include work experience examples such as:
  - Remote coaching and on the job training, especially in early career and new roles, emphasising training opportunities and upskilling employees at all levels
  - Retaining a way to seek daily advice and a sense check within teams for collective judgement, to help manage risk and make effective decisions
  - Remote performance management, reward and recognition that motivates and supports productivity

- **Wellbeing and capabilities:** How do you reshape and reskill the organization to meet future business capability needs and essential wellbeing of individuals, such as resilience and adaptability?

- **Physical vs. Digital:** Work, as both a place and an activity, has changed. Work is shifting to a more flexible, digital version and the role of the office – how do you reshape enablement between physical and digital spaces?

- **Data and Technology:** How do you ensure that use of and access to people data applications is sufficiently accelerated to support the digital experience, providing the right safeguards while also listening and responding to employee feedback? What steps are you taking to provide employees with the right technology to support longer term remote work?

**Key actions to take now**

- Think about all your active (polls, surveys) and passive listening (applications, smarter office, digital footprint) data sources and understand how to extract employee insight
- Build a detailed picture of your workforce in terms of work flexibility and remote capabilities, and ask for their work preferences, in readiness to re shape your remote/physical office mixture of resources
- Examine your key employee ‘moments that matter’, and rapidly redesign key processes where they have changed as a result of changing work practices
- Identify your key talent at risk of flight and take action to secure
In a world shaped by exponential change, events that seem far-fetched can suddenly become reality. Leaders must address the complexities of today’s unusual situation, learning to think differently about how to solve historic challenges.

Balancing regulatory risk against transformational opportunity will require a methodical and phased approach. Using an integrated set of primary and secondary factors within the risk landscape will help to understand their relevance and weight in that balancing exercise.

Following the financial crisis 10 years ago, governments around the world introduced more than 15,000 pieces of new legislation in response. Think about how new regulation may impact your organization and factor that into your strategy. Be agile and prepare to iterate.

Building back better: a practical blueprint for the next revolution

How EY teams can support

Now and Next

• Identifying no-regret ‘now’ actions, protective and remediating measures
• Designing and implementing an immediate ‘safe zone strategy’
• Development of integrated and help enabling policies, controls and governance
• Updating existing policies to protect against second wave/future demobilization/crises
• Immediate virtual on-site EY support to support internal HR/tax teams

Beyond

• Understanding how broader change will impact your workforce and footprint
• Identifying red line regulatory risks around transformation
• Defining scope and qualification for long-term flexible cross-border remote work
• Transformation design in line with future of work
• Support of operational/structural changes
EY cross-border remote work checklist

1 Risk Management
- Right to Work and Immigration Risk
- Personal Tax Compliance
- Corporate Tax Compliance
- Employment Tax Compliance
- Permanent Establishment Risk
- Payroll Requirements
- Social Security and Access to Healthcare
- Local Employment Law

2 Capability and Enablement
- Data Protection
- Duty of Care and Well-being of Employees
- Productivity and Employee Engagement
- Technology Capabilities
- Governance Protocols
- Performance Management and Reward
- Managing cost
- Industry experience and leading practice
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We work globally and collaborate to bring you professional teams to address complex issues relating to organization transformation, end-to-end employee lifecycles, effective talent deployment and mobility, gaining value from evolving and virtual workforces, and the changing role of HR in support of business strategy. Our EY professionals ask better questions and work with clients to create holistic, innovative answers that deliver quality results.

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