



Transitioning into a 2021 mindset – reflecting and adapting for a more successful year

A discussion on the new challenges
and opportunities for businesses in 2021

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2021 - A new year, new opportunities?

Is there a buzz about the re-emergence to the “old normal” or are there lots of hurdles to jump before any normality is resumed?

The past year has been a challenging one on a number of fronts for many. With many positive signals from health experts across the global, there is a cautious optimism in the U.S. that we may soon be able to put COVID-19 to the side and develop a new, “business as usual” approach.

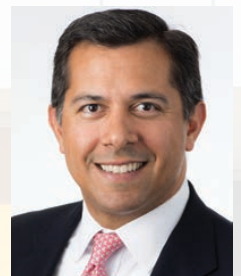
In anticipation of this emergence back into the “old” yet equally “new” normal, we had the opportunity to connect with several senior legal and business leaders for a virtual discussion reflecting on their organizations’ challenges and focus for 2021.

The roundtable was part of Reed Smith’s wider series designed to create a platform for senior business leaders, general counsel, legal and business teams and senior management representatives to share relevant business experiences, discuss live issues and explore strategic ideas for the future. Our aim is to foster a real peer-to-peer learning environment, allowing clients to discuss real and current issues in an informal but informative setting.

Our roundtable events, in their virtual and in-person formats, are held under the Chatham House rule. Therefore, we have not provided specific names or examples in this report and have kept it confined to themes. This report outlines the key themes and some of the key “now and the next” areas that emerged during the discussion with participants.

As we continue to explore some of the critical issues in-house legal teams are dealing with, we are grateful to our clients for their participation. We look forward to continuing the dialogue with them as our global “new normal” becomes “normal.”

Edward J. Estrada
Partner, New York



Business culture and team development will influence the return to work – the debate continues...

The first few months of 2021 have continued to present us with 2020's challenges and changes as the seemingly one constant since the onset of COVID-19. While there appears to be ***"a light at the end of this tunnel"***, in-house lawyers continue to grapple with shifting sands in their efforts to establish a consistent path forward as we progress out of the pandemic.

A continued trend has been for senior clients to multi-task and juggle a variety of operational priorities, including managing their own roles, and team members, as well as adopting a more HR and "hands-on" function. They have also had to manage the different needs of their business, from considering employee office attendance – ranging from five days in the office (typically out of operational necessity) to fully remote working – to the health and safety of their employees and much more! Home proximity to the office has played a role in the ability for some employees to commute even for a day and it was acknowledged that ***"it is not something that is accessible to everyone."*** ***"Typically we are still at very low numbers going back in."***

As ***"the 'new normal' became just 'normal,'"*** business, personal and cultural priorities have evolved and leaders have taken notice. Management is currently working through how to effectively and safely manage a balance for employees who want or need to go in and those who don't feel comfortable in returning yet, and the ultimate cultural impact this could have on the future office environment. ***"Traders hot-desking and moving in and out of different areas when working with five screens or a Bloomberg terminal is not the same as a lawyer moving her laptop."*** The general view is to allow employees in the office a few times a week, as necessary, and implementing a ***"work from anywhere policy,"*** thus relying less on the need for office space.

What is keeping clients up at night?

Headaches on the horizon for HR?

- o As some employees have taken the opportunity to move to low or no tax state jurisdictions, such as Florida, how will this affect HR policy and the corporate culture in the longer term?



Please note: Throughout this report quotes in ***"blue italics"*** are direct quotes from the session.

Messages on company culture coming from the top

Clients spoke of the challenges faced by their global teams' varying office access protocols, which have the potential to erode a cohesive culture – ***“With some jurisdictions allowed in the office, will we go back to the old thought process of those who work remotely work less?”*** In a move for solidarity and for the firm to promote flexibility, one group's CEO has given up the corner office to embrace the appeal of ***“an open dynamic...giving people the flexibility so that they are at their best...but recognizing that collaboration needs to happen.”***

Helping to manage employee anxiety

- o Organizations are anticipating employee concerns around the necessity and willingness to travel to work or for business. ***“It is normal to be anxious to go back into the world when every day you're reading how dangerous it can be to travel, and we know this will be a concern in the workforce.”***

Ready to move the goal posts (again), but it is “business as usual”

- o The goal posts for returning to work may continue to be moved back depending on the current situation – whether locally or internationally. ***“We haven't really formed a view of when everyone will be back in the office.”*** Nevertheless, the prevailing thought is for some sort of return in late spring or early summer of this year. For now, in-house legal teams will continue to support the business remotely but acknowledge that this may change as they start to prepare the business for the post-pandemic world. Should any businesses require their employees being onsite, a full-time return for all employees may become a priority.



Remote working – will this become part of the “future of work”?

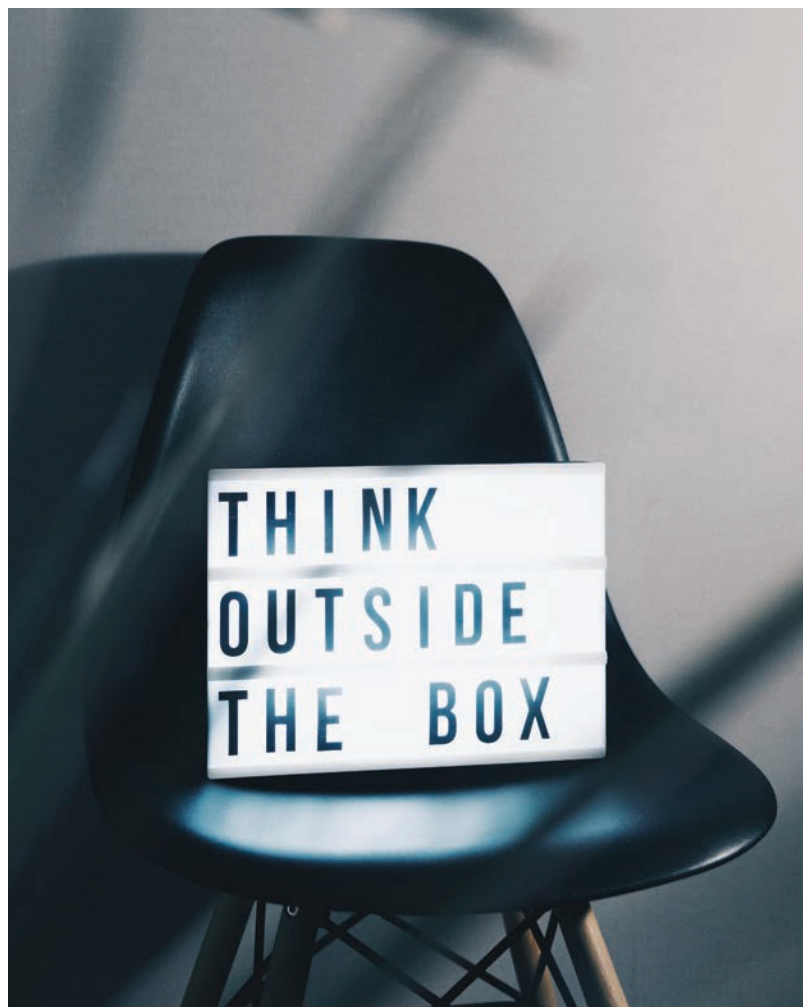
The pandemic has changed the fabric of the workplace with obvious and clear transformations taking place at the corporate, team, and employee levels. From lessons learned over the past year and with an immediate focus on the future design of the workplace, businesses are looking at how to integrate and normalize the features of our new reality.

Remote working and the flexibility it offers have different consequences across industries and sectors, as organizations continue to adapt and shape policy around workplace culture. Clients discussed how their senior management teams are **“having serious conversations”** with legal about which and what types of workers are better suited to work remotely, employment law compliance requirements and considerations for any future remote working policy. Importantly, discussions are also taking place at a high level on **“what will the overall [long term] effect be on the culture of the company”** if they were to introduce a remote working policy on a quasi-permanent basis.

The argument for fully populating the office back to pre-pandemic times seems to have mostly passed. All major businesses are now scrutinizing existing office footprints and the needs and requirements of their office and the business are being evaluated.

Companies will now start to rethink their traditional office model and to think “outside the box” and consider how to make it more appealing for employees to want to return to the office. Perhaps think about more Google style office set ups with a social element built into the dynamic? Or better recreational facilities designed into the traditional office model to make it more attractive for everyone to want to work in the office?

“We need to walk a fine balance between being in office and remote working...this thing isn’t over yet and hopefully will be over soon.”





Exciting yet uncharted territory – key focus areas for the “future of work”

Rethinking business resiliency requirements

- o As organizations gained increased comfort with remote working, business leaders turned to analyzing the use and benefits of back-up business resiliency facilities. The pandemic experiences varied from minimum utilization (***“We don’t need it as everyone can work from home”***) to a complete operational and retrofit meeting industry compliance standards (***“We have just put more capacity into our business resiliency office to meet the needs”***).

Hiring in a remote environment

- o For some managers, hiring and onboarding new staff on an exclusively remote basis has been a challenge without the opportunity to ***“look them in the eye”*** during the interview process. Despite the inherent difficulties, hiring remotely has forced companies to develop more comprehensive onboarding systems and processes overall. While companies are still working on cultural adaption for new hires, they are also finding different ways for juniors to pick up “soft” or basic business skills from experienced senior employees by ***“osmosis”***. Overall, the general view expressed by our clients who attended the roundtable was positive – ***“We were terrible before and had to review and get feedback on what worked and what did not.”*** Some clients commented that since remote working, they have in fact improved their onboarding processes whereas before, they either didn’t have proper onboarding protocols or they were generally lacking.

Accessing a broader talent pool

- o Clients across different industries continue to reiterate the welcome surprise in their organization’s ability to maintain efficiency and productivity while operating in a virtual environment – despite the challenges. With success ***“under our belts,”*** management is turning its attention to ***“opening the door to a broader talent pool without people having to relocate.”*** However, this in turn has a knock-on effect and broader implications for corporate culture, especially at a regional level. ***“These are things we are all struggling with.”***

Employee wellbeing – a key component of return to work strategies

Concern for employees has been **“top of mind”** for HR and legal teams as organizations continue to confront the many issues faced by employees – ranging from isolation, loneliness and childcare challenges to mental and physical wellbeing – as well as contending with remote onboarding of new staff.

While clients have implemented various initiatives to maintain connectivity and high performance throughout the pandemic, a general sentiment was expressed that more should be done to help employees cope with the stress and anxiety – **“It is something that we are still working to fine tune and to be able to bring people along in a way that they don’t feel disconnected.”**

Compassion and empathy have emerged as key and essential attributes for company leaders as we mark the anniversary of the pandemic. The prolonged remote working environment has clearly taken a toll on some employees who either live alone, with no close family or friends, or have the additional challenge of managing children (and home schooling) as well as having to contend with other family issues while working from home.

More than 12 months into the pandemic, organizations have come to appreciate that the initial **“over-communicative”** style implemented in the early days, weeks and months of the pandemic may have been a bit too much as they tried to convey **“a sense of normalcy”** to help try to keep their people engaged and connected. **“We have now fallen into a better cadence that is less taxing.”**

Clients stressed that management teams continue to demonstrate flexibility and, where required, compassion toward their employees and that their in-house legal teams have a pivotal role in developing and implementing their post-pandemic and “new normal” HR policies.

What’s next?

Managers working within this new environment must find the balance between demonstrating compassion and at the same time respecting employee privacy. Looking forward, companies will need to ensure remote working policies are flexible, especially in smaller businesses, allowing for case by case analysis when employees want to return to the office. **“I empower my managers to make decisions in the best interest of the employees and the team.”**

When and how to go back?

There is a general consensus that any move should **“not to be forced.”** Furthermore, when considering the return to office plan, employers must be sure to maximize in-person interactions for team members as part of their overall strategy. This will be vital for maintaining their culture, staff development, and morale and to help collaboration among colleagues – **“When you can’t sit in a room together producing some work and are limited to a two-dimensional basis [via video] – this presents a challenge.”** For some teams, certain tasks do not sit well with remote working environments and can take much longer to accomplish, eroding the trust and confidence which are key for overall team morale.



Legal's role in the return to the office

Across industries, legal teams are discussing ***“whether it is the legal function’s responsibility to determine the back-to-office strategy or to follow the business’ lead.”*** As an in-house support function, there has always been a push for legal teams to demonstrate their value to the business and they must manage expectations and set parameters around team comfort levels that will maximize benefit. ***“The key is not to get ahead of the business in dictating policy.”*** ***“If the business covered is in the office, Legal should be where the decisions are being made.”***

Thriving in the corporate culture – the desired post-pandemic skill sets

For many managers, the pandemic has offered a unique opportunity to evaluate their teams' performance and skill sets in the context of what their business needs going forward. Among our clients, there is a collective sense that people who perform well generally continue to do so remotely while ***“employees who are struggling will continue to struggle”*** regardless of where they are physically present. ***“This past year has certainly had a magnifying effect on separating the ‘superstars’ from those that are struggling.”***





Be a self-starter

An entrepreneurial spirit is something that pays dividends for the team and organizations. Tap into this spirit and seek out opportunities to develop new products or provide value navigating complications or new policies. Leverage cross-functional experience to keep moving the needle forward.

“[The pandemic] has given new meaning to ‘self-starter.’”



Be a trusted advisor

Even if new to a role, look for ways to use prior experience to quickly become a **“trusted advisor”** to the business and use knowledge and patience to train and teach.

“Good people identify where they can add value and do not just stick in their swim-lane.”



Focus on relationships and listen... then act

Use your relationships and be open with your line manager and the businesses covered to increase communication and build rapport. In a remote environment, communication has a tendency to break down. Be sure to listen, then act as frustrations can be exacerbated, widening the gap between the extremes.

“If you didn’t have a relationship with the business you worked with, this only made it harder.”



“We had international virtual meeting with two CEOs from differing industries, and the technology CEO was unable to join Zoom.”

Technology – the good, the bad and the ugly

Most established organizations were able to quickly pivot and leverage their pre-existing technologies as they settled into the “new normal” of the pandemic. Collectively we have come a long way, more than 12 months down the line, in terms of how to navigate the related challenges and issues – some cringeworthy and some positive (e.g., discovering new solutions). Clients reflected on the primary logistical hurdles, involving “basic” or simple functions that we once took for granted, particularly the ability to print, share documents, manage multiple screens, and participate in video conferencing sessions. One senior legal team member commented, ***“I am fortunate to live a few blocks from the office and have been able to go in to print.” “Even though we had plans to adopt these technologies, the pace at which we had to scale up caught us off guard.”***

The “simple” office resources that became a challenge in the remote work environment...

Printing and document sharing

DocuSign has been a ***“game changer”*** for businesses that previously required certain strategic people to go the office to physically print and sign documents – ***“It forced us to begin implementing [DocuSign] on a much faster basis across the business.”*** Other remote working hurdles faced by clients included the ability to print at home and whether this posed an information security risk. This was top of mind for one client who was actually ***“getting on a plane the next day to discuss legal department strategies and goal setting with printing at home as one of the agenda topics.”***

Fundamental changes have taken place with the evolution of document technologies. ***“Digitization sped up because of the pandemic – it’s here to stay and we’re not going back.”*** Adobe Acrobat and DocuSign have been ***“pivotal,”*** as has document sharing on Microsoft Teams, which provides the ability for different team members to work on one document and edit in real time. ***“We have been pleasantly surprised by the efficiencies.”***

Video conferencing – the challenge

Though it is by no means a “new” technology, video communication has also faced its share of challenges and glitches stemming from increased usage during the pandemic. Video conferencing was used for a variety of reasons, from client meetings and town-hall gatherings, to wellness check video calls with employees and team members as well as virtual team socials. Then came the ramp-up to strategize on a return to business with planning sessions and virtual conferences. All of this clearly added to the increased demand for video conferencing by the remote working world.

Panelists also discussed the hurdles they found in choosing from a myriad of options – WebEx, Zoom, Microsoft Teams – and the various accompanying chat functions and their compatibility with in-house servers or security walls. ***“We work in different countries and were using different platforms – needed to sort it out.”*** It was pointed out that in some instances, video conferencing was further complicated by in-house compliance and information security protocols when joining in via a work computer versus a home computer or personal device. ***“We are not allowed to use Zoom on our work computer, but can only use WebEx. Information security, don’t want to mess with it.”***

Video conferencing – the fix

Information technology departments have had to reckon with the task of consolidating conferencing platforms in order to lessen their technology challenges. Moving to a single conferencing platform seems to have made all the difference. ***“We had a slow start with the technology but now can see each other across our global footprint and put faces to names.” “...a strong connectivity point – people feel more accessible.”***

One client noted that IT professionals were even able to introduce close captioning for live video events and annual general meetings, which is a significant step toward inclusion. ***“I work with a hearing impaired colleague and this has changed his life.”***

The telephone is not outdated

Interestingly, some client teams have made a move to reincorporate older communication means to stay connected – ***“We’ve been holding more 2000 technology style phone conference calls”*** as ***“Zoom conferences are exhausting.”***

“As litigators we hope Zoom court room sessions will go away as people will want to go back into court.”



“

“Frankly – give people a break from video conferences – they wipe you out.”

”

“Video conferencing has been a great way to connect with senior leaders.”

The other hot buttons for 2021 – DE&I, ESG and digital transformation

When asked about the disrupters that businesses should be confronting within their sector or macro environment, clients zeroed in on three evolving trends that ***“are in the mainstream and no longer niche”***: diversity, equity and inclusion (DE&I), environmental, social and governance (ESG) and digital transformation.

Diversity, equity and inclusion

DE&I is by far the major focus for clients, particularly after the events of the summer of 2020. ***“While diversity and equity have been a part of the culture, inclusion has been brought to the forefront as a newer concept.”*** Clients related that they have had the uncomfortable conversations, which has helped employees to be more at ease in speaking openly.

For internationally headquartered businesses, cultural factors can play into where they stand on the DE&I spectrum and how much further they need to progress. ***“While they want to do the ‘right thing,’ they haven’t lived it or experienced it, so all they can do is have the conversations and ask the questions,”*** which will help them on their journey.

Environmental, social and governance

A ***“green focus”*** has become part of management decision making and provides another opportunity for corporations to enact change. Similar to DE&I, clients are at various points on the continuum with regard to their ESG policies. One client noted ***“This is something we were already doing and is impacting everything we do going forward – filtering into every part of our business”*** with another commenting ***“We created a whole new role at our executive level for an ESG Officer”*** as required by regulators.

Digital transformation

“Digital transformation is next on the horizon for us... It is part of our industry’s natural progression”

Businesses, particularly established players in the financial services sector, discussed how they are keen to be involved with the blockchain as it applies well to trade finance, which is labor intensive and often error prone. ***“It will revolutionize our business and allow us to compete with the FinTech companies.”*** However regulators remain hesitant while they await guidance from the SEC. Clients agree that the financial services industry will adapt and issues ***“should sort themselves out – much like the future of work.”***



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