DOING BUSINESS IN ASIA PACIFIC

KRESTON GLOBAL

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Kreston Global capabilities in the Asia Pacific region are both geographically and commercially diverse, with 21 exciting markets and locations, represented by 46 member firms with 146 offices and 6, 000+ professionals across the region, which generates over US $490 million in fees each year.

A recent research study commissioned by Kreston Global, which delved into the motivations behind entrepreneurs' decisions to expand overseas, highlighted that India and China were the clear leaders in terms of appetite for global expansion, far outweighing the rest of the world. In response to this research, Kreston Global experts in the region looked at the reasons behind this trend in this first edition of "Doing Business in Asia Pacific" which explores investment opportunities as well as providing expert advice on navigating market, regulatory and tax requirements.

THAILAND

Thailand is the eighth largest economy in Asia and the second largest economy in Southeast Asia, according to the World Bank. With a population of 66.1 million, it stands at the heart of the ASEAN Economic Community, a 10-nation Southeast Asian common market of 663.9 million consumers.

Thanks to its strategic position in Southeast Asia, Thailand serves as a gateway to other destinations. In addition to its excellent connections with the fast-growing neighbouring CLMV (Cambodia, Laos, Myanmar and Vietnam) countries, the powerhouse economies of nearby China and India are also within easy reach.

Excellent digital connectivity, a highly-skilled labour force and a high standard of living, plus the Thai government's comprehensive policies and investment incentives, including the Foreign Business Act of Thailand, make Thailand an attractive prospect for foreign investment.

We spoke to **Manuel Olliver**, CEO at **Kreston GSiA Thailand** to learn more about doing business in Thailand.

INVESTING IN THAILAND

Thailand's "4.0" vision is to build a high value digital economy. Attractive tax structures have drawn significant investment in crypto, fintech, blockchain and AI, expected to create in the region of 400, 000 jobs in the sector by 2026.

With a strategic location, government support, and growing investment market, Thailand offers a competitive global role for foreign investment. Manuel Ollivier shares his experience of doing business in Thailand.

How has the Thailand economy changed in the last 12 months?

The economy of Thailand is dependent on exports, which in 2019 accounted for about 60% of the country's GDP. In 2022, the economy was projected to expand by 3.4% vs 3.6% in 2023, reflecting a faster-than-expected decline in global demand.

But the tourism sector recovery, and private consumption, will remain the major drivers of growth. The recent reopening of China to international travel in January 2023 should give a big boost to the recovery of tourism after very few visitors in 2021 and 2022 at less than 30% of the pre-pandemic figures.

Which sectors are doing well and have seen growth?

The industrial and service sectors are the main ones in the Thai gross domestic product, with the former accounting for 39.2% of GDP.

Thailand's agricultural sector produces 8.4% of GDP, lower than the trade and logistics, and communications sectors, which account for 13.4% and 9.8% of GDP respectively.

At Kreston GSIA Thailand, our clients are recovering fast in this post-pandemic period.

What tax or funding incentives have been attracting new business into the country?

Thailand's Board of Investment (BOI) is the main government agency responsible for promoting foreign investment in the country, offering incentives, ranging from corporate income tax exemption to import duty exemptions on raw materials on businesses that are 100 per cent foreign-owned.

Key investment areas covered by the BOI;

- Agriculture and agricultural products;
- Chemicals, paper, and plastics;
- Services and public utilities;
- Light industry;
- Technology and development;
- Electronics;
- Metal products, machinery, and transport equipment; and
- Mining, ceramics, and basic metals.

Also, the government's recent approval of a capital gains tax waiver for startup investors is expected to drive funding for local startups up to 320 billion baht over four years and create more than 400,000 jobs, says the Digital Council of Thailand (DCT).

By 2026, the measure is expected to increase the funding for startups to reach 320 billion Thai Baht and create more than 400,000 jobs either through direct or indirect employment, which would help strengthen the country's economic system.

Local and foreign corporate venture capital (CVC) funds and foreign private equity trusts (PE trusts) will see income tax waived for profits derived from the sale of shares in local startups. Investors will see income tax waived for profits from the sale of shares in Thai CVC funds and Thai PE trusts, both of which invest in local startups. Startups linked with targeted industries must be certified by designated organizations, such as the National Innovation Agency and National Science and Technology Development Agency.

The income tax waiver incentive lasts until June 2032

What advice are you giving investors to secure growth in the next 12 months?

Thailand has been a consistent recipient of Chinese investment for some time, and its geostrategic position as the heart of the ASEAN free trade bloc, with free trade access also to China and India, has made it a hub for many Chinese investors. This has manifested itself primarily in the drive to digital economies and is building Thailand up both as a connectivity hub, and as a key node for Asia in new tech. Plenty of money is being both raised and made via Chinese investments into various Thai-based initiatives in crypto, fintech, blockchain, and AI, as well as health care including medical tourism.

This, coupled with extensive infrastructure connectivity plans uniting Thailand to ASEAN, and other export markets, and the development of numerous free trade zones (FTZ) is seeing the country take on a highly competitive global role for foreign investment.

ABOUT THE AUTHOR

Manuel Ollivier has over 20 years of professional experience in international business in France and Thailand. Manuel possesses strong skills in business implementation and has managed operational management as part of an International Transfer Program with one of the world's largest companies in Thailand and Southeast Asia. Additionally, he has experience working with international clients, giving recommendations and supporting foreign investors doing business in Thailand. Manuel is an expert in the logistics industry and is qualified in administrative communication, business implementation, business optimization, and safety and security.

Manuel Ollivier
CEO
Kreston GSiA
Thailand

VISITOR ECONOMY GIVES THAILAND A BOOST

A post-pandemic return to travel means the visitor economy should give Thailand the boost it needs to achieve growth.

The economy of Thailand is dependent on exports which accounted in 2019 for about 60% of the country's GDP. In 2022, the economy was projected to expand by 3.4% vs 3.6% only in 2023, reflecting a faster-than-expected decline in global demand.

However, the tourism sector recovery, and private consumption, will remain the major drivers of growth. The recent reopening of China to international travel in January 2023 should give a big boost to the recovery of tourism after the travel dearth of the last two years at less than 30% of the pre-pandemic figures.

In 2023 Thailand expects between 25 and 30 million foreign visitors, about 70% of the pre-pandemic figures.

How quickly can I set up a business?

In Thailand, there are 3 types of business organisation recognised: partnerships, limited companies and sole proprietorships.

The time required for incorporation varies depending on the desired business.

Partnerships are easier to register than other structures, but the most popular entity for foreign investors is the private or public limited company structure. The most popular choice among foreign investors is the limited company structure.

Generally, it takes approximately a week to register private limited companies, and one month for public limited companies.

What is the minimum investment needed?

If you require a permit to work in Thailand legally, the minimum amount required is two million Thai Baht, which allows the company to have one work permit.

How can I raise finance?

Thai banks are reluctant to lend money to start-up companies and small international entities. There are other channels available to fund international entities, and investors should speak to local experts to find out more.

What are the legal requirements for setting up my business?

To start a business in Thailand, there are 3 steps.

1: Reserving a company name. Certain names are not allowed. It is recommended you research details from the name reservation guidelines of the Department of Business Development, Ministry of Commerce.

The approved corporate name is valid for 30 days.

2: Preparing necessary documents. Depending on the type of business, these include: Memorandum of Association, application form, shareholder list, minutes of meetings, signed director forms, Declaration of Business Operation form, plus address details of offices, branches etc.

DOING BUSINESS IN THAILAND

3: Registering the company with The Department of Business Development, Ministry of Commerce. This should be done at the office of the Business Registration in the area in which the business is located.

What structure should I consider?

Unless the business is associated with the Board of Investment (BOI), foreign shareholders are limited at 49% and 51% must be owned by Thai nationals.

This minority percentage can be exempted if the business receives a Foreign Business License.

It is important to understand Thailand's Foreign Business Act 1999, which states all activities that foreign entities are prohibited from conducting.

In addition, it is necessary to learn more about the BOI scheme especially tax incentives which includes (depending on activities and certain conditions), exemption of Corporate Income Tax for up to 13 years, a 50 percent reduction in Corporate Income Tax for five years, and exemption of import duties on raw material or essential material used in research and development purposes.

Meanwhile, non-tax incentives from the BOI include 100% foreign ownership (except certain activities and industries), permits to own land and bring in skilled workers and experts to work in Thailand.

In addition, you will need to register for tax and obtain the appropriate license for your business. Any business liable for Corporate Income tax must obtain a tax I.D. card from the Revenue Department.

If the business' gross income in the same fiscal year is equal or greater than 1.8 million Thai Baht, then it will usually need to also pay VAT.

What advice can you give in regards to payroll and taxation requirements?

Payroll: there is a minimum wage of 300 Thai Baht per day. New graduates are expected to earn from 15,000 Thai Baht a month, and manager-level positions attract around 200,000 Thai Baht a month.

HR requirement: Businesses have to follow Labour law, Social Security law, Workmen's Compensation law, foreign workers require a work permit.

Tax on business: This comprises Corporate Income Tax, Withholding Tax, Value Added Tax (VAT), Special Business Tax (SBT), Double Taxation agreement (DTA), and Property Tax.

Location: Key locations for new businesses are Bangkok (capital city, in central region), the eastern seaboard zone, export incentive zones and industrial estate zones.

Is there anything else that I should know?

Key resources for businesses in Thailand are:

– The Department of Business Development, Ministry of Commerce, has all information on various business types and how to incorporate business in Thailand.

– The Revenue Department, will respond to all tax inquiries of business in Thailand.

– The Thailand Board of Investment (BOI), has incentive information, condition and procedures for applying those incentive schemes for certain business in Thailand.

– The Immigration Bureau provides cross-border travel and other services for foreigners while residing in Thailand.

– The National Innovation Agency (NIA) has solutions and innovations to support products and businesses in Thailand.

– The Immigration Department will issue and renew VISA periods according to the period approved by BOI.

– The Labour Department will issue and renew Work Permit periods according to the period approved by BOI.

CHINA

R&D tax incentives and policy to support investing in post-Covid China are now significantly more appealing to inward investors than in the previous two years. The recent growth target of around 5% is considered cautious by economists given the stronger-than-expected economic activity in 2022.

Despite this cautious tone, many economists have been revising up their estimates for China's GDP growth in 2023, with some predicting rates as high as 5.8%.

This makes it an attractive proposition for investment. However, recent Kreston Global research also revealed that that China is home to some of the world's most active overseas entrepreneurs ("interpreneurs").

Kreston Global experts **Yiwen Ping** from **Zhonghui CPAs** and **Susan Li** from **Brighture** share their predictions for future investment trends, plus give some advice on how overseas businesses can invest in and enter Chinese markets.

INVESTING IN CHINA

China is entering a new economic cycle, driven by innovation and a higher GDP per capita, which is rivalling that of other high-income countries.

How has the economy changed in the last 12 months?

Susan: Increased investment in new energy sources and infrastructure is driving up investment in innovation, research and development. The era of real estate development has ended, and a new model needs to be found. The rate of urbanisation, which topped 65%, has begun to slow, and now people are pursuing better lives, with a stronger sense of self-worth. We are seeing a decline in population growth coupled with an ageing workforce. Economic growth has shifted from demographic dividend and investment-driven to being driven by productivity and innovation, and China is benefitting from its position as a global trade power.

Yiwen: On March 5, 2023, Chinese Premier Li Keqiang pointed out in the government work report that in 2022 China's annual GDP grew by 3%, and in 2023 the expected target is to grow by about 5%.

What investment opportunities have been attracting new business into China?

Yiwen: On February 27, China's State Council issued the "Overall Layout Plan for the Construction of Digital China", which proposed that by 2025 a horizontal integration, vertical connection, coordination and strong integration promotion pattern will be basically formed, including

'We recommend that entrepreneurs focus on digitalisation and supply chain areas around key industrial chains such as manufacturing to secure growth.'

efficient connection of digital infrastructure, accelerated improvement of the scale and quality of data resources, effective release of the value of data elements, and substantial enhancement of the quality and benefits of the development of the digital economy.

Which sectors are doing well? Have you seen a growth in clients?

Susan: Science and technology industry, artificial intelligence industry, and new energy industry

Yiwen: Our new customers are mainly from the semiconductor materials industry, the lithium battery materials industry and the supply chain industries. From the perspective of our clients in recent years, China and Southeast Asian countries are the most popular investment regions.

What advice are you giving clients to secure growth in the next 12 months?

Yiwen: On March 6, the Financial and Economic Committee of the 14th NPC of China adopted the review report on the draft national economic and social development plan for 2023. We recommend that entrepreneurs carefully study these reports and focus on digitalization and supply chain areas around manufacturing to secure growth.

Susan: Product innovation to drive value pricing; ensure sufficient human resources; optimize product supply chain; improve technology content and make full use of artificial intelligence technology.

What new services have clients been requesting?

Susan: Tax compliance and sustainable development

Yiwen: Due to the rapid expansion of China's capital market in recent years, our clients are increasingly seeking planning and advisory services related to transfer pricing and the establishment of R&D systems.

What investment trends do you predict for the future?

Susan: In any investment in China, it is very important to balance revenue and earnings growth in the short term, but it is also important to balance it with policy. One characteristic of China is the long-term nature of many policies and the ability of investors to align with them.

Yiwen: Due to the digital focus of the China State Council, it can be seen that the entire technology supply chain, from the supply of equipment and materials in the semiconductor industry chain to the application of software and hardware, will continue to be a hot spot for investment.

ABOUT THE AUTHORS

Yiwen Ping is a Senior Manager at Zhonghui China, one of China's foremost tax firms, and brings over 13 years of experience as a tax consultant with a focus on transfer pricing.

Yiwen Ping, Zhonghui CPAs

Susan Li is a highly experienced solicitor and barrister with a wealth of legal expertise in China and Australia. She is currently serving as International Business CEO at Brighture Tax and Accounting.

Susan Li, Brighture Accounting and Tax Advisory

How quickly can I set up a business?
Most entities – specifically a WFOE in this case - take between one and five working days to obtain company certification after submission of registration materials to the Ministry of Commerce - Administration for Market Regulation. It can be as quick as one day if complete documents are submitted, but it is worth bearing in mind that preparation of registration materials usually take between four to six weeks.

Documents needed are Shareholder Certification, passport documentation for all key directors, three or more company name choices, scope of business, office address and registered capital.

What is the minimum investment needed?
There is no minimum registered capital needed in China, except where there are naming conditions, such as the word "China" or "XX Province" in the company name, which then has a specific capital requirement.

How can I raise finance?
In accordance with the law, enterprises with foreign investment may:

- Issue stocks and corporate bonds or other financing instruments to the public.
- Obtain loans from financial institutions or other means of financing within or outside China.
- Borrow foreign debts in accordance with the relevant provisions of the state.

DOING BUSINESS IN CHINA

What are the legal requirements for setting up my business?

Foreign investment into China can be done through various types of entities：

- Representative Office (RO)
- Wholly Foreign-Owned Enterprise (WFOE)
- Equity Joint Venture (EJV)
- Cooperative Joint Venture (CJV)

What structure should I consider?

If you just need a contact office or service supporting function to start your business in China, representative offices are a low-cost and easy way to go. But the business activities are very limited: you cannot deliver any services or products. Most business owners do not tend to choose this.

A joint venture is a partnership between a foreign business owner and a Chinese citizen. Success requires mutual trust between the foreign business owner and the Chinese partner.

The most common type of entity is a wholly foreign-owned enterprise (WFOE). The foreign investor has full control of the business. No matter what kind of business entity you choose, make sure that the industry and business activities you invest in are within the scope of government approval for foreign capital.

What advice can you give me in regards to payroll and taxation requirements?

Locations:

It all depends on your China market plan; there will be regional variations in the cost of labour and local infrastructure.

Transport convenience:

a) Beijing/Shanghai and other cities in south-east of China, have well-developed transportation networks.

b) Shanghai, Ningbo, Guangzhou, Tianjin, Qingdao and other cities have ports that are great locations for import and export businesses.

Preferential tax policies:
In Hainan free trade zone, the local government offers preferential tax rates and policies for local enterprises.

Payroll and HR requirements：
Before the company can hire an employee, it must complete social security registration. The salary is usually paid monthly. Employees' IIT and personal insurance should be with held by the employer every month.

The company social insurance is declared once per month including：
• Social insurance: medical, pension, unemployment, injury, and maternity
• Housing fund
•Tax reporting:

IS THERE ANYTHING ELSE THAT I SHOULD KNOW?

You should do the monthly filing after you have registered your company with the Tax bureau.

Main taxes in China:
VAT: VAT taxpayer can be classified as a small-scale taxpayer or a general taxpayer. A small taxpayer incurs a 3% VAT (services or goods) while a general taxpayer incurs taxes at different rates depending on the industry, which can range from 6% to 13%.

CIT: The CIT rate is set at 25% unless other qualifications are obtained.

IIT: IIT is imposed on income from wages and salaries at progressive rates ranging from 3% to 45%.

Is there anything else that I should know?
List of government departments you should go to and what you can get from them:
Get your License:
Administration for Market regulation (Former: Administration of Industry and Commerce)
• Get the permit to set up a foreign investment company: Ministry of Commerce
• Official seal: Public security department
• Tax filling and Invoice application: Tax bureau
• Social insurance registration: Ministry of Human Resources and Social Security
• Housing found registration: Housing fund management centre.
• Foreign exchange registration：Administration of Foreign Exchange（Done in the bank when opening a bank account）

R&D TAX INCENTIVES IN CHINA

R&D tax incentives in China have been made a permanent policy by China's State Council. In April 2023, they announced the extension of supportive tax and fee policies that are aimed at incentivising innovation and supporting industries that were affected by the COVID-19 pandemic. These policies are expected to reduce the annual tax and fee burden on eligible companies by over 480 bn RMB which is approximately US$70bn.

Tax deductions for R&D

The pre-tax deduction ratio of R&D expenses for certain eligible companies will continue to increase from 75% to 100%, with no expiration date specified. This policy was previously only available to manufacturing enterprises, but the 2022 Government Work Report expanded it to include technology-based small- and medium-sized enterprises (TSMEs) to encourage innovation.

KRESTON PROWORKS FEATURED IN BLOOMBERG TAX

Japanese foreign investment almost doubled in 2021 and looks to increase in 2023.

Liza Robbins, Kreston Global Chief Executive, and Marek Lehocky, CEO of Kreston ProWorks in Japan were recently invited to comment on this increase in foreign investors entering the Japanese market.

Inward investment figures topped $20 billion in 2021, creating a new market for accounting firms. There is room for more growth in the Japanese tax, accounting, and audit market, which is mostly dominated by the Big Four. Japanese government data suggest high growth in 2021 for foreign direct investment fields such as communications, chemicals and pharmaceuticals, electrical machinery, and the finance and insurance sectors. Foreign direct investment is also increasing due to the 21 bilateral free-trade agreements Japan has signed in the last few years.

Marek's firm Kreston ProWorks joined Kreston Global in 2022, as he is able to offer complementary services to the other two Kreston Global firms that offer auditing services. Liza Robbins, Kreston Global Chief Executive, sees this new partnership with Kreston ProWorks as an investment gateway for Kreston Global clients.

AUSTRALIA

A highly-skilled workforce and preferential regional trade agreements managed with robust tax planning are still making investing in Australia appealing, even with supply chain issues and inflation challenges. Thriving sectors such as renewable energy, infrastructure, health care, and real estate are expected to shape the Australian investment landscape, providing potential opportunities. To shed light on these trends and insights, we spoke to **Michael Goodrick,** managing partner, and **Kamal Thakkar**, partner at **Kreston Stanley Williamson** in Sydney.

INVESTING IN AUSTRALIA

Like the rest of the world, the Australian economy has undergone significant changes in the past 12 months as it recovers from the impacts of the pandemic and associated lockdowns. The challenges posed by COVID-19 still persist, with continued disruptions in the supply chain and business closures. However, despite all of this Australia has demonstrated resilience and economic recovery in recent months.

In our recent research on global investors, India and China were cited as the countries most like to expand overseas. Does the data ring true for you in your international client profile?

Michael: Our client base has not had much exposure to the Indian market. Larger corporates still have a large presence in India with outsourced offshore customer service, administration and finance centres prevalent, but the SME market in our client base does not trade as much with India as other countries around the world. However, there are signs of this changing with increased trading and business ties with India in recent times.

China is still a very important trading partner with Australia and other Asian countries. They provide a lot of products as a supplier to our commercial and manufacturing businesses. Due to some cross border and relationship issues, China as an export destination is not as strong a trading partner to a number of countries in the Asia Pacific area as it once was. I am sure these issues will subside and the demand from China for goods and resources from the Asia Pacific region will increase again.

What investment opportunities have been attracting new business into the country?

Kamal: With a highly skilled workforce and supportive government, the renewable energy, infrastructure and real estate sectors continues to see significant investment.

Australia has been increasing its footprint in trade with its Asia Pacific neighbours, whilst maintaining its strong ties with the US and UK – these alliances are seeing a greater number of businesses willing to invest in Australia given its skilled workforce and drive for innovation. One barrier might be the relatively high tax rates compared to other jurisdictions. Careful consideration is needed in terms of the business investment structures and related tax planning.

How has the economy changed in the last 12 months?

Kamal: Like the rest of the world, the Australian economy has undergone significant changes in the past 12 months as it recovers from the impacts of the pandemic and associated lockdowns. The challenges posed by COVID-19 still persist, with continued disruptions in supply chain, and business closures. However, despite all of this Australia has demonstrated resilience and economic recovery in recent months.

> **The mining and technology industries in Australia continue to do well as reflected by the growth of our firm and clients in these sectors.**

Some of this resilience comes from the continued strength of Australia's mining sector which is in turn positively impacting related business industries such as manufacturing, despite high interest rate rises to curb inflation. Whilst it is most likely warranted, the lack of foresight shown by the Reserve Bank of Australia has caused uncertainty in the economy, the effects of which are likely to still ripple through over the short to mid-term. This is demonstrated by the consistently weak consumer sentiment in the same period.

Which sectors are doing well? Have you seen a growth in clients?

Michael: The mining and technology industries in Australia continue to do well, as reflected by our firms and clients growth in these sectors. Cybersecurity has emerged as a major growth area, with continued innovation and investment being driven by the latest security breaches of large and listed companies over the past year.

What new services have clients been requesting?
Kamal: Rather than new services, we have seen an increase in the demand for advisory services, ranging from budgeting and forecasting, management control, through to due diligences and valuations with businesses looking for strategic options for the next stages of their life cycle.

What advice are you giving clients to secure growth in the next 12 months?
Kamal: The core advice has been to manage cash flows and investment decisions carefully so as to not to over-reach. Rising interest rates combined with local and global uncertainty are likely to impact even Australia’s so-far resilient economy. However, when opportunities present themselves, and if care has been taken in capital management, clients will be able to invest in opportunities to secure growth.

What investment trends do you predict for the future?
Michael: Based on our observations, sustainable investing, infrastructure, health care and real estate are expected to continue shaping the Australian investment landscape. Gaining momentum the most is sustainable investing, with a greater emphasis in ESG factors impacting renewable energy infrastructure and real estate investment considerations.

What does the next 12 months look like for your firm?
Michael: Despite the high inflation, high interest rate environment, and the possible risk of recessionary pressures, our firm expects strong growth over the next year, with much coming from our audit division as we bolster the standard and size of audits we are now able to manage.

Our clients' growing appetite for cross-border tax and commercial advice is increasing demand for our services in this area as well as needing outsourced CFO services, management accounting and bookkeeping. This demand is underpinning the growth in our management accounting division as well.

ABOUT THE AUTHORS

Kamal leads the Audit & Assurance and Transaction Advisory Services at Kreston Stanley Williamson, and is an experienced audit, assurance, and business advisory professional who has been in the accounting industry for 20 years. He has serviced a wide range of clients and industries both locally and internationally. While acknowledging the importance of regulatory and compliance obligations in maintaining the integrity of financial reporting and governance in the corporate world, Kamal is driven by a passion to provide audit, assurance, and business advisory services that deliver forward-thinking commercial, innovative, and value-added outcomes.

Michael is the managing partner of Kreston Stanley Williamson and has been in the Tax and Accounting industry since 1983. He oversees the running of the firm and manage larger clients in areas such as structuring, tax compliance and planning, commercial issues, succession, other exits from business and general business strategy.

Michael Goodrick, Managing Partner, Kreston Stanley Williamson, Sydney Australia.

Kamal Thakkar, Partner, Kreston Stanley Williamson, Sydney Australia.

DOING BUSINESS IN AUSTRALIA

How quickly can I set up a business?
A new company can be incorporated in minutes, but practical aspects of the set up take longer, for example:

- Tax registrations for foreign owned entities require certified copies of proof of identity documents which often rely on the postal system.
- Bank accounts can be difficult to open until a company director is able to visit a branch in Australia to satisfy their identification procedures.

For these reasons, generally, you should expect about a four-week lead time to set up an Australian business.

What is the minimum investment needed?
There is no legal minimum investment – a new company can be incorporated with as little as $1 of share capital – so the investment will depend on the funding requirements of the proposed business.
The Australian taxation system does, however, include a thin capitalisation regime that limits deductibility of interest expenses where the entity's debt-to-equity ratio exceeds certain limits. The thin capitalisation rules do not apply unless debt deductions (i.e., interest and borrowing costs) exceed $2 million per year, so are really only relevant to large businesses.

How can I raise finance?
Private companies are not permitted to raise funds from the public, so are restricted to obtaining funds from its shareholders, or borrowing from financial institutions.
Public companies may be used for larger ventures where funds will be raised from the public.

What are the legal requirements for setting up my business?
The four main types of business structure in Australia are:

- Sole trader
- Partnership
- Trust
- Company

What structure should I consider?

International investors entering the Australian market generally choose between establishing a new Australian company or establishing an Australian branch of a foreign company.

Australian companies are distinct legal entities. They must be registered with the Australian Securities and Investments Commission (ASIC). An Australian private company must have at least one director who ordinarily resides in Australia, and that director usually acts as Public Officer for taxation purposes. A private company provides shareholders with limited liability protection.
An Australian company that is owned by a foreign corporate entity has a prima facie statutory audit obligation, however most small and medium entities can apply for audit exemption.

Foreign companies operating a branch in Australia must also register with ASIC. The company must appoint a local agent who is authorised to accept service of notices on behalf of the foreign company. The local agent can be either an individual or a company but must be a resident of Australia. An Australian resident must act as Public Officer for taxation purposes for the branch.
Because a branch is not a separate legal entity, it provides no limited liability protection. Unless exempt, a registered foreign company must lodge financial statements with ASIC at least once per calendar year. Where exempt, an Annual Return is filed each year instead. In either case, a filing fee of $1,339/year applies.

What advice can you give with regards to payroll and taxation requirements?

Income Tax

The income tax year ends on 30 June but Substituted Accounting Periods are granted upon application by taxpayers to align with the fiscal year of a foreign owner.

The corporate tax rate in Australia is 30%, but a lower rate of 25% applies to entities with annual group turnover of less than $50 million.

The corporate tax rate applies to Australian companies and to Australian branches of foreign companies.

GST

A 10% Goods and Services Tax is imposed on the supply of most goods and services. It is a value added tax and is refunded to all parties in the chain of production other than the final consumer.

GST is reported to the Australian Taxation Office on a monthly or quarterly basis.

State Taxes

Each of the Australian states and territories levy payroll tax on assessable wages. There is a threshold below which payroll tax is not payable. In NSW, for example, payroll tax of 5.45% applies to wages above $1.2 million per year.

The states also levy land tax on property ownership, as well as stamp duty on the transfer of some assets.

Payroll and HR Matters

Fringe Benefits Tax (FBT)

FBT is levied on most noncash benefits that an employer provides in respect of employment. It is levied on the employer, not the employee, and is imposed whether the benefit is provided directly to an employee or to an associate of the employee.

FBT is imposed at 47%, equal to the top marginal individual income tax rate.

Some benefits are exempt (eg employee relocation expenses), and others receive some concessional treatment (eg cars), which can present opportunities for tax effective salary packaging.

Most employers will consider the total cost of an employment package, including the FBT cost, when negotiating a salary package.

Leave
Full time employees in Australia work 38 hours per week and are entitled to 20 days annual leave per year. This is pro-rated for permanent part time employees, while casual employees are not entitled to annual leave. Unused annual leave is carried forward until it is either used or paid out on termination.
Full time and permanent part time employees are also entitled to 10 days personal/carers leave (ie sick leave) per year, and 2 days compassionate leave per occasion.
After 10 years of full-time service with one employer, an employee will generally be entitled to long service leave. The entitlement varies slightly from state to state, but in NSW an employee is entitled to 2 months long service leave after 10 years, and one month for each 5 years thereafter.

Superannuation
The Superannuation Guarantee scheme is designed to allow employees to accrue retirement benefits. Under the scheme, an employer is required to make superannuation contributions for most employees. The rate that is required to be contributed is currently 10.5% of gross wages, but this is proposed to increase annually until 1 July 2025, when it will reach 12%.

Workers Compensation
Insurance
Workers compensation insurance is compulsory in all states. Premiums are calculated by applying a rate commensurate with the level of risk of the work to the employer's total wages, superannuation and fringe benefits tax expenses for the year.

Employee Share Schemes
The Australian tax system includes some tax concessions for employee share and option schemes. These provisions are most attractive to "start-ups", which are broadly defined as Australian resident unlisted companies where all members of the group have been incorporated for less than 10 years, and with annual turnover of not more than $50 million.

Is there anything else that I should know?

Australia is among the wealthiest countries in the world, offering a great opportunity for expansion. Australia welcomes and encourages foreign investment, and while the government has the power to block proposals that are contrary to the national interest, the screening process is transparent and liberal. Australia offers a multilingual, highly educated and skilled workforce, benefitting from a comprehensive education and training system.

The country is split into 3 separate time zones. In most states, daylight savings operates for half the year, from the first Sunday in October to the first Sunday in April. During these months, time in Sydney is GMT + 11, so when it's 9am in Sydney, it is 6pm and 11pm the previous day in New York and London respectively. For the rest of the year, Sydney time is GMT + 10. These time differences are sometimes attractive to businesses that are seeking a 24/7 global presence.

MOVING TO EXPATLAND: THE JOURNEY TO AUCKLAND

In this episode of Moving to Expatland podcast series, John Marcarian hosts Cameron McGregor, Director of MGB Advisory in New Zealand. With his lifelong experience in chartered accounting, Cameron McGregor shares professional advice regarding pre-migration and tax challenges, while also giving us a glimpse of New Zealand life in various aspects.
Watch or listen the recording on the Expatland website.

INDIA

Investing in India is a compelling opportunity for “interpreneurs” looking to tap into a rapidly growing economy that is already in the process of overtaking the UK to become the fifth largest in the world. The Reserve Bank of India and the International Monetary Fund predict a 6.8% growth in the Indian economy for 2023.

India is expected to attract $100 billion of foreign direct investment in 2023 with opportunities in sectors such as healthcare, renewable energy, information technology, and real estate. The Indian Government has also put in place an investor-friendly policy, making most sectors open for 100% FDI (direct foreign investment).

Ganesh Ramaswamy, Partner at **Kreston Rangamani and Associates LLP** and Global Tax Group Regional Director for Asia Pacific, advises clients to transition from being founder-led to implementing professional processes, improve corporate governance standards and devising new business models to secure growth in the next 12 months.

INVESTING IN INDIA

India continues to be one of the world’s fastest-growing major economies, setting the pace to become a US$ 10 trillion economy in a decade.

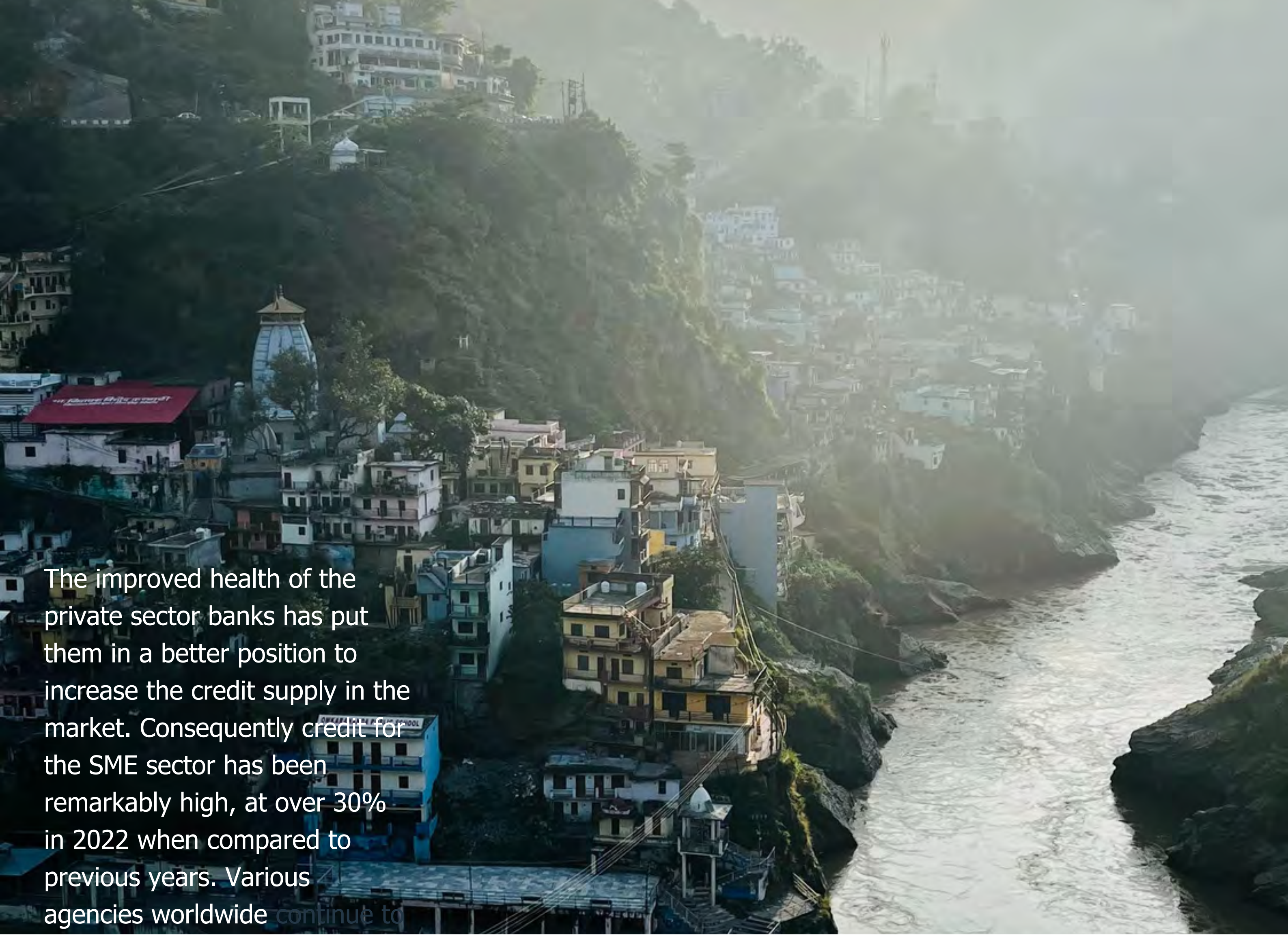
Our recent Interpreneur research highlighted that India was one of the places with the most internationally-minded entrepreneurs. Would you say that was true of your clients' investment activities?
India's GDP grew by 8.7% in 2022, which was boosted by the pandemic induced low base of 2021. India continues to be one of the world’s fastest growing major economies.

Steered by decisive leadership, India is rising to the occasion through a higher global profile. India is in the process of setting the pace to become a US$ 10 trillion economy in a decade. Therefore, we believe that this brings about tremendous opportunities for our firm in engaging ourselves in international business in future years.

How has the economy changed in the last 12 months?
The Indian economy seems to be moving on after its encounter with Covid-19, staging almost a full recovery in 2022 and is poised to reach the pre-pandemic growth path in 2023. The capital expenditure incurred by the Indian Government increased by over 60% in 2022, from that of the previous years, which was a significant growth driver of the Indian economy. India’s economic growth in 2022 has been primarily led by private consumption and capital formation.

What investment opportunities have been attracting new business into the country?
Some of the business opportunities which are currently looking very attractive in India are the following:

- Warehousing and inventory management for e-commerce businesses
- Mobile wallet payment solutions
- Website to App conversion services
- Health record digitization and sharing
- Cyberattack prevention services



The improved health of the private sector banks has put them in a better position to increase the credit supply in the market. Consequently credit for the SME sector has been remarkably high, at over 30% in 2022 when compared to previous years. Various agencies worldwide continue to project India as the fastest growing major economy at between 6.5% to 7% in 2023.

Which sectors are doing well? Have you seen a growth in clients?
Healthcare. renewable energy, information technology, real estate, fast moving consumer goods and the automobile sectors are currently doing very well in India. Many experts speculate that the Indian stock market will progress and expand to be the fifth largest in the world, accounting for high market capitalization.

What new services have clients been requesting?
Most of our clients have gone global. As a result, they expect a lot from us to support their business needs. Many of our clients need 24/7 accessibility of their financial data from us. Some of them need the latest and most advanced security measures to protect their business data against data breach threats. A large number of our clients need us to understand their overall financial position and devise financial strategies that aide their growth.

What advice are you giving clients to secure growth in the next 12 months?
Our firm advises clients to transition from being founder led to more effectively implement professional processes, improve corporate governance standards and devise new business models.

We constantly remind our clients about the fact that the didigitisation of the world economy has brought in substantial disruption to existing business models, and therefore they need to create value from their businesses to build new innovative models to serve their clients in these rapidly changing times.

What investment trends do you predict for the future?

India is expected to attract US$ 100 billion of foreign direct investment (FDI) in 2023, on the back of economic reforms and ease of doing business in India. In 2022, the total FDI, inclusive of equity, capital and reinvested earnings, rose by more than 10% over the FDI received in the previous year with a CAGR of 6% for the last five years. The Indian Government has put in place an investor friendly policy, where most sectors except some strategically important sectors are open for 100% FDI.

ABOUT THE AUTHOR

Ganesh has extensive experience of more than 30 years in providing specialist tax services, particularly to large privately owned groups, with particular strengths in the property, retail, healthcare and hospitality industries. He has supported various entities with specialist advice on tax-effective structures and restructures, cross-border transactions on account of outbound and inbound India investments, mergers, acquisitions and divestments. Ganesh has also worked with stakeholders across businesses to deliver solutions such as tax due diligence, tax consolidation and restructuring of large family businesses in the Middle East, Asia, and Singapore.

Ganesh Ramaswamy
Partner
Kreston Rangamani

DOING BUSINESS IN INDIA

How quickly can I set up a business?
The type of entity that is chosen for the setting up of the business determines the period within which a business can be established. Broadly it can take around 25 -30 days to set up a business, including a minimum of obtaining requisite business licenses, identifying the proper place of business, obtaining Direct & Indirect Tax registration, an entity incorporation certificate, etc.

It may be noted that incorporating a company and setting up a business are two different aspects. Further, if the activity is one for which approval from the foreign-exchange regulator is required it may take more time – anywhere between 60 days to 90 days.

In addition, the business setup process will also include setting up business processes such as accounting, HR, sales & marketing, operations, etc which will take an additional 20 to 25 days time.

What is the minimum investment needed?

The minimum investment is driven more by business requirements, the type of entity that is chosen for setting up a business and the sector in which the company wants to operate. For example, a company looking to set up in the financial service sector under the banking regulation will be required to have a minimum investment of approximately USD 270,000. For a private limited company, the minimum authorised capital is approximately USD 1,350.

How can I raise finance?

Finance can be raised by an Indian entity either from its owners/shareholders in the form of capital and/or through debt complying with specific guidelines for raising debt in the case of private and public limited entity structure. Also, by pledging adequate tangible security, debt and working capital facilities can be obtained from Indian banks.
Banks in India have various funding facilities to fund capital expansions, working capital, project finance, business loans, etc. required for the day-to-day running of business operations and expansions.

What are the legal requirements for setting up my business?

An entity can be set up in the following structures:

- A Private Limited Company
- A Closely held Public Limited Company
- A Public Limited Company which can also be listed on the Indian stock exchange.
- A Limited Liability Partnership Firm
- A Branch of the Parent entity*
- Project office*
- Liaison office*

* Will be considered as a Permanent Establishment of the foreign entity in India. Also, it requires approval from the foreign exchange regulator.

What structure should I consider?

A private limited company is an ideal structure, to begin with, having a minimum of 2 directors. Some of the benefits of incorporating the private limited company are:

- Separate legal entity
- Uninterrupted existence
- Limited liability
- Easy transferability of shares
- Owning property
- Capacity to sue and be sued
- Borrowing capacity

What advice can you give with regards to payroll and taxation requirements?

The choice of location of the entity is dependent upon the nature of the business. For example, the IT sector is concentrated in a smaller number of cities because of the availability of the requisite skillset. Also, some of the cities have Economic Zones that have tax benefits and provide subsidies for new establishments. Eligible entities need to comply with their regulatory requirements.

Payroll and HR are routine functions and can be managed in-house or can be outsourced to third-party service providers. It is advisable to work with a domain expert or a law firm for drafting an employment contract.

The list of regulators below is for required reporting but most clients will also need to comply with other regulators as well depending on their business activities.

- Foreign Exchange Regulator
- Income Tax
- Goods and Service Tax
- Registrar of Companies

Is there anything else that I should know?

Apart from the regular entity and applicable tax laws, one should also be mindful of renewing business licenses, compliance with labour laws for HR processes, compliance with banking funding requirements, the renewal of software licenses, updating the Know Your Customer (KYC) changes, etc.

India has opened its economy and has adopted an economic liberalization program as early as 1991 and since then has made numerous changes to favour ease of doing business in India, for example in the area of obtaining credit, paying corporate tax and business insolvency.

THE ESG LANDSCAPE IN ASIA PACIFIC

Hong Kong and China

The ESG regulatory environment in Hong Kong and China is evolving rapidly, with new regulations being introduced all the time. This is due to a number of factors, including the growing importance of ESG issues for investors and consumers, the increasing pressure on companies to reduce their environmental and social impact, and the growing global consensus on the need to address climate change.

In Hong Kong, the SFC (Securities and Futures Commission) is the main regulator for ESG issues. In 2019, the SFC issued a circular on ESG funds, which set out its expectations for the disclosure of ESG-related information by fund managers. In 2020, the SFC launched a consultation on proposals to enhance climate-related disclosures by Hong Kong SFC-licensed fund managers.

The SFC is also working with other regulators, such as the HKMA (Hong Kong Monetary Authority) and the HKEX (Hong Kong Exchanges and Clearing), to develop a more comprehensive ESG regulatory framework.
In China, the CSRC (China Securities Regulatory Commission) is the main regulator for ESG issues. The CSRC has issued a number of guidelines and regulations on ESG issues, including the Code of Corporate Governance for Listed Companies and the Standards for the Contents and Formats of Information Disclosure by Companies Making Public Offering of Securities.

The CSRC is also working with other regulators, such as the Ministry of Finance and the Ministry of Environmental Protection, to develop a more comprehensive ESG regulatory framework.
The ESG regulatory environment in Hong Kong and China is still in its early stages of development. However, the pace of change is accelerating, and it is clear that ESG issues will become increasingly important in the years to come. Companies that are able to effectively manage ESG risks and opportunities will be well-positioned to succeed in the future.
Here are some of the key challenges and opportunities for companies operating in the ESG regulatory environment in Hong Kong and China:
Challenges:
• The regulatory landscape is complex and evolving rapidly, making it difficult for companies to keep up with the latest requirements.
• There is a lack of clarity on some ESG issues, which can lead to uncertainty and compliance risk.
• There is a risk of greenwashing, where companies make misleading ESG claims in order to improve their reputation.

Opportunities:
• There is a growing demand for ESG products and services, which provides companies with the opportunity to develop new products and services.
There is a growing awareness of ESG issues, which can help companies to better understand their ESG risks and opportunities.
• There is a growing focus on ESG by regulators, which can help to improve the quality of ESG reporting and disclosures.
Companies that are able to effectively manage ESG risks and opportunities will be well-positioned to succeed in the future.

At present, the clear ESG policy regulation mainly comes from the financial regulators, focusing on the mandatory specification of enterprise ESG information disclosure and the policy guidance of ESG investment, and due to the ESG contains E (environment), S (society), G (corporate governance) in different aspects of many issues, different government departments also have different emphasis on its regulatory function related issues.

Specifically, for different objects, the current ESG regulatory measures can be roughly divided into two categories: one is mandatory for listed companies or some specific enterprises, and is forced to disclose ESG information meeting the minimum standards through administrative regulations; the other has incentive requirements and encourages enterprises to disclose ESG information through market means such as green investment.

As the regulatory authority for the information disclosure of listed companies, China Securities Regulatory Commission (hereinafter referred to as CSRC) continuously studies and improves the ESG information disclosure system of listed companies and standardizes the operation of listed companies according to China's national conditions and the stage of market development.

In terms of the ESG investments, domestic regulation focuses on green finance and inclusive finance, The introduction of a series of policy guidance, Promote commercial banks, public funds and other financial institutions to develop more green loans, green bonds, green funds, carbon financial products and other financial products based on ESG investment concept, Guide funds to favor clean, low-carbon and environmentally friendly enterprises and projects, "To provide appropriate and effective financial services to all social strata and groups requiring financial services at affordable costs (Notice of The State Council on the Issuance and Issuance of the Development Plan of Inclusive Finance (2016-2020)", China will promote green and sustainable economic and social development.

MALAYSIA

In Malaysia ESG is also evolving rapidly, as the country strives to become a more sustainable and socially responsible nation. In recent years, there has been a growing focus on ESG issues by both the government and the private sector, and a number of new regulations have been introduced.
One of the most significant developments in the ESG regulatory environment in Malaysia has been the introduction of the UN Sustainable Development Goals (SDGs).

The Malaysian government has committed to achieving all 17 SDGs by 2030, and has put in place a number of policies and initiatives to support this goal.
Another significant development has been the introduction of the Malaysian ESG Reporting Framework. The framework is designed to help businesses disclose their ESG performance and comply with relevant regulations. The framework is based on the Global Reporting Initiative (GRI) Standards, and covers a range of ESG issues, including climate change, water management, and human rights.
The ESG regulatory environment in Malaysia is still in its early stages of development, but the country is making significant progress.

The government is committed to sustainability and social responsibility, and businesses are increasingly taking steps to comply with ESG regulations. Here are some of the key ESG regulations in Malaysia:

• The Companies Act 2016: The Companies Act 2016 requires companies to disclose their ESG performance in their annual reports. The Companies Act 2016 also requires a director of a company to exercise his powers in good faith in the best interest of the company. Bursa Malaysia has required Malaysian public-listed companies to include sustainability reporting in their annual reports. Directors of large, listed companies are also required to apply the corporate governance and sustainability practices in the Malaysian Code on Corporate Governance.

• The Environmental Quality Act 1974: The Environmental Quality Act 1974 sets out the environmental standards that businesses must comply with.

• The Occupational Safety and Health Act 1994: The Occupational Safety and Health Act 1994 sets out the safety and health standards that businesses must comply with.

AUSTRALIA AND NEW ZEALAND

In Australia, the Australian Securities and Investments Commission (ASIC) has been a leading regulator in the ESG space. ASIC has issued a number of guidance documents and infringement notices on ESG issues, and has also undertaken a number of enforcement actions. In 2021, ASIC fined a major Australian bank $10 million for misleading investors about its ESG credentials.

Additionally the Australian Accounting Standards Board (AASB) has been empowered to issue guidance on the accounting treatment of ESG-related items, including disclosures for climate relate risk and sustainability reporting standards.

The New Zealand Financial Markets Authority (FMA) has also taken a number of steps to promote ESG investing in New Zealand. The FMA has issued a number of guidance documents on ESG issues, and has also undertaken a number of enforcement actions. In 2021, the FMA fined a major New Zealand bank $5 million for misleading investors about its ESG credentials.

Both ASIC and the FMA have made it clear that they will take action against companies that mislead investors about their ESG credentials. This has led to a number of changes in the way that companies report on their ESG performance. Companies are now more likely to provide detailed information about their ESG risks and opportunities, and to undergo independent ESG audits.

The growing regulatory focus on ESG issues is likely to continue in the years to come. As ESG investing becomes more mainstream, regulators are likely to take a more active role in ensuring that companies are complying with their ESG obligations. This will lead to a more transparent and accountable ESG market, which will benefit investors and companies alike.

In addition to the regulatory environment, there are a number of other factors that are driving the growth of ESG investing in Australia and New Zealand. These include:

- The increasing awareness of climate change and other environmental issues
- The growing demand for socially responsible investments
- The increasing availability of ESG data and information
- The growing sophistication of ESG investment products.
- The increasing evidence to suggest financial outperformance of companies that rate well on ESG metrics
- The increasing pressure for companies to improve ESG performance as they otherwise face reputational and brand risk

The growth of ESG investing in Australia and New Zealand is likely to continue in the years to come. As more and more investors become aware of the importance of ESG issues, and as more and more ESG investment products become available, ESG investing is likely to become the norm.

KRESTON GLOBAL WELCOMES BANGLADESH FIRM

Kreston Global welcomed new Bangladesh-based firm Howlader Maria & Co., (HmAC) to the Kreston network in February 2023.

Based in Dhaka, the firm offers audit, accounting, tax, foreign direct investment facilitation & business consulting services.

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