SAFEGUARD GLOBAL

Global employment guide for fast-growing companies

How to hire top talent quickly and compliantly in new international markets

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INTRODUCTION

For many hypergrowth and gazelle companies, hiring top talent anywhere in the world is key to meeting market demands and capturing opportunities as first movers.

The challenge is how to add workers in new countries without taking on the traditional delays and costs of international expansion.

Especially in today's competitive talent market, you have to move fast when it comes to filling the crucial roles needed for advancing business goals—all while navigating unfamiliar employment laws and compliance risk, often without local HR resources.

This guide is based on our experience helping hundreds of companies overcome hiring challenges and add the workers they need to grow their business all around the world. We'll walk you through:

- Obstacles to hiring in foreign countries
- Repercussions of hiring mistakes
- A scalable solution for global HR and payroll

OBSTACLES

What's standing in your way

There are two major hurdles hypergrowth and gazelle companies typically face when hiring in foreign countries:

1. You need to hire fast, and entity establishment is a lengthy process
2. You lack local HR resources and expertise to guide you through unfamiliar labor laws and customs

Entity setup can slow you down

In order to directly—and legally—hire employees in a foreign country, you must have a registered business entity. The problem for fast-growing companies is that time is of the essence, and establishing an entity in a foreign country is often a lengthy, not to mention, costly process. To wit:

- Establishing an entity can take an average of six to nine months, a timeline that doesn't even include hiring and onboarding your new employees (which is kind of the point!).
- Legal and tax advisory fees can run into the tens of thousands of dollars. This doesn't include local real estate, banking and resident director costs, which many countries require.

For companies whose global workforce expansion is a critical component of their business strategy—sound familiar?—time and money are often better spent on the research, development and market disruption activities that attract top talent, not on tedious administrative activities like entity establishment.

3 types of entities

Representative office

A bare-bones entity used primarily for administrative operations; the parent company assumes full liability.

Branch office

An entity that's an extension of the parent company; unlike a representative office, it can be used for conducting business in a country, but it usually requires a citizen or permanent resident to complete the registration.

Subsidiary

Operates and conducts business in a country as a separate legal entity, shielding the parent company from legal liability; often requires an in-country representative for registration.

Local HR and payroll complexity

Beyond the structural considerations like entity establishment are the human resource challenges of hiring internationally. Even if your company has decided to invest in entity setup in a country, you still must contend with the logistics of bringing on new workers and making sure you employ them in accordance with the local labor laws and customs. But that's hard to do without in-country HR and payroll experts who ensure your organization remains compliant.

Of chief concern is contracts. Should you hire workers as independent contractors or full-time employees? On fixed-term or indefinite contracts? Do you know what to include in a contract to protect your IP? Here are some things to think about:

Independent contractor vs. employee. Hiring independent contractors internationally can be risky, because although they vary from country to country, the laws governing employee classification generally have strict parameters.

For instance, if your company hires a developer as an independent contractor, but they meet any of the following criteria, the local government may view the worker as a full-time employee, putting you at risk of misclassification.

- The contractor is paid for time worked rather than per project
- The contractor uses your tools or resources to complete a job
- The contractor only provides services to your company and does so for an extended period
- You manage the day-to-day work of the contractor

If you hire someone as an employee, the criteria above are to be expected from your worker; additionally, you'll be responsible for withholding various taxes required and provide the worker with benefits, both government-mandated and socially expected.

There's also the potential competitive advantage of hiring a candidate as an employee vs. an independent contractor. Offering a full-time position, complete with perks and benefits, signals that you're serious about them and the value they'd bring to your company.

Fixed-term vs. indefinite contracts. Another contract consideration is what type you should offer your workers.

A fixed-term contract, also referred to as a limited-term contract, usually falls withing the one- to three-year range. This type of worker contract could be a good option if you're still evaluating a market's potential and aren't ready to commit to full, long-term expansion in a country.

But because many governments have stipulations for how and when a fixed-term contract can be used, it could also put you at risk of noncompliance if you don't follow the nuanced requirements to a T. Be aware of:

- How long a contract can last and whether (or how many times) it can be renewed
- What types of roles your fixed-term worker can hold
- The applicable benefits your company must provide as part of a fixed-term contract

An indefinite contract is exactly that: a contract that doesn't have a defined end date. When you need workers to help grow your presence in a market, hiring workers on indefinite contracts could offer the flexibility needed to test and iterate offerings or other local projects. The rules for what must be included in an indefinite contract vary from country to country, but an indefinite contract generally spells out:

- Wages and benefits
- Leave policies
- Probation and disciplinary processes
- Dismissal and termination

Intellectual property terms. When employees' work includes creating intellectual property, it's important to understand the nuances of the laws in the local country regarding who owns what—and what specific language must be included in the employment contract to ensure company IP is protected. Considerations include the very definition of IP, which can vary from country to country, and what constitutes copyrights, trademarks, patents and trade secrets.

For example, in France and Germany, there are laws that "prohibit assignment of an author's copyrights and/or moral rights in a work either entirely or prohibit such rights from vesting initially in the employer."[1]

Additional HR requirements to consider

Ensuring compliant contracts is only part of what makes international hiring a challenge if you don't have local HR and payroll resources. Hiring in foreign countries also means you should be knowledgeable about local employment customs. Consider:

Pay raises. In some countries, employee raises aren't just at the discretion of the employer; both unions and the government may define how often and by how much wages are to be increased. If you're planning on hiring workers in Brazil, Colombia, Greece, Malaysia or Turkey, for example, it's important to understand that there are pay raise mandates from either union agreements or the government.[2]

Extra pay. Many countries require a 13th-month installment, usually equivalent to a month's salary. It may be a one-time payment, a holiday bonus, or spread across the year in multiple payments. Some countries that require a 13th-month installment include Argentina, Brazil, Italy, India and the Philippines.[3]

Gender equity. In some countries, there are laws governing pay equity among genders. Employers in France, for example, must report on pay gaps and actions taken to address them; they receive an "equal pay rating" that could result in a financial penalty if corrective measures aren't met.[4] In the UAE, there are labor law provisions that require women to be paid the same as men when undertaking work of equal value.[5]

[1] "Cross-Border Considerations for Protecting IP Developed by Employees and Independent Contractors," Lexology, May 30, 2017.
[2] "Grasp Country Differences to Manage Global Pay," SHRM 2010
[3] "Grasp Country Differences to Manage Global Pay," SHRM 2010
[4] "Responses To Gender Pay Inequity: A Quick World Tour," Lexology 2019
[5] "The New UAE Labor Law—What You Need to Know," SHRM, December 10, 2021.

Why HR missteps can slow down growth

Because keeping up your pace of growth depends on hiring the right people—quickly—in a critical region or country, you likely can't afford to get HR or payroll wrong.

But employing workers in a country where you're unfamiliar with labor laws and customs (you may even have a language barrier), increases the likelihood of error. And when there's error, there are often penalties—if severe enough, they may require your company to halt activities in the country, which could have a negative effect on your all-important momentum.

Here's just a sampling of the penalties for an HR or legal mistake:

$37 million

in back taxes

That's how much Weight Watchers was ruled to pay the U.K. when it was found to have misclassified high-level employees.[6]

3 years

in prison and a €45,000 fine

That's the criminal penalty for proven offenses of undeclared work in France.[7]

13 years

of back holiday pay

That's what a contractor was deemed entitled to after a U.K. court ruled that he was indeed a worker and had a right to things like the national minimum wage and holiday pay.[8]

1 million

UAE dirham

That's how much employers can expect to pay for breaches of the New Labor Law (Federal Law No. 33), which updates various employment rules, including those governing fixed-term contracts, termination, parental leave and noncompetes.[9]

[6] "UK Misclassification Spat Costs Weight Watchers $37M," Law360 Tax Authority
[7] "Worker Misclassification: An Innangard Report on Employee Status and Consequences of Worker Misclassification in Key Jurisdictions," International Employment Law Alliance 2016
[8] "Key Case: King v Sash Window Workshop Ltd - The Employment Law Implications," Bird & Bird, 2017
[9] "The New UAE Labor Law—What You Need to Know," SHRM, December 10, 2021.

SOLUTION

A scalable approach for hiring workers worldwide

Survey after survey of fast-growing companies shows that adding global talent at scale is a priority.

Specifically, according to the World Economic Forum, over 55% of hypergrowth companies cite talent, and 70% say scalability are key to their global growth.[10]

So how can these fast-growing companies add the talent they need around the world at scale when they don't already have local entities or HR resources to ensure employment compliance? There is a solution:

A global employer of record.

An employer of record (EOR), referred to by some providers as an international PEO, enables companies to hire international workers without having to take on the delays, cost and risk of establishing an entity (that's because the EOR has already done that).

When you partner with an EOR, it hires workers on your behalf and assumes responsibility for complying with all employment and payroll requirements in the country. Often, hiring and onboarding of new international workers can be completed in as little as two weeks. You, in turn, manage the employees' day-to-day work and contributions to helping your company grow.

[10] "Mastering Hypergrowth: Comprehensive and global sample of growth," World Economic Forum.

A competitive advantage for specialized tech talent

One of our gazelle clients is a tech consultancy in Norway. The company requires highly specialized talent to help expand the business, which provides Microsoft assessments, training and technical implementations.

Because the talent the company targets is in high demand, it realized:

1. It had to expand its search beyond its Norwegian borders
2. It had to act fast when it found a promising candidate, so entity establishment was not an option
3. It had to have a competitive, compelling offer, which meant hiring as full-time employee rather than a freelancer or contractor

The company found that our employer of record solution made all three possible, helping enable a **67% workforce increase in just seven months.**

Learn more about how the company continues to win top talent at scale.

Why you need local HR expertise

A key benefit is the local HR guidance that an employer of record provides. The EOR acts as an in-country extension of your HR team, so you don't have to spend precious time learning about local labor laws and hiring customs as you work to secure top talent. An in-country HR team is especially valuable when it comes to three main areas:

Compliance. An EOR will ensure that your foreign workers are hired, onboarded and paid in accordance with all labor and tax laws in the country. Here are some questions you won't have to worry about because your in-country EOR team will handle:

- Do worker contracts correctly include everything that's required by the local authorities?
- What benefits are workers entitled to?
- Are the appropriate federal and/or province taxes withheld from workers' paychecks? In addition to income tax, taxes for social costs; entitlements like healthcare, pension, disability; and unemployment are often withheld.

Contract adaptability. Because you may just be exploring a new international market's potential, an indefinite contract that allows you to keep workers for as long as you need them is often the way to go. If there's a shift in priorities and you need to terminate workers, an EOR can ensure all contract terms not only protect your company (and do right by the workers), but they also adhere to local termination requirements.

Worker satisfaction. In addition to serving your business with regulatory guidance, in-country HR partners also help ensure worker satisfaction by serving as a local face for the often foreign employers. This includes helping ensure that international workers feel like they're a part of the greater global team with comparable benefits, perks and tools as employees from around the company. The new foreign workers are assured there's someone protecting their interests, because the local HR teams know firsthand what fair hiring, salary and benefits should look like.

Flexibility to set up permanent shop

Another way an employer of record can help hypergrowth and gazelle companies is by offering flexibility to meet your changing needs as you expand internationally.

For example, you can enter a new foreign market by hiring and onboarding local workers in partnership with an EOR. Over time, as business and opportunities in the country grow, you might decide it's worth the investment to set up your own entity. Thanks to the flexibility of an EOR, you can easily transfer your outsourced workers to your own entity and hire them directly.

AN EMPLOYER OF RECORD IN A NUTSHELL

CONCLUSION

The help you need to hire quickly and compliantly in new global markets

As a gazelle or hypergrowth company, you know that continuing to meet your lofty business objectives often means expanding into new global markets, sometimes as a first mover, and hiring top foreign talent.

To be competitive, you need to be able to move quickly, and you need to be able to repeat the process in another country when a new opportunity presents itself.

Our employer of record solution, Global Employment Outsourcing (GEO), has been solving fast-growing companies' biggest HR challenge—hiring overseas at scale—for over a decade. As the first truly global EOR, we've seen all the ways a company can benefit from outsourcing the burden of local hiring and HR compliance in order to focus on the strategic initiatives that drive business growth.

Our global solutions advisors can assess your international hiring needs and propose a solution that helps you grow your business around the globe. Contact us today to get started.

Safeguard Global enables global expansion without the risk. As a pioneer in global workforce enablement and Employer of Record (EOR) services, Safeguard Global helps organizations quickly and compliantly recruit, hire, pay, and manage teams in nearly 190 countries, without establishing legal entities. The company's technology platform is backed by over 400 experts working in 65+ countries who deliver human support when it matters most. With a breadth of global workforce solutions that also includes HR, benefits, accounting, legal, visa and immigration, and tax services, Safeguard Global guides customers with the expertise and support they need to scale faster and hire smartly around the globe — wherever they are in their expansion cycle. At Safeguard Global, borders become bridges.

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