Business transformation: Get ready for the new normal

Issues currently facing businesses

COVID-19 has rapidly changed the global economic landscape. It has forced businesses to realise the criticality of being able to mobilise resources rapidly, set up crisis management and strengthen supply chains – all amid an environment of enormous business transformation.

The new normal entails businesses localising or regionalising their supply chains, reassessing their workplace strategies, transforming their business models and ramping up on digitalisation, among others.

At its heart, business transformation is about making fundamental alterations to the systems, processes, people and technology across a whole business or business unit, in order to achieve measurable improvements in efficiency, effectiveness and stakeholder satisfaction, and will often be driven by a cost benefit scenario.

Whilst this sounds straightforward, a successful business transformation in times of crisis is easier said than done as many businesses lack such experience. Our experience tells us that although many businesses hard hit by the COVID19 pandemic recognise the need to transform in order to survive and thrive, they frequently underestimate the depth of assessment needed. Successful transformation typically requires a combination of business and legal skills, together with careful planning and diligent execution.

Key considerations in business transformation

We are helping many multinational conglomerates through this difficult time, working with business leaders across a number of sectors to answer both imminent and longer-term questions around business transformation.

One of the things that we often remind our clients is that business transformation involves complex corporate, commercial, employment, data privacy, taxation and regulatory issues, and businesses will get better results when they adopt a holistic approach.

Below, we outline some key business and legal issues that businesses and their leaders should navigate in order to ensure success in this journey:

What options does the company have to achieve its business objectives and are they feasible from a legal perspective?

Are there any statutory, regulatory or contractual restrictions which may affect the transformation (e.g. is this permissible under the local laws and the company’s constitutional document? does it require any prior approvals from any party)?

What steps should the company take to ensure that its board is kept informed throughout the process and satisfying its fiduciary duties?
Who are their key stakeholders (e.g. shareholders, customers, employees, suppliers, creditors, and regulatory authorities) and how to secure support from them?

What steps should the company take to implement the transformation and who should be responsible for each step?

How long will the entire process take (e.g. timing on regulatory and other approvals)?

What other resources are required to implement the transformation (e.g. does the company need to obtain funding by way of equity or debt) and what are the legal risks?

What are the legal implications of transformation of ongoing contracts with employees and third parties (e.g. how should the company plan for and handle employees and business partners who will be affected by the transformation)?

In case of digital transformation, what should the company do to ensure compliance with data privacy laws?

What are the risks associated with intellectual property during business transformation and what steps should the company take to reduce such risks?

How can the company plan proactively to avoid any subsequent challenges from these key stakeholders?

While a successful execution of any transformation can be a long and complex process, careful planning and forethought can mitigate unexpected costs and delays.

Our approach and how we can help

We are here to guide you to prepare for a changing world and build a resilient business by supporting and working alongside with you through this journey – from an assessment of your needs, through to planning a tailored and commercially practical strategy for your business, and finally efficient execution of the plan to deliver the desired outcome.

We can work seamlessly together with professionals in KPMG China’s Tax and Advisory functions to give you an integrated business transformation solution. We can also call at any time on the vast legal, economic and tax expertise of the KPMG global network. Drawing on our lawyers’ extensive legal knowledge and experience, and leveraging KPMG’s global network, we are able to assemble a cross-functional team to provide a comprehensive and holistic strategy for our clients.

Further inquiries on this can be obtained by contacting:

Shirley Fu
Partner, SF Lawyers
+852 2685 7828
shirley.fu@kpmglegal.com.cn

www.kpmglegal.com.cn

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

© 2020 SF Lawyers, a Hong Kong law firm which provides legal services is in association with KPMG Law. They are separate legal entities. Neither SF Lawyers nor KPMG Law has any control over, or acts as an agent of, or assumes any liability for the acts or omissions of, the other. Both SF Lawyers and KPMG Law are member firms of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

The names SF Lawyers, KPMG Law and KPMG and their respective logos are registered trademarks.