MANAGING RISING INCORPORATION COMPLEXITY IN 2024

Essential strategies for general counsels

Global Business Complexity Index 2024 – sub-report | Global Entity Management

TMF GROUP

Introduction

International expansion helps companies tap into new markets, boost profitability and increase competitive advantage – but navigating complex regulatory requirements can be challenging and requires specialised expertise to ensure smooth operations.

Global entity management (GEM) services encompass the processes that must be followed to remain compliant with jurisdictional rules and regulations. These processes are key in enabling businesses to become operationally ready and agile, allowing them to adapt quickly to regulatory changes and shifting market conditions.

Businesses operating internationally strive to maintain strong corporate governance from the centre, while ensuring they meet local requirements which are often difficult to navigate. While leveraging local providers may work for ad hoc support, global providers bring a level of oversight and governance that often lean in-house teams struggle to maintain.

In the face of rising regulatory complexities, businesses are increasingly leveraging global providers with local expertise to provide governance and mitigate the risk of operating across multiple frameworks.

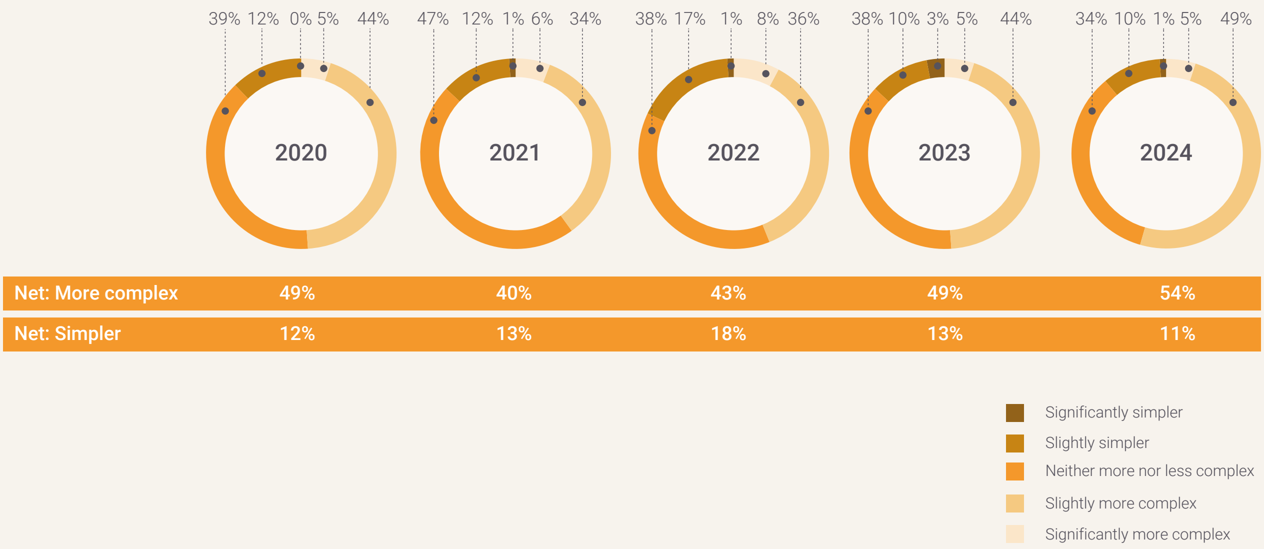
This sub-report builds on the findings of our Global Business Complexity Index (GBCI) 2024 by delving deeper into the intricacies of managing entities globally and the associated rules and regulations. The sub-report explores:

1. **The double-edged sword of compliance** – exploring the benefits of an increasingly transparent system as well as the complications this brings.
2. **The path to operational readiness** – investigating the steps needed and potential delays caused.
3. **The need to stay ahead to ensure compliance** – leveraging global providers with local expertise.

The double-edged sword of compliance

Global regulatory requirements will become increasingly complex

Rules, regulations and penalties – complexity trends over the past 5 years



A majority of global jurisdictions (54%) predict global regulatory requirements will become increasingly complex in the next five years. Many jurisdictions even identify difficulties in the regulatory environment as the predominant trend causing complexity for foreign investors.

It is the combination of an ever-expanding set of rules and regulations, accompanied by more stringent penalties for non-compliance that drives this sense of complexity, creating the need for adaptable and forward-looking compliance frameworks. The following sections of this sub-report will outline how this complexity manifests itself across a range of reporting requirements.

“Stricter sustainability and social responsibility regulations mean that businesses will face increasing pressure to comply with these new standards. Failure to comply can lead to legal penalties and reputational damage.”

TMF Group Greece Expert

“As part of Brazil’s commitment to OECD, the country has been gradually simplifying requirements for foreign investments in Brazil so that such investments will be treated the same as local investments; further actions towards a friendlier legal environment for foreign investors are expected in the coming years.”

TMF Group Brazil Expert

KYC, AML and counter-terrorism regulations

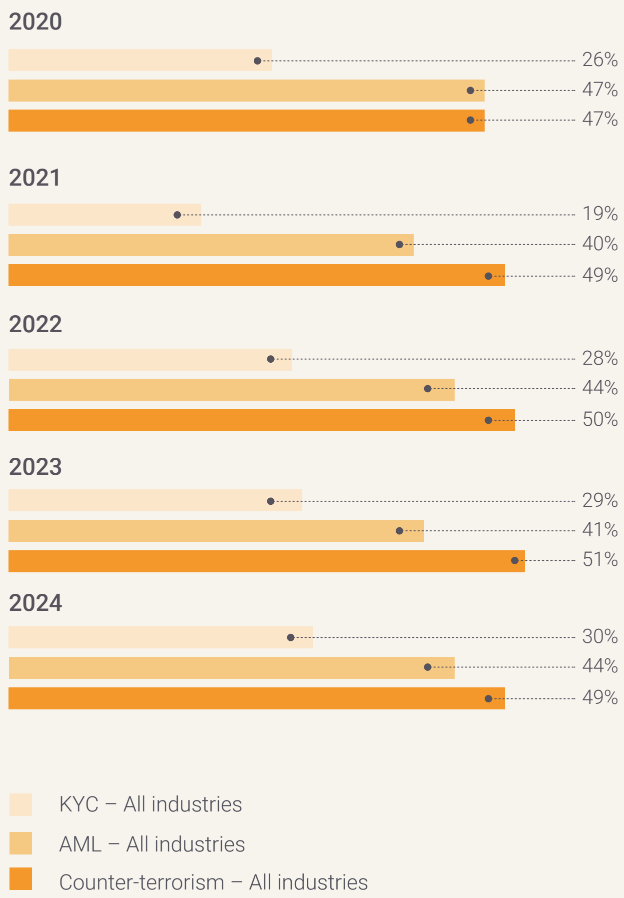
Compliance with Know Your Customer (KYC), anti-money laundering (AML) and counter-terrorism financing regulations is of increasing importance for businesses operating internationally.

The data shows a steady commitment to KYC compliance, with a notable increase from 26% in 2020 to 30% by 2024. AML adherence demonstrates a similar upward trend stabilising at 44% in 2024. Counter-terrorism compliance has seen a slight uptick, projected to move from 47% in 2020 to 49% in 2024.

Jurisdictions have acknowledged a sustained and growing effort by all industries to meet regulatory standards aimed at boosting transparency and preventing illicit financial activities. This is particularly prominent in EMEA countries such as Germany, Bulgaria, Croatia and Switzerland but a much larger challenge in jurisdictions such as Mexico where implementation and enforcement are lagging.

KYC, AML and counter-terrorism regulations can both create complexity in having to correctly comply with legislation, but they can also reduce complexity in the assurance they provide for international investors. The provision of guarantees against improper funding gives investors a level of transparency and accountability when investing. However, they too must invest heavily in administrative processes to ensure they themselves comply with legislation on entering a country. This can be a double-edged sword for new investors.

Industries abiding by legislation



Complying with UBO/PSC requirements

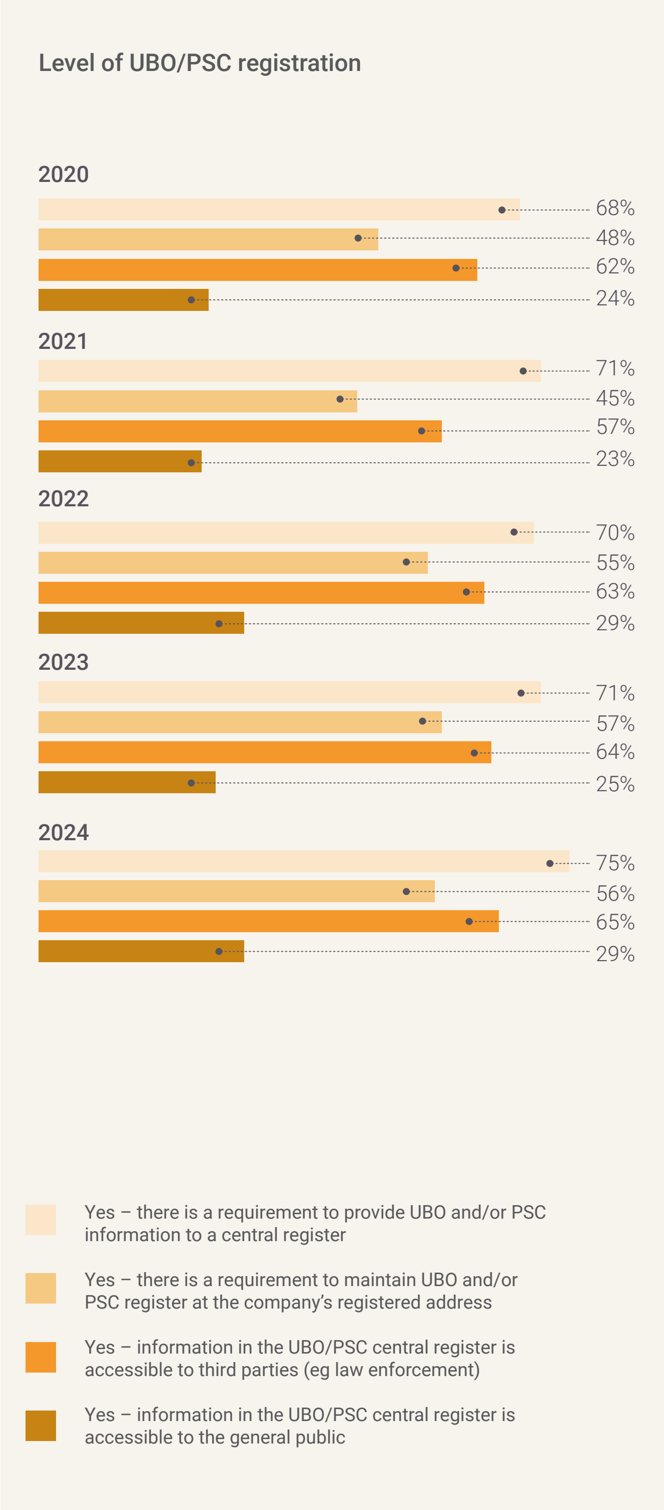
There has been an incremental rise in the necessity to register information related to Ultimate Beneficial Owner (UBO) and Person of Significant Control (PSC) requirements. From 68% in 2020, the requirement has increased to 75% in 2024 highlighting a global move toward greater clarity on ownership structures and control, reflecting heightened efforts to prevent financial crimes and promote corporate accountability.

The demand for UBO/PSC information is especially pronounced within the EMEA region, with a striking 88% of jurisdictions requiring disclosure. For example, in Greece organisations are adapting to these requirements to comply with government enforced legislation. This is nearly double the proportion in the APAC region, where only 46% are held to comparable standards. This disparity can also make it difficult for foreign entities investing in multiple jurisdictions, needing to keep abreast of multiple requirements at a time.

As businesses strive to operate in diverse jurisdictions, the escalating requirements around KYC, AML and counter-terrorism, along with the complexities of maintaining UBO/PSC information, represent both an opportunity and a challenge for investors. While stringent regulations can indeed help safeguard the integrity of financial systems and attract discerning investors, they may simultaneously constrain the flow of investment by raising the barriers to entry. Jurisdictions must therefore strike a delicate balance between enforcing robust transparency measures and fostering an inviting investment environment that is not overly prohibitive due to compliance complexity.

"The Corporate Transparency Act which came into effect on 1 January 2024 can create complexities for foreign businesses. Foreign businesses now need to identify and document any individual holding a 25% or greater ownership interest or exercising substantial control over the company. Managing these reporting obligations and ensuring compliance with the law can be a significant challenge for foreign businesses."

TMF Group USA Expert



Complying with UBO data submission deadlines

For businesses, needing to submit UBO data in less than a month means that internal processes for managing and reporting must be more streamlined and responsive than ever. Such high compliance rates reflect an aggressive stance on financial transparency and a proactive approach to mitigating financial crime risks. This is largely driven within the APAC and EMEA regions, with 100% of APAC jurisdictions and 91% of EMEA requiring submission in under a month.

"This year, a new UBO register was implemented. This involves some obligations around immediate reporting to the Hungarian Bank if there are any corporate data changes, such as a change in MD, UBO or shareholders."

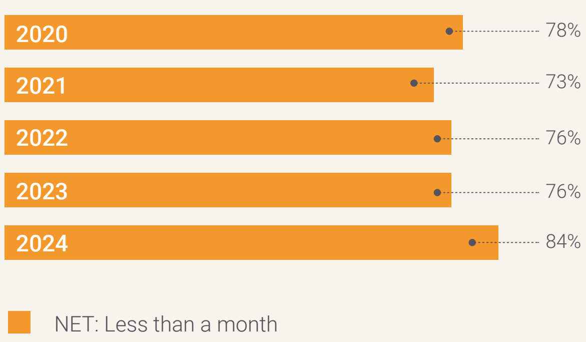
TMF Group Hungary expert

The enactment of local CRS laws and regulations remains consistent

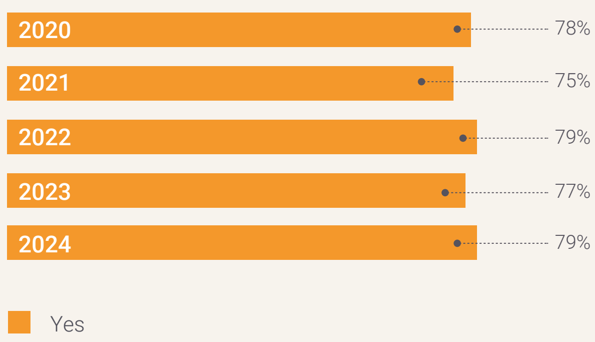
Adherence to the Common Reporting Standard (CRS) regulations is a key aspect of the compliance landscape. The enactment of local CRS laws and regulations exhibits a stable trend over the past five years with over 3 in 4 jurisdictions (79%) reporting enactment.

This commitment to CRS compliance sends a strong message to potential investors about a jurisdiction's dedication to maintaining a healthy, transparent business environment. However, as CRS regulations are guided by local laws, compliance can look different from one jurisdiction to the next. This necessitates an adaptable compliance strategy that can accommodate the nuances of each locale's specific requirements.

Legal time frame for UBO data submission



Enactment of local CRS laws and regulations



Navigating local language requirements

3 in 4 jurisdictions highlighted the requirement for official documents to be submitted in the jurisdiction's local language (other than English). This represents an upward trend from 71% in 2022. In addition, the need for director and shareholder minutes to be maintained in the local language is gradually increasing from 58% in 2022 to 62% in 2024.

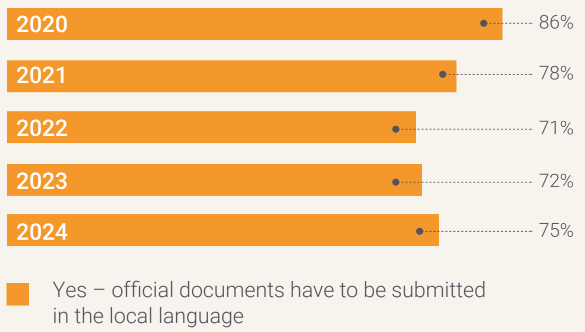
Local language requirements, although simple to enact, in most cases necessitate the hiring of local expertise. It affects not only global entity management and regulatory reporting processes (RRP), but also wider operational ways of working too. These processes, therefore, require not only content knowledge of what is required of investing companies but also practical knowledge to execute the procedures.

These types of local reporting requirements and regulations are why organisations often seek out external partnerships, such as GMV's partnership in entity management with TMF Group.

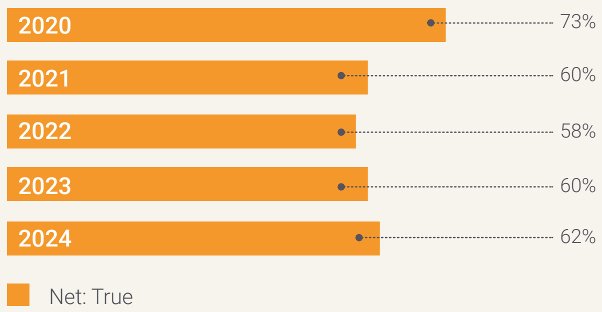
"Under German statutory law, the official language is German and most local authorities do not speak/ understand English. Documents in another language are mostly not accepted no matter how easy to understand."

TMF Group Germany expert

Are official documents for submission to the local government authorities prepared and submitted in this jurisdiction's local language (other than English)?



Director and the shareholder minutes to be created and maintained in the jurisdiction's local language (other than English)



Case study: GMV

About GMV

Founded in 1984, GMV is a privately owned technological business group with an international presence. GMV provides solutions, services and products to companies in a range of sectors including: aeronautics, banking and finance, space, defence, health, security, transportation, telecommunications and IT for public administration and large corporations.

INNOVATING SOLUTIONS

The challenge

GMV is constantly adapting its products and services to fulfil its commitment of providing maximum value to its clients with its technology solutions.

As GMV expanded internationally, it required a partner to navigate local complexities, assist with entity formation, legal requirements and the incorporation process. GMV also needed support for their daily operations post-setup.

The solution

GMV chose TMF Group as a partner due to its global presence, local expertise and diverse service offerings, including accounting, tax, HR, payroll, regulatory compliance and corporate secretarial services. TMF Group's experts ensured GMV's new entities complied with local laws, regulations and timelines.

Post-activation, TMF Group managed GMV's entities, handled payroll and provided accounting, tax and VAT services. Additionally, TMF Group assisted GMV with banking and cash management, a service GMV had difficulty finding a partner for.

"Having that option to get on the phone to the relevant people on the ground, especially if there is a problem or an issue we are facing, is a real highlight. The dedication and the attitude of the people at TMF Group make them a fantastic partner."

–

Javier Martínez Cendejas
Chief Financial Officer
GMV

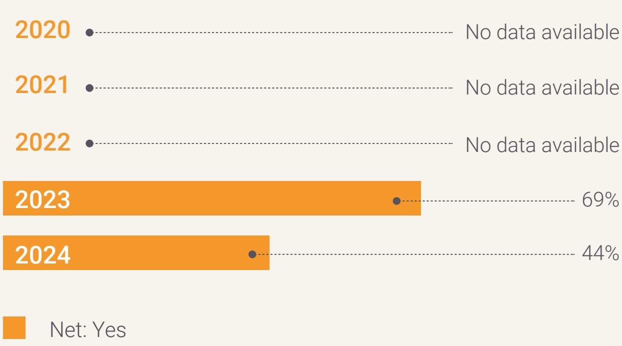
Fewer jurisdictions feel prepared for future reporting obligations

Since 2023, there has been a noticeable dip in jurisdictions' preparedness for future reporting obligations from 69% to 44%. Not being prepared for future reporting is high stakes, with 1 in 3 jurisdictions at risk of severe penalties for failure to comply with secretarial obligations.

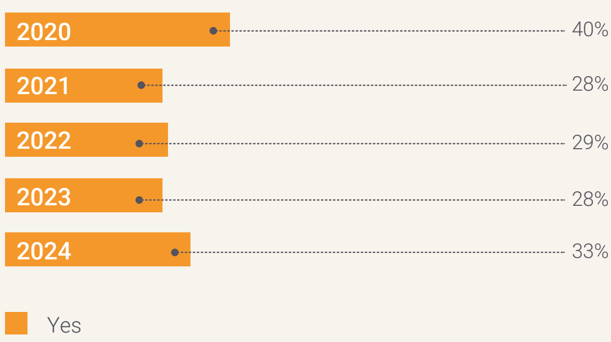
A TMF Group GEM expert suggested that investors operating in multiple jurisdictions can often seek out jurisdictions with similar operational setups to ensure they are compliant across multiple settings. Keeping up with multiple reporting requirements across different jurisdictions can be a considerable challenge and may prevent some investors from entering markets. This is also prominent in larger jurisdictions such as China where differences arise in regulatory requirements in different regions.

> *"The Channel Islands, Luxembourg and Switzerland all have their own local flavours so getting it wrong there can have a bigger impact."*
>
> *TMF Group GEM Expert*

Prepared for and/or concerned about future reporting obligations: impacts of regulatory compliance plans



Is the failure to comply with company secretarial obligations subject to severe penalties (including fines of more than US$5000 and prison sentences for the officers for non-compliance)?

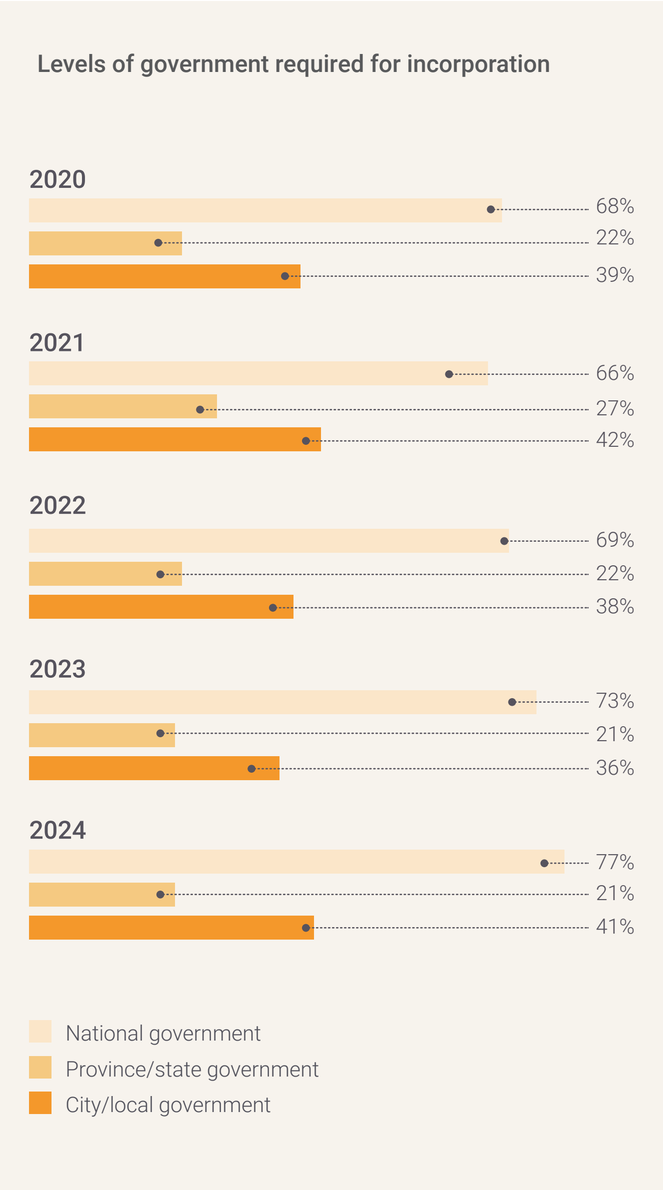


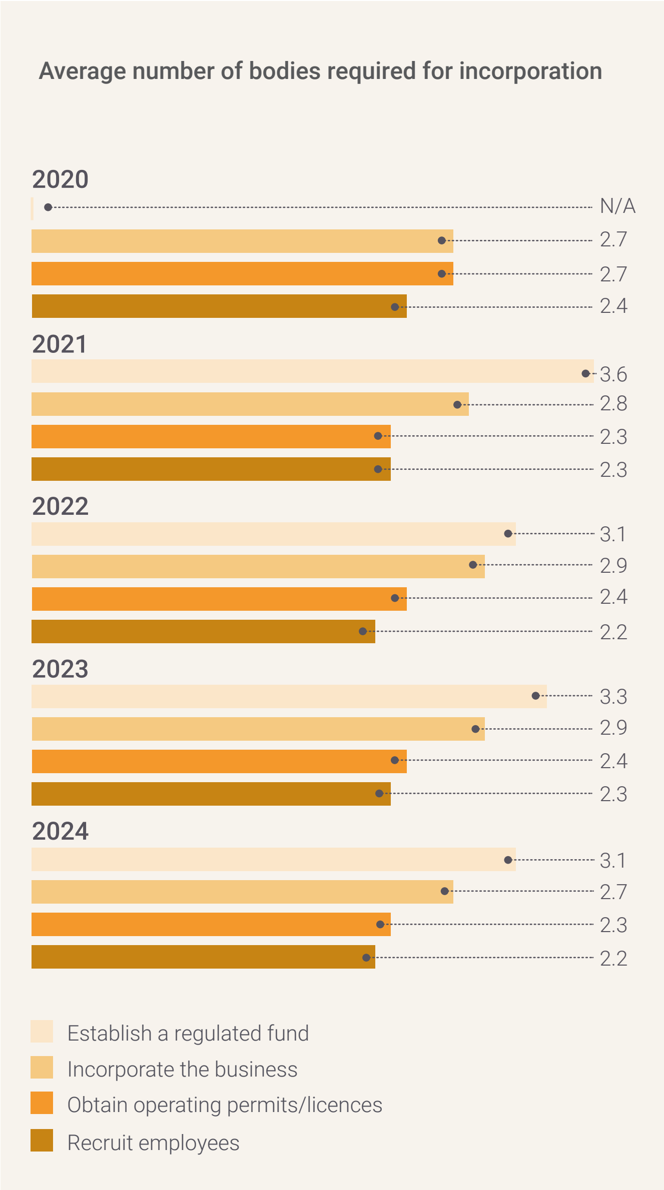
The path to operational readiness

Levels of government and number of bodies required for incorporation

As indicated in GBCI 2024, the dynamics of incorporation procedures present a mixed picture of increasing complexity and simplification.

On the one hand, there is a rising trend in the levels of government engagement required for incorporation. In particular, the need for involving the national government in the incorporation process has grown significantly, from 68% in 2020 to 77% in 2024. This upward trend suggests an increased emphasis on central oversight, which could lead to more rigorous compliance requirements and protocols for businesses.





Conversely, the average number of bodies required for various incorporation steps has generally decreased or remained static. From establishing a regulated fund to incorporating the business, obtaining operating permits/ licences and recruiting employees, the need for multiple bodies has either remained the same or lessened slightly. Some TMF Group experts, such as experts in Greece, also highlighted simplification in the process, potentially resulting from streamlining and familiarity with regulations and the incorporation process.

While this does not point to overall increasing complexity within the incorporation space, it does point to an ever-changing environment that businesses need to keep abreast of when entering new markets.

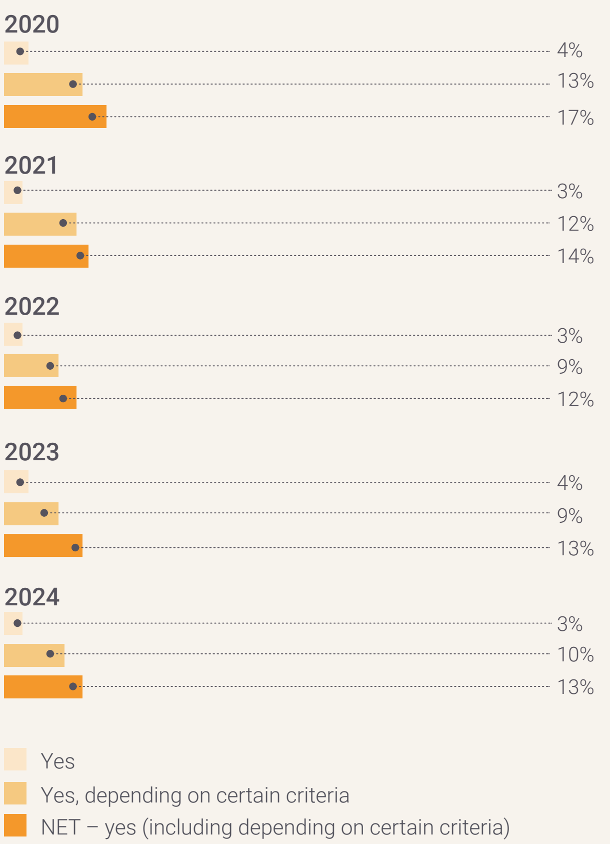
"The Greek government is expected to streamline the incorporation process for businesses in 2024, which could make it easier and less time-consuming for businesses to establish a legal presence in Greece."

TMF Group Greece Expert

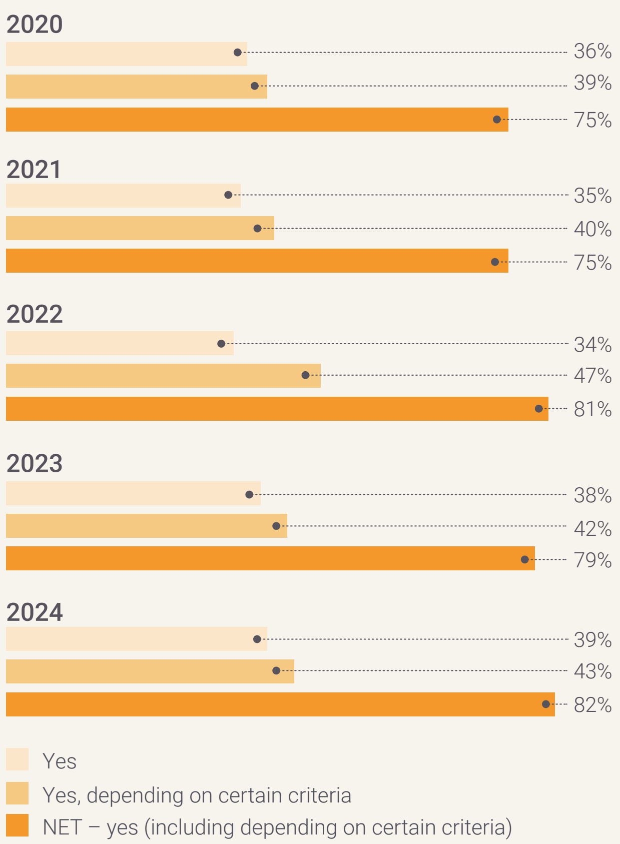
Licencing and registration requirements

Tight regulation around business registration is seen in the limited numbers of jurisdictions able to operate without being registered with relevant tax authorities. This is also mirrored by requirements to obtain a local business licence before becoming operational. Only a fraction of jurisdictions (around 3% to 4% in the period from 2020 to 2024) allow businesses to operate without registration, and only 1 in 10 permit operation depending on certain criteria. Likewise, over 8 in 10 jurisdictions require a business licence before companies can operate. This can mean the process to becoming operationally ready can be extensive for international businesses looking to invest.

Ability to do business without being registered with relevant tax authorities



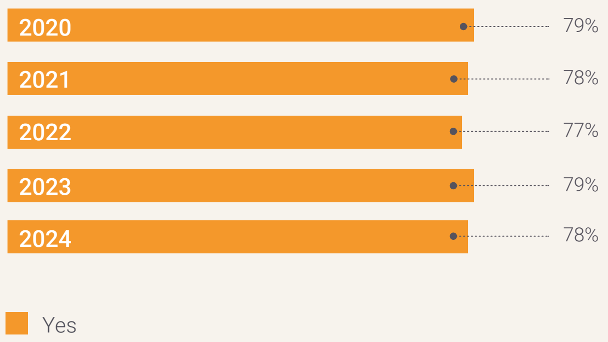
Requirement to obtain local business licence prior to becoming operational



This already lengthy process can be extended if the tax registration process is kept separate from entity incorporation. This is the case in over three quarters of jurisdictions globally. Keeping on top of these duplicate administrative processes is a significant factor contributing to delays in becoming operationally ready.

Overall, while length of time to incorporate a business may not deter investors from entering a new market, it can add to the complexity of a jurisdiction's landscape and prevent easy expansion.

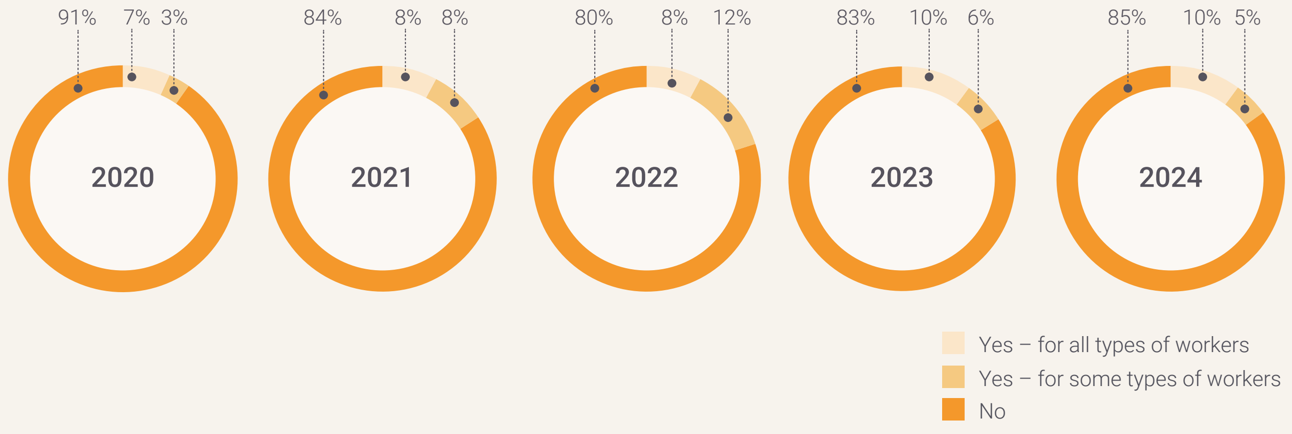
Is the tax registration (VAT, CIT) run as a separate process from the entity incorporation?



Hiring workers before the establishment of a legal entity

Flexibility to hire workers before establishing a legal entity is relatively limited across jurisdictions. Only 1 in 10 jurisdictions highlighted the ability to hire all types of workers before incorporating as a legal entity in 2024, marginally higher than in 2020. The capability to hire some types of workers before becoming a legal entity fluctuates, peaking at 12% in 2022 but generally remaining at around 5% to 8%. While this may not deter an investor from entering a market, it can add to the complexity of entering a new market and becoming operationally ready.

Hiring workers before becoming a legal entity



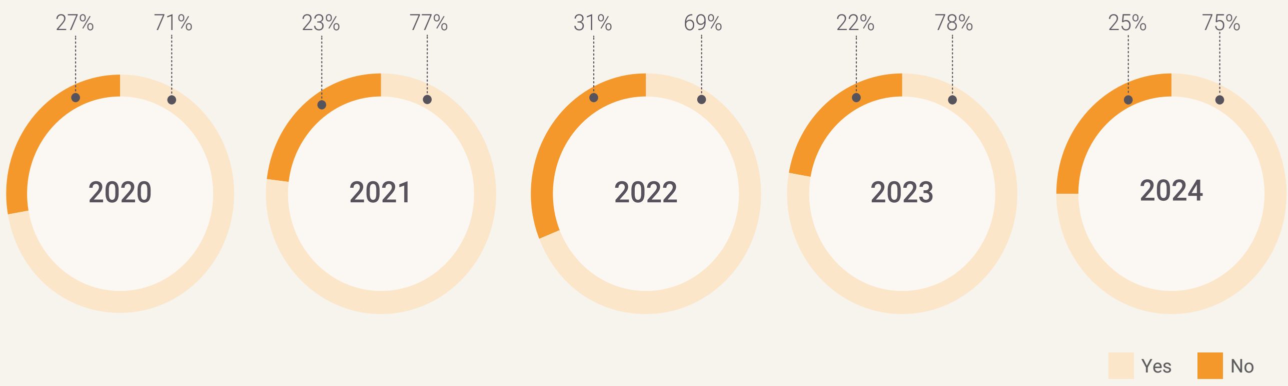
Digital versus paper-based document submissions

As indicated in GBCI 2024, the movement towards the digitalisation of document submissions has seen a mixed trajectory. There has been an overall increase in jurisdictions allowing online submissions since 2020, with over 3 in 4 jurisdictions doing so. However, the trend is not uniformly positive. TMF Group experts explained that the mixed adoption of technological developments was due to many official compliance processes still needing to be done via a paper-based system. For example, requirements for legal entity documents to bear an official stamp, chop or seal for legal effectiveness is still significant at 33% globally. This is driven in particular by South American jurisdictions where the requirement is as high as 70% and other jurisdictions such as Romania, the Philippines and Serbia.

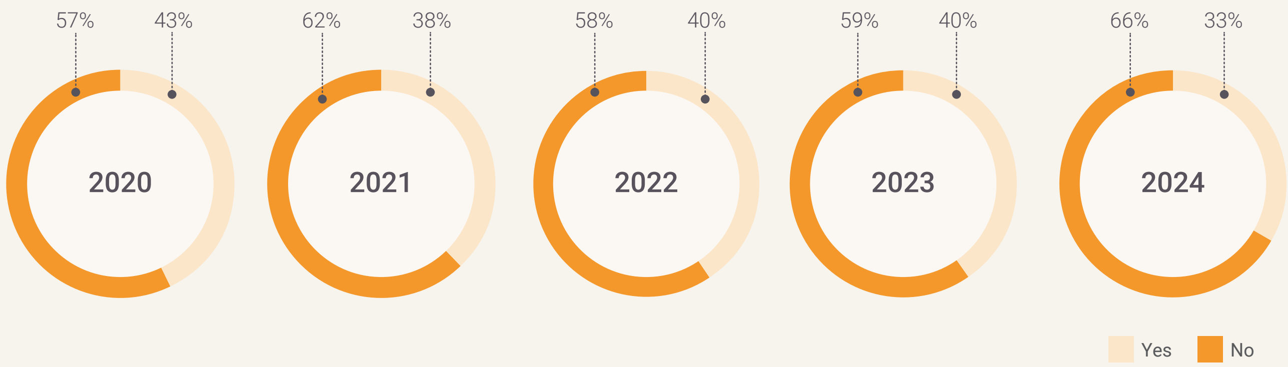
> *"Not all procedures accept electronic signatures and there are still some procedures that need to be carried out in person."*
>
> *TMF Group Mexico Expert*

This blended approach to traditional submission modes alongside digitalised methods adds to the complexity of business incorporation, particularly for multinational companies accustomed to digital processes.

Are official submissions to the authorities done electronically/via the internet?



Do official legal entity documents require an official stamp, chop or seal to be legally effective?



The need to stay ahead to remain compliant

Aynsley Vaughan, Head of Global Entity Management and Accounting and Tax, TMF Group notes: “The escalating importance of regulatory compliance underscores the growing necessity for businesses to draw upon local expertise. Our clients are consolidating their patchwork of local providers to ensure consistency across their footprint to help mitigate risks and reduce the administrative burden in managing multiple vendors.”

Over 4 in 10 (42%) jurisdictions recommend that foreign investors seek legal and professional support to mitigate operational risks in their jurisdiction. Jurisdictions such as Brazil highlighted the regulatory complexities businesses dealt with when acquiring and carving out businesses, largely due to intricate labour laws, complex tax systems and bureaucratic procedures. Local expertise would be crucial to navigate the unique complexities of each jurisdiction and comply with local regulations.

Integrating and leveraging local experts into the compliance process can alleviate the burden on businesses to continually educate themselves on regulatory changes. This, in turn, can expedite the compliance process, reduce the risk of operational delays and enable businesses to focus on their core operations. TMF Group works closely with clients, such as Toshiba Global Commerce Solutions, to provide local expertise while ensuring there is global consistency in entity management. Clients often seek the support of local partners in the form of external local experts or designated leads within the organisation who are tasked with managing the transition and ensuring seamless adaptation to new regulations.

Like the approach taken within accounting and tax, this strategy involves either absorbing external local experts into the organisation or appointing a designated lead to support the transition. Both approaches offer ways to streamline the compliance process and ensure that the business stays abreast of ever-changing regulations.

Case study: Toshiba

About Toshiba Global Commerce Solutions

Toshiba Global Commerce Solutions is a leading provider of retail store technology, designed to enhance customer engagement, transform the in-store experience and accelerate digital transformation. The business was formed in 2012 when Toshiba acquired IBM's Retail Store Solutions global business, including development, manufacturing, sales and related in-store maintenance.

TOSHIBA

The challenge

Toshiba Global Commerce Solutions, with 47 corporate subsidiaries worldwide, faced inefficiencies and complexities managing corporate entity maintenance through 47 different law firms, one for each country. In-house personnel were tasked with managing and consolidating this work. Local employees, fully engaged with business operations, needed support with local governance. Recognising the need for consolidation, Toshiba found it challenging to find a partner willing to manage its local entities on a global scale.

The solution

After an extensive search, Toshiba Global Commerce Solutions selected TMF Group as its partner due to its flexibility, reliability and cost-effectiveness. TMF Group enabled Toshiba to consolidate its global corporate entity management function under one umbrella, enhancing efficiency, predictability and consistency. TMF Group also provided additional services such as local banking support for Toshiba's treasury department. With TMF Group's support, Toshiba ensures its corporate structures are correctly established and maintained in compliance with local rules and regulations across all jurisdictions, catering to changing market needs.

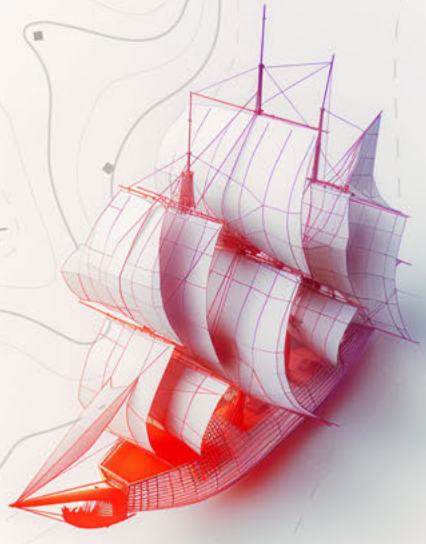
> *"I have been delighted by TMF Group's ability to provide the support I'd sought for many years. More importantly, it has been willing to evolve and adapt to provide new services wherever we need them. This gives us more flexibility in managing how we get things done."*
>
> –
>
> *Ken Hammer*
> VP & Chief Legal Officer
> Toshiba Global Commerce Solutions

Conclusion

The evolving landscape of regulatory complexities and heightened compliance measures is resulting in businesses leaning on local expertise to stay up to date with legislative changes. Keeping on top of thorough compliance processes such as KYC, AML, counter-terrorism regulations, UBO/PSC information disclosures and local language requirements, is crucial for maintaining smooth operations in the present and the future.

Efficiencies in the compliance landscape have emerged despite these complexities. The evolving roles of different professional support entities and the slight simplification of regulatory processes point towards potential areas of ease for businesses. However, the progress in digitalisation is not uniform across jurisdictions, with ongoing challenges mainly occurring due to the transition away from traditional methods towards fully digital operations.

While managing entities across multiple countries will be more complex due to the increasing intensity of regulatory compliance, strategic use of digitalisation and local expertise with a global footprint can help organisations adapt and thrive amidst these changes.



We make a **complex** world **simple**

TMF Group is a leading provider of critical administrative services, helping clients invest and operate safely around the world.

With over 11,000 colleagues in more than 125 offices across 87 jurisdictions, all working to the same high standards of service and security, we provide our clients with local expertise where it is needed most. Our locations cover 92% of world GDP and 95% of FDI inflow.

We are a key part of our clients' governance, providing the accounting, tax, payroll, fund administration and legal entity management services essential to their success. We make sure rules are followed, reputations protected and operational compliance maintained.

Our global service model and technology platform put our clients in control of their portfolio of entities and global locations. The data insights we deliver keep them on top of emerging regulation, the status of their own activity and any points of risk.

We serve corporates, financial institutions, asset managers, private equity and real estate investors, and family offices. Our clients include the majority of the Fortune Global 500, FTSE 100 and top 300 private equity firms.

TMF Group is a trusted and reliable partner, in strong financial health and focused on providing flawless service to our clients.

Whether operating in one country or many, with a handful of employees or several thousand, we have the business-critical support you need to expand, operate and grow safely, everywhere.

www.tmf-group.com