

# Mercator Focus

Insights from across the Global Entity  
Portfolio Management Industry

Q1 2022

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As if the disruption of 2020 could be topped, 2021 gave it an impressive run for its money. Fortunately, the lessons learnt, and technological innovations implemented by governments spanning numerous jurisdictions continued to ensure the entity portfolio management industry ran as close to 'business as usual' as hybrid working can be. Even if the commute remains a distant memory to many of us.

Of course, for Mercator itself, 2021 was a seminal moment in our history as we took a leap forward by officially rebranding as Mercator by Citco, a reflection of the growth and maturity of the business and the wider industry we have served since the early days of GSGS right up until the present moment where our ambitious plans to lead the transformation of the global entity portfolio management industry remain on course.

As always, part of our mission is to provide the industry and its stakeholders with pertinent thought leadership and regulatory updates, of which this newsletter remains the cornerstone.

It is therefore my pleasure to highlight some of the key insights made this year by our dedicated team of professionals and external stakeholders, who continue to push the boat out.

In one article we underline the importance of planning in company law and governance, particularly in the management of tasks, while in another, we also look at why it is essential for best practice to build out a data quality team and what that looks like. In another article we look at the process of Directors' and Auditors' re-appointment and how to ensure effective rotation, while we also speak to one of our most esteemed business partners on the high ranking achieved by Argentina as a jurisdiction to business in, as identified by our Mercator Entity Management Report 2021. Finally, we provide a roundup of some of the key events attended by the Mercator team last year, as well as touching on some news of our own.

Now, as we continue our new voyage into its first full year of operation, I would like to thank our clients for their partnership with us and say that we very much look forward to continuing our pioneering work together.

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**2021 was a seminal  
moment in our  
history as we took  
a leap forward by  
officially rebranding as  
Mercator by Citco**

# Company Law and Corporate Governance – The Importance of Planning

 Vilius Kalvaitis, Senior Legal Team Manager,  
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Have you ever been so overwhelmed with your everyday assignments that you have no idea as to where to start? Dealing with multiple assignments and deadlines at once can increase the risk of missing important aspects of one's work that otherwise would not be overlooked. At some point this can happen to anyone and can be perilous, especially to those working in legal field, where deadlines, whether internal or statutory, and the attention to detail are of crucial importance. Indeed, the consequences for missing such deadlines may expose the company to liability and potential damage.

Being attentive, alert and razor sharp at all times is difficult to achieve, so we use tools to help us stay organized and up to date with our everyday assignments or special projects. Notebooks, spreadsheets, calendars - all play a vital role.

## A request made in Entica™ essentially replaces the most commonly used form of business communication – an email.

However, there is only so much that one can squeeze in their calendar and looking for notes written down on a piece of paper weeks ago can be cumbersome exercise.

Smart digital solutions attempt to tackle these problems more efficiently. In the corporate law and governance fields, entity management systems have been helping organizations with multiple subsidiaries maintain their corporate statutory information for years now.

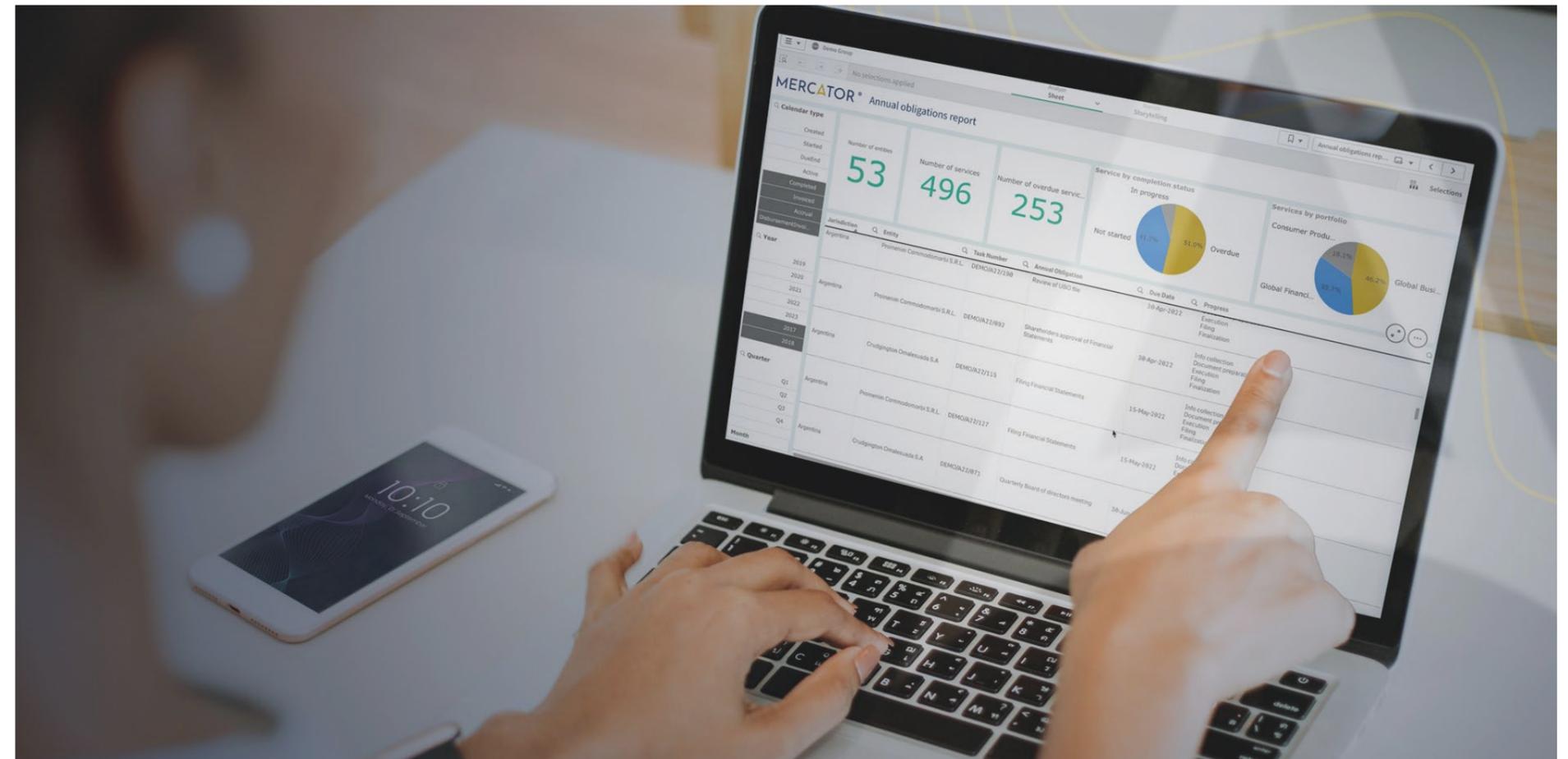
Yet, until recently, most of them have not (or only partially) addressed the maintenance of corporate processes and tasks, which lead to statutory compliance of those entities. Therefore, having a comprehensive digital tool for such purpose would take the corporate legal maintenance of an organization to a whole new level.

### TASK MANAGEMENT

Mercator by Citco has over 12 years of experience in providing corporate secretarial services to multijurisdictional portfolios of entities. This has helped us identify and implement three main features into our proprietary technology Entica™ to help our clients plan and track their work. These are - the ability to make requests, track the status of these requests and receive notifications when there is an update.

A request made in Entica™ essentially replaces the most commonly used form of business communication – an email. Moving away from the use of emails, if set up correctly, offers several advantages in terms of planning and organizing one's work. Firstly, it enables the client to log the request and conveniently retrieve the information as and when necessary. Secondly, the specific format of the request guides the user in the right direction in terms of the information required to proceed with the assignment. Finally, it provides an easy to follow trail to backtrack from once the assignment progresses, deviates from, or expands on its initial scope. This limits the relentless back and forth to clarify the scope or share information and ultimately results in an inbox with fewer emails, which, most would agree, is a welcome sight.

In terms of planning, it is equally important to track the status of assignments and



action items once the request is made. Therefore, the ability for the Entica™ user to access and check the task status at any given moment in time becomes the natural continuation of the request.

This high level overview paired with the exact status of each task helps identify the next step needed to progress, along with the party responsible for such step. This becomes particularly convenient for those working on multiple legal assignments simultaneously and having limited time to extensively revisit them once there is an update. Notifications help keep clients aware of the status of the request and

allow them to take the necessary action or receive information in a timely manner.

When it comes to planning and organizing the work, making the move from notebooks and spreadsheets to smart digital solutions greatly enhances the transparency. It becomes easy to locate the information necessary when all the work is recorded and organized in one tool designed for such purpose. It also increases accessibility – Entica™ can be accessed anytime and anywhere through the internet. Lastly, Entica™ provides control, as it enables the clients to oversee every aspect of their work accounted for Technology

plays an essential role in today's business environment. Corporate law and corporate governance is no exception. Embracing the technology keeps us ahead of the curve in tackling the present and future challenges in this increasingly regulated and ever evolving field.

To find out more  
about Entica™:

WATCH OUR  
INTRODUCTORY VIDEO

REQUEST A DEMO

## In conversation with – Palico Millé, Senior Partner at Estudio Millé Abogados

 Palico Millé, Senior Partner,  
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**For more than a decade, Mercator by Citco has been working in conjunction with the law firm Estudio Millé, to help our clients navigate the procedures and nuances of Argentina's legal system.**

Founded in 1964 and based in Buenos Aires, Estudio Millé provides legal support and counsel to both international and local clients. The firm's areas of expertise includes, Intellectual Property Rights, Technology laws, Corporate Laws, Trademark and Anti-piracy laws, among others.

Frequent Mercator collaborator, Palico Millé is Senior Partner at the firm and specializes in Business Law, International Contracts, Licenses and Intellectual Property Law. We sat down with Palico to discuss findings from the [Mercator Entity Management \(MEM\) Report 2021](#), which saw Argentina ranked as top of jurisdictions to do businesses in 2021.

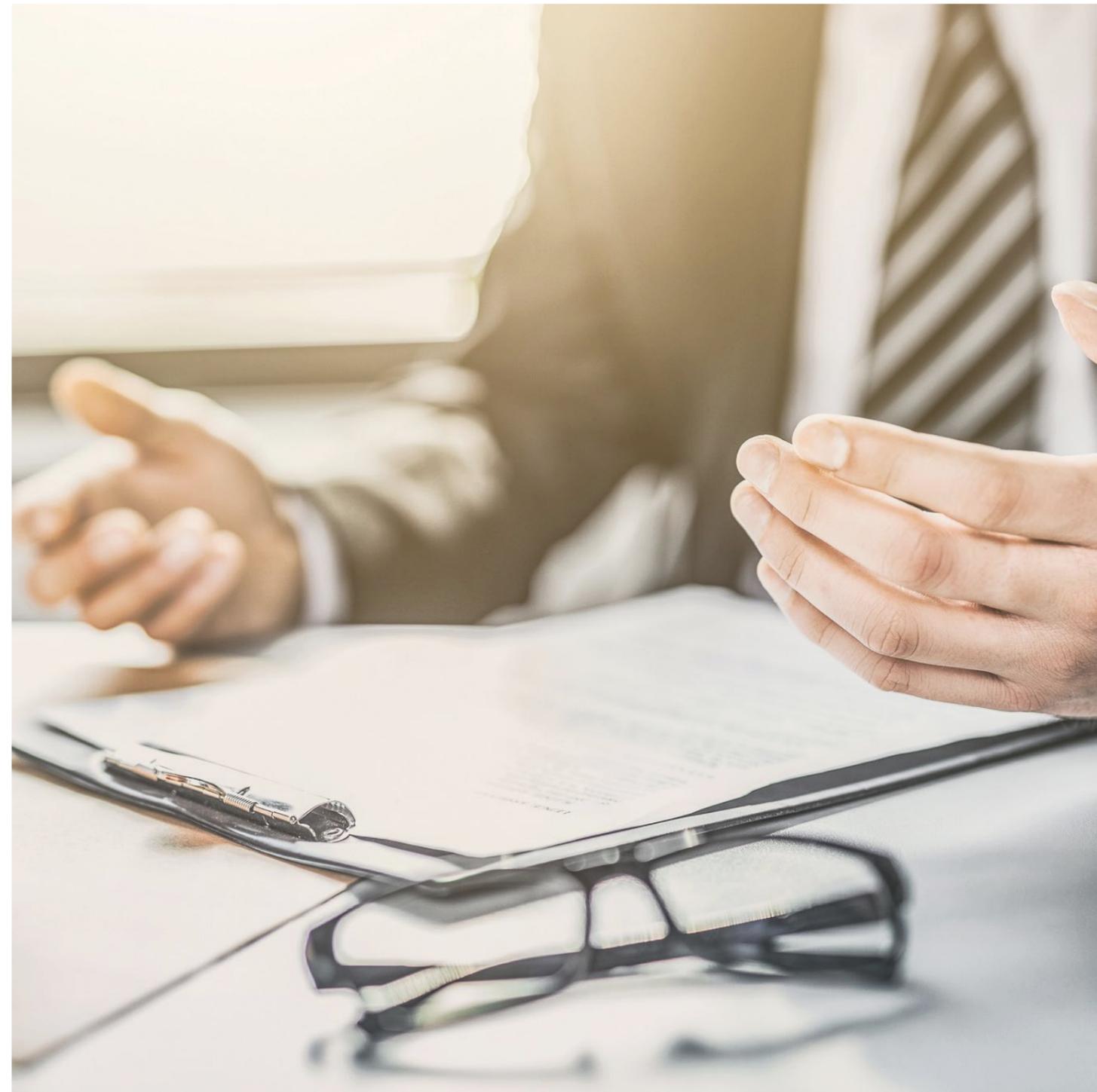
**In the MEM Report, Argentina ranked highest from over 160 jurisdictions in terms of how fast tasks are being completed. Does that surprise you?**

**Palico Millé:** Some of the most common procedures for local entities are being completed in a timely manner, and therefore it is not hugely surprising. Among such procedures are the appointment of Directors, capital raisings, change of

name or address, or the issuance of Good Standing certificates or requests for information related to an ongoing entity. However, other procedures, particularly those related to foreign entities (such as foreign shareholders in Argentinean entities), are handled in a very bureaucratic manner. There have been several regulatory changes over the last few years, adding new requirements and procedures which are handled very slowly and sometimes with different criteria by different officers. This causes delays and continuous requirements until completion of the task.

**Argentina was the only Latin American jurisdiction that made it to our Top 20. What makes Argentina stand out? Is it the legislative framework, the efficiency of regulatory bodies or something else?**

**PM:** Over the last 5 years, the Argentine government has been implementing a digital platform for electronic procedures before the public administration. This platform has evolved and matured to the point where it is now possible to digitally handle hundreds of different procedures, including certain corporate filings and procedures before the commercial register, as well as tax and other administrative procedures. This digital platform, called "TAD", is currently working very efficiently, easing and speeding procedures in a considerable manner. Simultaneously, the commercial register has advanced in the digitalization of their files and internal procedures, which also contributed to efficiency. I have no doubt that the efficiency of both TAD and the tax authority digital platform has been key for this qualification.



**Since 2020 and in light of COVID-19 pandemic we have seen many jurisdictions adopt innovative solutions to help in the times of restricted travel and work-from-home situations, such as new electronic filings, allowing electronic meetings of directors/shareholders and notarizations via telecommunication means. Did Argentina introduce any new regulations to help businesses in this period? Do you see these staying in place once things go back to 'normal'?**

**PM:** The digital platforms mentioned before were greatly improved during the pandemic, as well as the scope of procedures being handled by these platforms. The Commercial Registry of Buenos Aires City issued regulations as soon as March 2020, when the effects of the pandemic first started to show in Argentina, allowing remote meetings for board of directors and shareholders assemblies as well. This was a very quick and sensible response, and had excellent results for all concerned, so much that I do think it will remain in the future.

Notarization through telecommunications was also enabled, which was highly supportive. On the other side, the operation of the Commercial Registry, such as the attention to the public, was greatly affected and created great difficulties, though they seem to be going back to normal now. Other than this, the government issued financial aides to companies affected by the COVID-19 pandemic which were very helpful while they lasted.

## Data Quality Team – Value Proposition

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Today it is hard to imagine being a multinational business without technology that helps you stay on top of your Global Entity Portfolio Management, particularly when it comes to data management. Keeping track of various corporate records, such as global annual compliance calendar, management elections, or ownership changes is a fundamental necessity. However, it is equally essential that a well-organized process is in place in order to maintain entity data.

**Having a separate team dedicated to maintain entity data brings a fundamental benefits – it improves the efficiency and creates higher quality.**

The latter may seem to be a straightforward process, but it becomes cumbersome and time consuming when we take into account the volume of entity data that needs to be maintained within a reasonable timeframe.

How then do you achieve the goal of having an accurate entity data maintenance following a recently completed corporate change?

### **DISTINCTION OF RESPONSIBILITIES: LEGAL TEAM VS. DATA QUALITY TEAM**

The events of the last two years have forced many businesses to review and change the way they operate. However, one thing that hasn't changed is the expectation that all existing company's

resources still function in the most efficient way possible. The proper distribution of resources for entity data management is not an exception: we all expect a seamless and most preferably centralized supervision by a responsible professional, as well as, quality delivery and service.

So who should be responsible for the maintenance of entity data? Is it the legal team or should an external source be involved?

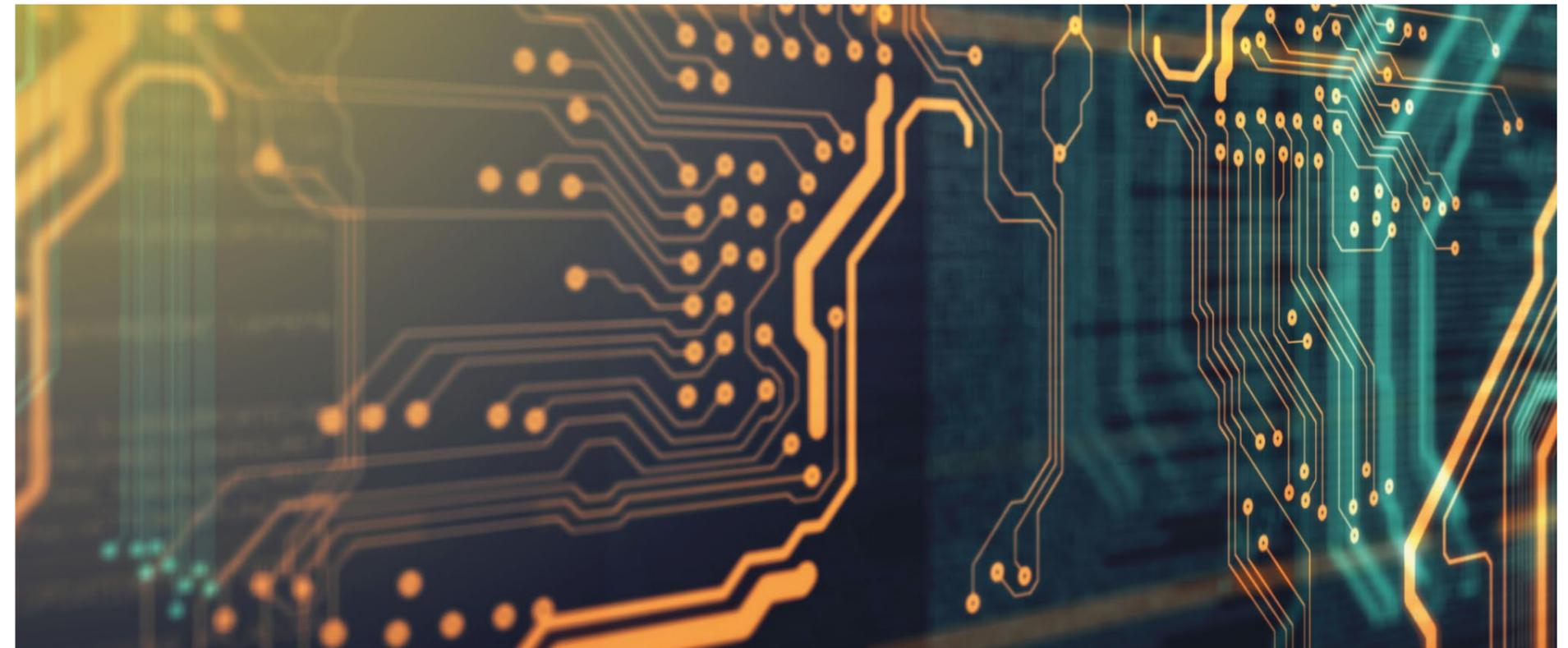
Having a separate team dedicated to maintain entity data brings fundamental benefits – it improves the efficiency and creates higher quality. To be more specific:

- **Legal Team** – instead of entering data, its main focus is to concentrate on client service in terms of various corporate activity and changes and to stay on top of corporate data as a data manager.
- **Data Quality Team** – this team takes the role of a data input-administrator and is a separate dedicated resource, whose responsibility is to focus on data integrity and quality in the relevant Entity Management System.

### **EFFICIENCY**

At Mercator we have a dedicated Data Quality Team who play a vital role in ensuring that documentation and information of the legal entities - serviced by our Legal Teams - are well-maintained and kept up-to-date on various Entity Management Systems.

Operating more than five years now, the Data Quality Team have been instrumental in achieving greater efficiencies by: increasing turnaround of corporate governance services; ensuring effective integration of corporate data



and documents; and enabling direct communication for technical problem solving. The Data Quality Team acts as a central communication point to receive and record data for entities around the globe.

Separating the functions of the Legal Team (i.e. the data manager) and the Data Quality Team (i.e. the data input-administrator) has allowed us not only to increase efficiency, but also provide a centralized model of data maintenance for clients and expand our range of functions such as data customization, data cleansing and migration, data validation, customized reporting solutions, creation of records and navigation training, amongst others.

### **QUALITY**

Quality comes with experience and proper supervision. Having a team that is focused on data maintenance and familiar with best practices across various Entity Management Systems is essential. Dynamic interaction within the team ensures knowledge retention and sharing, that ultimately leads to a higher quality data maintenance.

As to supervision – naturally it minimizes the risk of discrepancies made by human error and enhances the quality of data. Hence, a proper implementation of the '4-eyes principle' – requiring two individuals to approve the same action before it can be taken – has to be in place.

Our Data Quality Team has extensive experience and is well-trained in utilizing systems efficiently and to the highest quality standards. Collected knowledge and well-organized supervision ensures that all data held in our clients' entity management systems is maintained accurately and also supports clients in understanding and use of these systems.

### **CONCLUSION**

The saying "two heads are better than one" implies that there are additional benefits to combining the efforts and experiences of two individuals (or teams in this case) instead of one. Both the Legal Team and Data Quality Team work towards a

common goal for which they are mutually accountable. Entity data management might seem a straightforward process, but it requires regular maintenance and attention. Therefore, it is a necessity to have dedicated resources constantly taking care of Entity Management Systems in order to keep data in line with recently completed corporate changes. A clear distinction of responsibilities shows the relevant benefits – efficient and high quality client service.

## Directors' and Auditors' Re-appointments



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Across the world we are seeing more and more countries adopting corporate governance best practices and embedding them into local legislation in order to ease business across jurisdictions. At the same time, while the onus was previously more on listed multinationals to carry out rotation exercises for board members or auditors, many large companies are now adopting such practices in order to encourage new ideas and innovation or to improve the audit quality.

**Re-appointments are complex to manage because they depend on a number of factors including the jurisdiction, type of entity, company policy and terms of appointments among others.**

For many multinational companies, this means it is becoming increasingly difficult to track the re-appointment dates of directors and auditors across their various entities worldwide. Re-appointments are complex to manage because they depend on a number of factors including the jurisdiction, type of entity, company policy and terms of appointments among others, all which differ from country to country and are continuously changing.

### RE-APPOINT VS. ROTATE

In some countries, it is mandatory to rotate board members or auditors after a set number of years, whereas in others, the re-appointment needs to be approved for

the directors or auditors to remain in office. In the event that the re-appointment is not approved, then, the rotation process kicks off.

Over the years, there has been ongoing debate about the merits of rotating directors and auditors. One side would argue that a rotation is simply following good corporate governance. On the other, it can be argued that a rotation creates inefficiencies, with the knowledge acquired by the existing directors and auditors being lost with each rotation.

From experience, a middle ground confers both benefits – rotation at reasonably regular intervals safeguards good corporate governance whilst also retaining knowledge and experience.

### WHAT DOES A RE-APPOINTMENT ENTAIL?

It is important to understand what a re-appointment entails. This process gives a company the opportunity to decide whether directors are still fit and proper to carry out their duties and, in the case of an auditor, whether they remain independent. It is also crucial that the best interests of all stakeholders are safeguarded at all times - this is only possible if the board is fully functional and the auditors maintain a professional distance.

In circumstances where it is the group policy to regularly either re-appoint or rotate the board of directors and auditors, the Articles of Association ("AoA") of the entity in question contain the relevant provisions to enable the re-appointment or rotation. For the re-appointment of directors, it is recommended a Nomination Committee is set up whereby the Chairman of such Committee recommends the re-appointment of existing directors or

the appointment of new directors. As for the re-appointment of auditors, the assistance of an Audit Committee is commonly sought, which in turn, makes a recommendation to the Board. Ultimately, the shareholders will either vote in favor of or against such re-appointments.

In other instances, the re-appointment or rotation requirement emanates from prevailing laws or a Corporate Governance code, which is binding on many corporations. Here we often find that the AoA will need to be reviewed and amended as though the legislation may have changed, many companies omit to reflect such changes in to their AoA.

### KEEPING UP TO DATE

Once the requirement to re-appoint or rotate has been identified, it is important to determine the duration of such tenure and the process to carry out the exercise, as laid down either by statute or the AoA. At Mercator, we keep track of all such obligations via our platform Entica™; an advanced tool for calendaring, tracking and reporting company secretarial deadlines, tasks and key performance indicators. Users can easily view recent and historical updates and also receive notifications about their upcoming obligations across various jurisdictions at least six weeks in advance of the deadline, giving ample time to decide on the way forward.

In many cases, there are common directors across the board of a number of entities. Entica™ also generates a report per director and other officers, whereby the due date for each re-appointment or rotation is listed. This report also includes the expiration date or will indicate if there is no expiration date next to a particular officer's name based on the agreed terms or relevant laws.

## Mercator News & Global Events Round Up

**In what felt like an unusual period over the last couple of years, the Mercator by Citco team were busy attending and speaking at events focused on the primary issues and opportunities pervading the Global Entity Portfolio Management (GEPM) and subsidiary governance industry.**

Here we provide a roundup of two key events from 2021, where we aim to provide clarity around key challenges facing business leaders and corporate counsels across industries and around the world.

### ASSOCIATION OF CORPORATE COUNSEL, HONG KONG – 27 OCTOBER 2021

On October 27, Mercator were invited by the [Association of Corporate Counsel](#) to speak to [Hong Kong members on 'Stability and Consistency in GEPM'](#), introducing the technology essentials for Legal Departments.

Featuring data from the [Mercator Entity Management Report](#), [Kariem Abdellatif](#), Head of Mercator by Citco and [Chris Butler OBE](#), Head of Operations led members through an interactive session on the implementation, usage and connectivity of digital tools in GEPM as well as discussing the corporate governance trends and challenges observed in APAC.

In the session, the discussion focused on common challenges encountered by multinationals and how or what technology, such as electronic signature systems and entity and task management systems, have helped them overcome these. It placed a heavy focus on implementation of technology and connectivity between other departments, such as tax, finance and HR, within companies to speed up the business processes, reduce costs and minimize manual mistakes.

Read Kariem and Chris' Top 5 takeaway's from the event [here](#).

### THE CHARTERED GOVERNANCE INSTITUTE UK & IRELAND'S SUBSIDIARY GOVERNANCE SUMMIT – 1-2 DECEMBER 2021

From the 1-2<sup>nd</sup> of December, Mercator sponsored and attended [The Chartered Governance Institute UK & Ireland's Subsidiary Governance Virtual Summit](#), where experts discussed the ever-evolving regulatory landscape in the UK and other jurisdictions.

Topics included: the new risks agenda and guide to the board, merger and acquisitions and the need for governance to transform with an agile structure and new process, and the UK regulatory landscape and how it impacts on future governance decisions.

Notably for Mercator, Kariem Abdellatif was invited to give the opening address, exploring the regional and jurisdictional dynamics in the Global Entity Portfolio Management industry as outlined in [his article for Governance & Compliance magazine](#).

Chris Butler also led a panel discussion looking at how multinationals can stay on

top of Ultimate Beneficial Ownership (UBO) compliance. He summarizes and outlines the key principles for compliance and reflects on recent worldwide Ultimate Beneficial Ownership (UBO) developments in his article [here](#).

### MERCATOR TEAM EXPANSION

The end of 2021 was also a busy period for recruitment, with two key hires. [Sara Winslow](#) joined us as a Business Development Manager for North America. In this role, Sara will be working with counsel on Corporate Governance solutions and compliance including Global Entity Portfolio Management. Sara's experience in sales and business development spans over twenty years including prior experience in the legal services industry.

Also joining the team is [Mariella Berscheid](#), who leads the Mercator contracts team and will be responsible for the negotiation of non-standard complex contractual documentation and provide advice and guidance to the Mercator teams. Mariella's experience in the legal and multinational finance industry spans over a decade, with a specialism in Contract Law, Company Law and Litigation.



## Find Out More

For further information on how we can assist you,  
please contact Mercator at [Mercator@citco.com](mailto:Mercator@citco.com)

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