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SEPTEMBER 3, 2026

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Hugo Hernández Ojeda Alvírez

Partner at Hogan Lovells Cadwalader (Mexico City)



MASTER OF CEREMONY



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Omar Guerrero

Director Partner at Hogan Lovells Cadwalader (Mexico City)

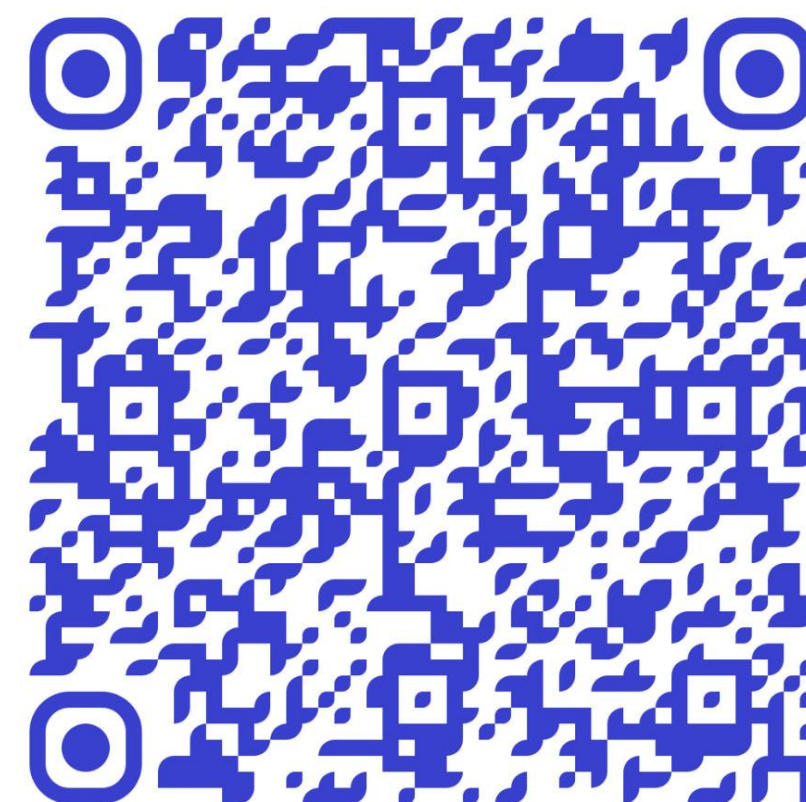




SEPTEMBER 3, 2026

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AGENDA





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WEALTH PLANNING PANEL

Cross-Border Planning in the Context of Buying and Selling Entities



MODERATOR

Ivonne Aguilera

De Hoyos Avilés (MX)



PANELIST

Andrés Viedma Gallano

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Agustín Ceballos

Buchalter (US)



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Eugenio Grageda

Holland & Knight (MX)



PANELIST

Hillary Dorne

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Cross-border Planning in the Context of Buying & Selling Entities

USMBA Annual Conference

September 3, 2026; 09:00 a.m. – 10:00 a.m. Cd Mx

**Hogan Lovells Cadwalader; Paseo de los Tamarindos 150-GF, Bosques de las
Lomas, Cuajimalpa de Morelos, 05120 Mexico City, Mexico**



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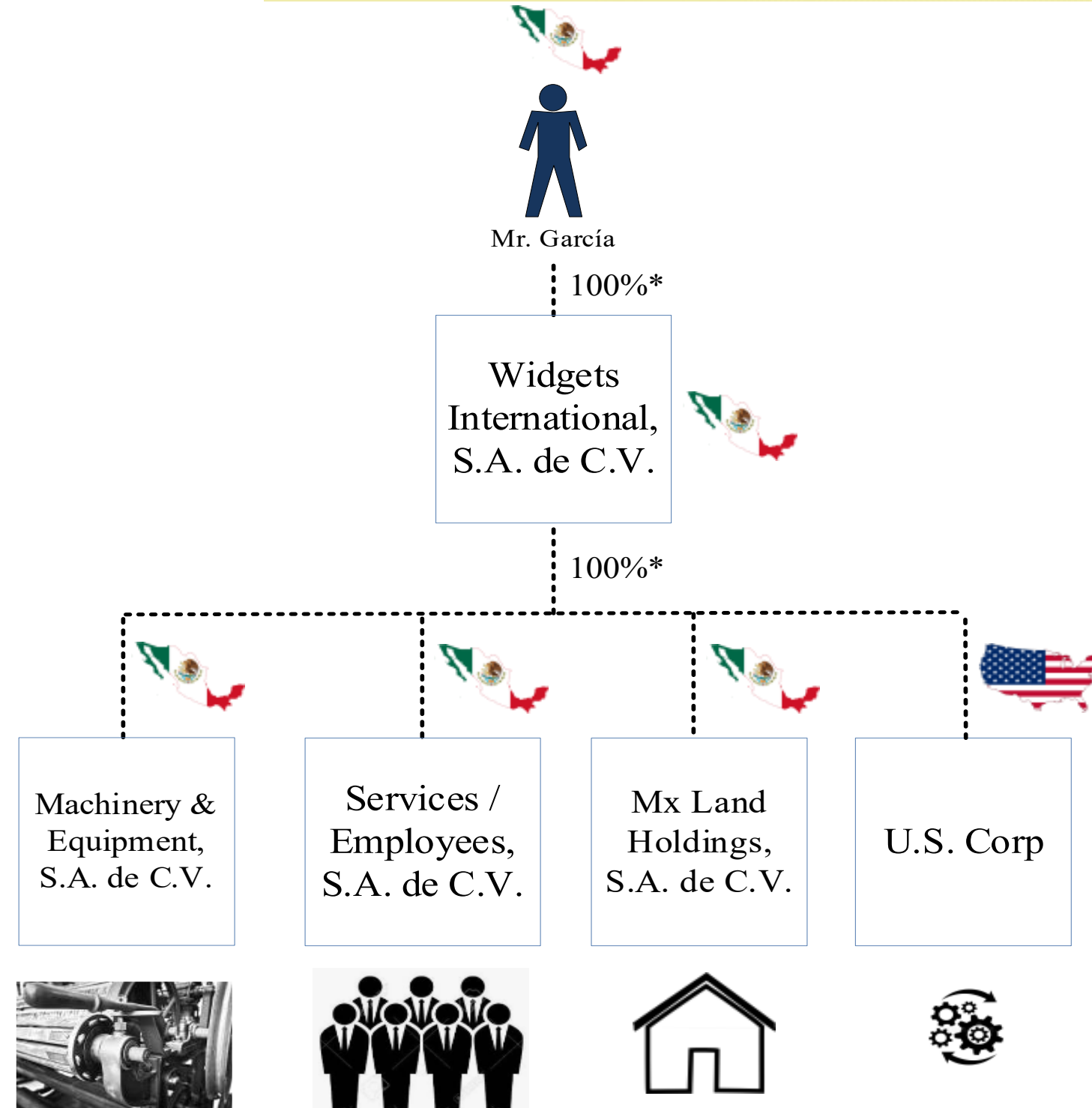
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Case Study

- Seller: Mr. García, a Mexican tax resident and citizen, owns 99.99% of Widgets International, S.A. de C.V., a company engaged in the purchase and sale of widgets throughout Mexico and Latin America (“Mx Co.”)
- Buyer: U.S. LLC, a Delaware limited liability company owned by an international investment fund seeking to expand its business in Latin America (the “LLC.”)
- Mx Co has EBITDA of USD \$50 million.
- Mx Co owns subsidiaries (including a U.S. subsidiary) which in turn own machinery, equipment, employees, land, offices, buildings, and other assets used in the manufacture of widgets.
- Fair market value of Mx Co stock: USD \$250 million.
- Mr. García’s tax basis in the stock: USD \$10 million.



*For purposes of this example, the two-shareholder minimum under Mexican corporate law is disregarded.



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BANKRUPTCY PANEL

Cross-Border Insolvency and Restructuring: Maximizing Potential – The Global Need for Restructuring and Reorganizing



MODERATOR

Alissa M. Nann

Foley & Lardner (US)



PANELIST

Carlos E. Martínez Betanzos

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Joel Cohen

Stout Inc. (US)

■ US MEXICO BAR ASSOCIATION

Maximizing Potential: The Global Need for Restructuring and Reorganizing

USMBA Annual Conference

Mexico City | September 2-4, 2026



Today's Presenters



**Carlos Martinez
Betanzos**
Partner | Mexico City

Basham, Ringe y Correa



Mariana Campos Clasing
Counsel | Mexico City

Basham, Ringe y Correa



Joel E. Cohen
Managing Director,
Regional Leader – New York
| New York

Stout



Alissa M. Nann
Of Counsel | New York

Foley & Lardner, LLP

U.S. Regime

Chapter 11 – Restructuring or Liquidation

- Typically used for full operational as well as debt restructuring, or for sale of assets.
- Pros/Tools:
 - Only requires property in US to establish jurisdiction (can open a bank account) — low bar
 - Robust body of law and sophisticated judges and practitioners
 - Immediate global automatic stay upon filing petition, applies to secured creditors
 - Appropriate representation of all creditor groups
 - Board/management remains in place
 - Ability to reject contracts and leases
 - Ability to get DIP financing
 - Ability for complex and robust plan for reorganization and process for support or rejection by all interested parties.
 - Free and clear asset sale under § 363
 - Broad Discovery tools — even pre “adversary proceeding”, e.g. the debtor can “fish” through a Rule 2004 exam or document request
 - Exclusive period for debtor in which to propose a plan
 - Relative speed of the court
 - Ability to bring litigation into bankruptcy through adversary proceedings
 - Filing proof of claim provides consent to jurisdiction
 - Centralized process for restructuring and adversary proceedings

Chapter 11 – Restructuring or Liquidation (cont.)

- Drawbacks and Considerations:

- Can be a lengthy and expensive process if parties are not in agreement re restructuring plan.
 - A pre-pack (pre-agreed chapter 11) is often a good option if lenders/major creditors are on board pre-filing.
- Broad discovery can lead to major expenses and litigation for debtors and creditors, and draw out the process
- Creditors committee — can slow down the process, cost of professional fees, investigations and lawsuits
- Very public process with broad notice and reporting requirements to stay in compliance with Bankruptcy Code and US Trustee laws and policies
- Limitations on enforcement of foreign creditors/assets
- Limitations on 3rd party releases post-Purdue: these are allowed, so long as explicitly disclosed and consensual

Chapter 15

- Chapter 15 — ancillary proceeding to foreign main or non main insolvency proceeding
- Can be used to:
 - facilitate repatriation of assets in the US
 - assert claims and causes of action (under US state or foreign law)
 - get discovery
 - have scheme from home jurisdiction recognized, including 3rd party releases
- US Bankruptcy Court jurisdiction limited to assets and property in the US
- Mandatory recognition if provisions of §1517(a) are met (foreign main or non main and satisfy §1515 — petition with declaration/evidence)

Mexican Regime

Concurso Mercantil Under the Ley de Concursos Mercantiles (LCM)

- Enacted May 12, 2000.
- Federal statute; two specialized federal bankruptcy courts in Mexico City (created March 2022) with nationwide jurisdiction.
- Two successive stages: Conciliación (up to 365 days) and Quiebra (liquidation).
- Applies only to comerciantes. IFECOM certifies and oversees specialists (visitador, conciliador, síndico).
- There have only been ~1,057 filings since 2000.
 - Signals a cautious in-court insolvency culture.

Concurso Mercantil Under the Ley de Concursos Mercantiles (LCM) (cont.)

■ Pros/Tools:

- DIP model — management remains in place during conciliation; conciliador oversees but does not displace (Art. 81 allows removal only for fraud or mismanagement)
- Automatic stay upon sentencia de concurso mercantil (Art. 65) — timing difference vs. US: stay begins upon the judgment declaring concurso, not upon filing of the petition
- Pre-packaged filing (concurso con plan previo) — Mexican equivalent of pre-pack; 50%+ creditor support at filing enables immediate declaration without visitation stage
- DIP financing — expressly authorized since 2014 reform; privileged claim status (créditos contra la masa, Art. 224) though not truly superpriority (labor and tax claims still rank ahead)
- UNCITRAL Model Law adopted in Title XII — Mexico among the first adopters (2000); recognition of foreign proceedings and equal standing for foreign creditors

Concurso Mercantil Under the Ley de Concursos Mercantiles (LCM) (cont.)

- Drawbacks and considerations:

- High entry threshold — must prove “generalized default” (35%+ obligations 30+ days overdue OR insufficient assets for 80%+ obligations); strictly applied vs. US low bar (bank account = jurisdiction)
- Conciliation capped at 365 days (185 + 180 extension); if no agreement, automatic transition to liquidation — no equivalent to Ch. 11 exclusivity extensions; shareholder consent still required for debt-for-equity swaps (holdout leverage)
- Title XII requires reciprocity AND opening a full parallel concurso if debtor has establishment in Mexico — double proceeding rather than streamlined ancillary; only a handful of foreign proceedings recognized in 25 years (Xacur, IFS Financial Corporation)
- No formal creditors’ committee, no Rule 2004-style discovery, no 363-equivalent sale during conciliation — tools that US counsel and clients take for granted are absent
- 2024-2025 judicial reform (elected judges) creates uncertainty about the future of the specialized bankruptcy courts, judicial expertise, and consistency of rulings — critical consideration for cross-border deal structuring in the near term

Forum Shopping

The use of cross-border restructuring/choosing your jurisdiction to restructure based on the specific goals/needs of the company or transaction.

Assessing the Objectives and Finding the Right Restructuring Plan

- What are your objectives, i.e., full blown reorganization, liquidation asset sale, financial restructuring, stay of litigation, etc., and what jurisdiction has the proper tools to suit your needs?
- Where are assets located?
- Where is mind and management?
- Where are creditors/shareholders located?
- What law governs debt instruments and main contracts or leases? Did the counter-parties consent to jurisdiction?
- Do you require new investment?
- Where are creditors and other parties located who will need to be bound by the scheme or plan?

Examples of Forum Shopping/Manufacturing COMI

- **Mega Newco Limited.** Mexican company needed to restructure one tranche of debt governed by US law. Chapter 11 or Mexican law was not ideal scheme.
 - Created a newco in UK to use a scheme to restructure, which was approved.
 - Obtained 3rd party releases under UK law.
 - *Then*, filed a Chapter 15 for recognition and enforcement of the scheme in New York. J. Wiles held this was a foreign main proceeding for the NewCo (parent was not a party) but expressed concern about manufactured COMI. However, no objections in UK or to recognition of the scheme.

Examples of Forum Shopping/Manufacturing COMI

- **Fossil Watches.** US entity (based in Texas) changed the law of debt documents to UK law in order to effectuate a debt restructuring through a UK scheme of arrangement with chapter 15 recognition in the US, as an alternative to chapter 11.
 - UK scheme was faster, more efficient and less expensive.
 - UK scheme was idea here because it did not permit discovery or creditors committee.
 - Unsecured creditors have limited rights under the UK scheme process.
 - This does not work if the company seeks a true operational restructuring

Key US-Mexico Cross-Border Cases (Mexican-Side Commentary)

- **Vitro (2010-2012).** Mexican glass manufacturer; concurso plan released non-debtor subsidiary guarantors using intercompany votes; tried to get recognition of the release in US which was denied.
 - In 2003, Vitro, a Mexican corporation, issued various notes totaling more than \$1 billion. Most of Vitro's direct and indirect subsidiaries, including its U.S. subsidiaries, guaranteed the notes. Before the notes became due, Vitro initiated an insolvency proceeding in Mexico.
 - Many of Vitro's U.S. subsidiaries did not participate in the insolvency proceedings.
 - In February 2012, the Mexican court approved Vitro's reorganization plan which purported to extinguish the guarantees of Vitro's debt by Vitro's U.S. subsidiaries.
 - Vitro's representatives then sought to recognize and enforce releases granted in the foreign case, but the Bankruptcy Court for the Northern District of Texas denied relief, holding that non-consensual, non-debtor releases are "manifestly contrary" to U.S. public policy.
 - Mexican-side takeaway: Triggered the 2014 LCM amendments barring affiliates/subsidiaries from voting on the plan when intercompany unsecured claims exceed 25% – a defining moment in modern Mexican insolvency law.
 - US Takeaway - In a matter of first impression, the Court of Appeals for the Fifth Circuit refused to enforce a foreign debtor's plan of reorganization because it discharged debts of the debtor's non-debtor subsidiaries.

Key US-Mexico Cross-Border Cases (Mexican-Side Commentary)

- **Credito Real (2022-2025).** Mexican non-bank lender (SOFOM); attempted LGSM corporate liquidation before pivoting to concurso prepack in Mexico (Oct. 2023); Mexican court approved plan Aug. 2024 including third-party releases.
 - Mexican-side takeaway: Nonconsensual third-party releases are available under Mexican concurso plans – strategic advantage for Mexican debtors post-Purdue.
 - US –side Takeaway: Delaware court granted recognition and enforcement of the concurso plan (including non-consensual third-party releases) finding that Purdue Pharma's holding is “expressly limited to a Chapter 11 Case” and the Chapter 15 is a “very different animal. Ruling appealed to the district court and affirmed because § 1123(b)(6) did not apply.
 - The catch-all provisions in Chapter 15 are part of a recognition and enforcement framework “drafted specifically to empower courts to assist foreign proceedings where appropriate,” rather than a domestic reorganization statute.
 - Nothing in text of Chapter 15 is comparable to section 1123(b)(6). Court concluded that Congress “designed Chapter 15 to allow courts to flexibly assist foreign proceedings in ways tailored to their specific legal and factual contexts, not to replicate the exact structure of Chapter 11.”

Key US-Mexico Cross-Border Cases (Mexican-Side Commentary) (cont.)

- **Oro Negro (2017-2019).** Mexican oil services company; concurso in Mexico with concurrent proceedings in Singapore and the US; bondholders used Mexican criminal complaints to try to circumvent concurso protections.
 - Mexican-side takeaway: Illustrates the vulnerability of concurso protections to parallel criminal proceedings, and the practical challenges when creditors and collateral are non-Mexican but also a Mexican-court success in resisting bad-faith creditor tactics.
- **Xacur and IFS Financial Corporation.** First two cases worldwide where US Ch. 7 proceedings were recognized and fully enforced in Mexico under Title XII/UNCITRAL Model Law (adjudicated by Darío Oscós).
 - Mexican-side takeaway: Proof of concept that Mexico's cross-border framework works in practice but remains dramatically underutilized (handful of cases in 25 years).

Restructuring Advice Is Always Needed

Restructuring Advice

- Consider use of foreign jurisdictions to restructure, even if not truly “insolvent”, e.g., debt restructuring, rejection of contracts and leases, etc.
- Opportunity to purchase distressed assets at § 363 sales or other types of liquidation sales
- Opportunity to provide DIP financing in distress situations (more PE funds, private credit getting into DIP lending, given level of protection and control from bankruptcy court)
 - Competitive market for lending
 - Foreign examples:
 - CayLi Lending
 - BritLi Lending

Restructuring Advice (cont.)

- Consider downside — use a restructuring professional to consider EoDs and rights/remedies when documenting healthy transactions to ensure parties are protected, especially lenders.
 - E.g., consider structuring some investment as debt, etc., for greater protection.
- Ensure lenders understand their collateral package and rights/remedies, and associated costs, as part of diligence
- Evaluation of all options
- Financial analysis to support the various drivers of distress and opportunities for success

Restructuring Advice (cont.)

- Mexican-specific considerations for cross-border transactions:
 - DIP financing in Mexico: authorized since the 2014 reform but not truly superpriority (labor and tax claims rank ahead); no clear priming mechanism; DIP lending market still developing — opportunity for PE/private credit funds willing to navigate the framework
 - Collateral analysis for Mexican assets: fideicomiso de garantía (security trust) and prenda sin desplazamiento (non-possessory pledge) are the main security vehicles; enforcement is stayed during concurso; labor/tax super-priority can erode secured recovery
 - Distressed asset purchases in Mexico: LCM provides rules for liquidation-stage sales (síndico + IFECOM oversight) but less market-tested than US 363 sales; no comparable competitive bidding infrastructure
 - Beware the LGSM dissolution/liquidation alternative — Credito Real showed this can be used to bypass LCM creditor protections; restructuring counsel should anticipate and document against this risk
 - Mexico's 2024-2025 judicial reform (elected judges) — factor into structuring, choice-of-forum, and dispute resolution provisions in cross-border deals
 - Nearshoring trend — US companies expanding Mexican operations increases demand for advisors fluent in both restructuring systems

Questions?





SEPTEMBER 3, 2026

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LABOR AND EMPLOYMENT PANEL

Breaking Borders: The Future of Labor & Employment



MODERATOR

Jorge G. de Presno

Basham, Ringe & Correa (MX)



PANELIST

Mary Carmen Fuertes Abascal

Hogan Lovells Cadwalader (MX)



PANELIST

Abad López

Dykema (US)

“Breaking Borders, The Future of Labor and Employment”

USMBA Labor & Employment Panel

September 3, 2026.

Hogan Lovells Cadwalader

Panelists:

Abad Lopez, Esq.

Mary Carmen Fuertes Abascal, Esq.

Moderator:

Jorge G. De Presno, Esq.



Jorge G. De Presno Arizpe

LABOR & EMPLOYMENT / LABOR ADVISORY & LITIGATION / IMMIGRATION / SOCIAL SECURITY PARTNER | BASHAM, RINGE Y CORREA, S.C.

Jorge G. De Presno Arizpe is a Partner at Basham and one of Mexico's leading labor and employment lawyers, with more than four decades of experience advising domestic and multinational companies. He is widely recognized as one of Mexico's leading labor and employment lawyers. For many consecutive years, he has been ranked in Band 1 by the world's leading international legal directories, reflecting his strategic vision, deep technical expertise, and ability to successfully handle the most complex and high-profile labor and employment matters for both domestic and multinational companies.

His practice encompasses every aspect of labor and employment law and social security law, with particular strength in strategic workforce planning, collective bargaining negotiations, union disputes, executive employment litigation, internal investigations, proceedings arising from Mexico's labor reform, and matters involving the USMCA Rapid Response Labor Mechanism (RRM). He also regularly advises clients on workforce restructurings, executive separations, high-value employment disputes, labor compliance, international employee mobility, and social security matters.

His distinguished career, market leadership, and reputation as one of Mexico's foremost labor and employment practitioners have consistently positioned him among the country's highest-ranked lawyers in this field.



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Recognitions

- IEL Elite – Labor & Employment, International Employment Lawyer, 2026.
- Band 1 – Labor & Employment, Chambers & Partners Latin America, for several consecutive years.
- Hall of Fame – Labor & Employment, The Legal 500, for several consecutive years.
- Recognized by Lexology Index (formerly Who's Who Legal) as one of Mexico's leading labor and employment lawyers and named a Thought Leader.

Education

- LL.M. in Comparative Jurisprudence, The Dickinson School of Law, The Pennsylvania State University.
- J.D. (Law Degree), Universidad Iberoamericana.



Panel Moderator

Mary Carmen Fuertes

- *PARTNER, MEXICO CITY | HOGAN LOVELLS CADWALADER*

Mary Carmen Fuertes brings precision and authenticity to labor and social security law. Since joining Hogan Lovells Cadwalader in 2011, she's been a dynamic force in labor consulting, coordinating the practice and guiding clients through operations, restructurings, benefit modifications, policy implementations, transfer of employees, labor aspects of corporate transactions, and more. Mary Carmen leads with a hands-on approach, managing labor audits, labor investigations, Latin American projects, and advising on inspections, regularizations, and executive terminations. Her capability also extends to reorganizations and specialized services. As a co-author, Mary Carmen has contributed to key publications, including the Mexico chapter of International Employment Law, and works focused on gender equity in the workplace. Mary Carmen's deep commitment to her field shines through in every client interaction, making her an invaluable asset to our team and our clients.

Representative experience:

- Advised on several matters related to compliance and strengthening of employers' corporate governance, including Codes of Conduct, policies, and internal labor regulations.
- She has also conducted trainings for clients, in relation to anticorruption, labor laws, and other guidelines.
- Advised on Companies' restructuring, within corporate groups and corporate transactions.
- Advised on due diligences related to labor matters.
- Advised on labor investigations and complex terminations of employees and expatriates.
- Advised and coordinated different labor related projects in Mexico as well as in cross border matters.



Panelist



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Areas of focus

Executive Compensation, Employee Benefits, and Share Incentives
Investigations
Pensions
Employment
Social Security

Education and Awards

Chambers & Partners

Band 3 in Labor and Employment, 2027

Legal 500

Next Generation Partner in Labor and Employment, 2026

Latin Lawyer 250

Highly Recommended in Labor and Employment, 2026

LACCA

Approved in Labor, 2026

Abad Lopez

PARTNER (CHICAGO) | DYKEMA GOSSETT PLLC

- Abad Lopez advises employers on complex labor and employment matters, helping them develop practical strategies that reduce risk and support positive workplace relationships. He serves as a trusted advisor to Fortune 50 companies and other employers nationwide. Abad has also served in various leadership roles at Dykema, including as the firm's National Hiring Partner and Assistant Practice Group Leader for Labor & Employment,
- Abad counsels clients on employment policies and training, disciplinary actions and investigations, severance and executive employment agreements, restrictive covenants, wage and hour compliance, and employment-related due diligence. He also advises companies on compliance with the Illinois Biometric Information Privacy Act (BIPA).
- An experienced trial lawyer, Abad represents employers in class and collective actions, discrimination and harassment claims, wrongful discharge matters, privacy disputes, wage and hour litigation, and trade secret and restrictive covenant cases. In 2025, he helped secure a favorable defense verdict following a two-month California wage and hour class-action trial.

Representative experience:

- Served as trial counsel in a two-month California wage-and-hour class action jury trial that resulted in a favorable defense verdict in 2025. Recognized as "Top Verdicts of 2025" in California by the Daily Journal.
- Defends employers in wage and hour class and collective actions through motion practice, certification, trial, and appeal.
- Represents employers in discrimination, harassment, retaliation, wrongful discharge, privacy, and restrictive covenant matters.
- Guides companies through government wage and hour investigations and negotiates resolutions before litigation.
- Advises employers on workplace investigations, disciplinary actions, policies, training, executive agreements, and reductions in risk.
- Counsels clients on BIPA disclosures, policies, and compliance.



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Areas of focus

Labor and Employment
Wage and Hour
Employment Litigation
Employment Counseling
Data Privacy and Cybersecurity
Illinois Biometric Information Privacy Act (BIPA)

Education and Awards

University of Illinois College of Law, J.D.
University of Illinois, Champaign-Urbana, B.A.

Lawdragon

500 Leading Corporate Employment Lawyers, 2026

Super Lawyers

Illinois Employment & Labor, 2026-2027

Hispanic Lawyers Association of Illinois

Latino Lawyer of the Year, 2025

Negocios Now

Who's Who in Hispanic Chicago, 2018–2019 and
2025–2026

Legal 500 U.S. City Elite

Chicago Labor & Employment, 2026



Panelist

Cross-Border Labor & Employment: **United States**

Practical labor and employment challenges Mexican companies face when expanding into or operating in the U.S.

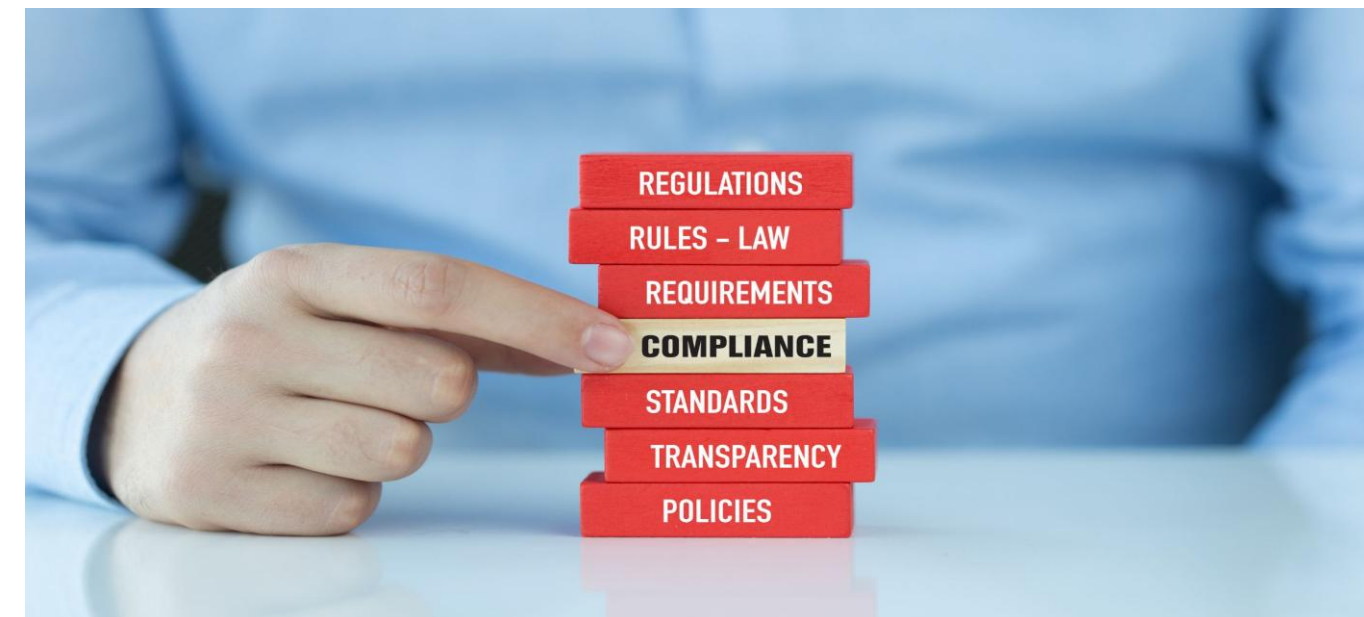
- **Wage and Hour Litigation Risks**
- **Discrimination, Harassment, and Retaliation Claims**
- **Cross-Border Workplace Investigations**
- **Parent Company Liability and U.S. Subsidiaries**



Cross-Border Labor & Employment: **United States**

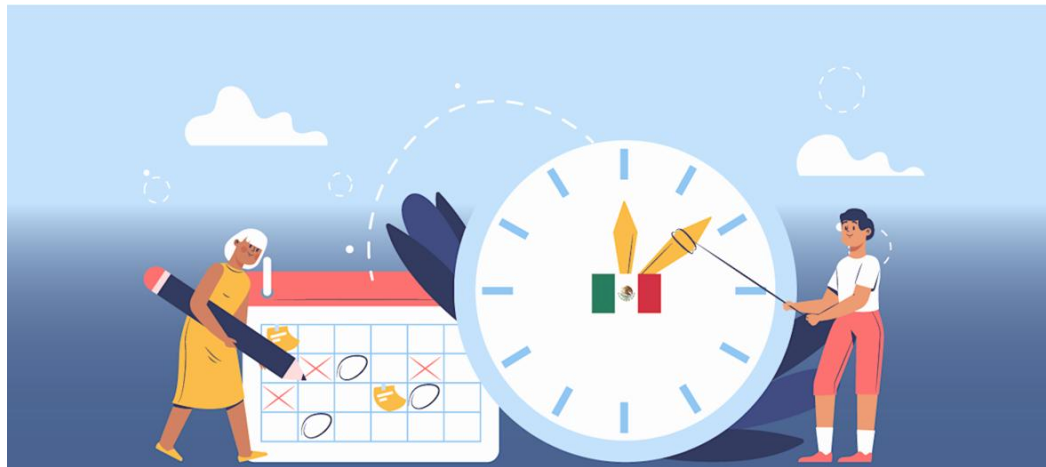
Practical labor and employment challenges Mexican companies face when expanding into or operating in the U.S.

- **Artificial Intelligence and Employment.**
- **Executive Hiring and Separation.**
- **Practical Compliance Strategies for Mexican Employers.**



Cross-Border Labor & Employment: Mexico

Labor & Employment Issues for U.S.-Based Companies Starting or Expanding Operations in Mexico



- **Reduction on work shifts and overtime provisions**
- **Overprotective and formal employment provisions**
- **Independent Contractors**
- **Subcontracting and specialized services.**

Cross-Border Labor & Employment: **Mexico**

Labor & Employment Issues for U.S.-Based Companies Starting or Expanding Operations in Mexico



- **International Trade and Unions (USMCA)**
 - a. Collective rights
 - b. Avoid discrimination, forced labor, and workplace violence.
 - c. Labor Inspections
 - d. Rapid Response Mechanism
 - e. Cases of non-compliance with key labor obligations.

Q&A





SEPTEMBER 3, 2026

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IMMIGRATION PANEL

Cross-Border Immigration Update – Opportunities and Current TMEC / USMCA Developments



MODERATOR

James Prappas

Dykema (US)



PANELIST

Ramón Curiel

Oliva, Saks, Garcia & Curiel, PLLC (US)



PANELIST

Raúl Lara Maiz

EC Rubio (MX)

USMBA Immigration Panel

Thursday, September 3, 2026

Panelists:

James D. Prappas | Dykema Gossett PLLC

Raul Lara Maiz | EC Rubio

Ramon Curiel | OSGC Law

Background / Context

Purpose of the Panel

- Cross-border immigration issues relevant to U.S.–Mexico business operations
- Organized under the USMBA (U.S.–Mexico Bar Association)
- Audience: Legal professionals, in-house counsel, and business advisors working across the U.S.–Mexico border
- Brings together practitioners from both sides of the border to share practical insights and best practices

Panel Overview & Objectives

- 1 Provide a practical overview of the current U.S.–Mexico immigration landscape
- 2 Discuss key compliance challenges for employers with cross-border operations
- 3 Share best practices and recent developments in employment-based immigration
- 4 Foster dialogue among practitioners from both jurisdictions

Key Immigration Topics: U.S. Perspective

- Employment-based visa categories (H-1B, L-1, TN, E-1/E-2)
- Business Visitors and proper use of the visitor status
- USMCA/T-MCA professional visa provisions
- I-9 compliance and employer obligations
- Recent USCIS policy updates and processing trends
- Enforcement priorities and worksite investigations

Key Immigration Topics: Mexico Perspective

- Work permits and residency requirements for foreign nationals in Mexico
- Mexico's immigration framework under the Ley de Migración
- Employer registration and compliance with INM (Instituto Nacional de Migración)
- Tax and social security implications of cross-border employment
- Recent regulatory changes affecting foreign workers in Mexico

Cross-Border Employment Considerations

- Dual employment arrangements and payroll structuring
- Remote work and immigration compliance in a post-pandemic environment
- Secondment and intra-company transfer planning
- Coordinating immigration filings across jurisdictions
- Managing employees with status in both countries

Compliance & Enforcement Update

- U.S. enforcement trends: I-9 audits, H-1B site visits, fraud investigations, visa cancellations
- Mexico enforcement: INM inspections and employer penalties
- Best practices for maintaining compliance on both sides of the border
- Document retention and internal audit recommendations
- Consequences of non-compliance: fines, bars, and criminal exposure

Case Studies / Practical Scenarios

1

U.S. Executive to Mexican Subsidiary

Visa and permit strategy for deploying a U.S. executive to a Mexican subsidiary

2

Hiring Mexican Nationals for U.S. Operations

Visa selection and timing considerations for onboarding Mexican nationals

3

Cross-Border Remote Worker

Managing compliance in both jurisdictions for remote work arrangements

Emerging Trends & Looking Ahead

- Impact of evolving U.S. immigration policy on cross-border business
- Mexico's shifting regulatory environment for foreign workers
- Digital nomad and remote work visa developments
- Anticipated changes under USMCA/T-MCA provisions
- Strategic planning for employers with binational operations

Action Items / Next Steps

- Review and update internal immigration compliance programs
- Audit current employee visa/permit status for cross-border assignees
- Monitor regulatory developments in both jurisdictions
- Coordinate with immigration counsel in both the U.S. and Mexico
- Engage with USMBA resources and upcoming panel discussions

Thank You

Key Takeaway: A coordinated, cross-border approach to immigration compliance is essential for businesses operating between the U.S. and Mexico.

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SEPTEMBER 3, 2026

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TAX PANEL

Making International Tax Plans



MODERATOR

Mario García, CPA

MEG CPA LLC (US)



PANELIST

Juani Rivero, CPC

Rivero Asesores (MX)



PANELIST

Josh Maxwell, JD, CPA

Hone Maxwell LLP (US)



PANELIST

**Diego A.
Sánchez-Labrador, JD**

Sánchez-Labrador & López Martínez S.C.
(MX)



PANELIST

Rubén Flores, JD, CPA

Flores Group (US)

The hypothetical: Alejandro Vega

Alejandro Vega, 56, is a Mexican citizen and lifelong Mexican tax resident based in Monterrey. He's married to Carmen (also a Mexican citizen), and they have three adult children. Two live in Mexico; the eldest, Daniela, is a U.S. green-card holder in Houston, married to a U.S. citizen, with a young U.S.-citizen child. Alejandro's net worth is roughly **\$130 million**—comfortably beyond the U.S. lifetime exemption many times over.

He built and runs a genuinely cross-border business:

- **Vega Manufacturing, S.A. de C.V.** (Monterrey) makes widgets. It operates under an IMMEX/maquila footprint and employs several hundred people.
- **Grupo Vega, S.A. de C.V.** is the Mexican holding company; Alejandro owns ~95%.
- **Vega Distribution USA, Inc.** is a Texas C-corporation that buys the widgets wholesale from the Mexican manufacturer and resells them to U.S. retailers. It's already up and running, and it's foreign-owned.
- A **~\$25M global investment portfolio** sits offshore (foreign accounts and a non-U.S. holding company), including Mexican and international mutual funds.

Today, Alejandro and Carmen are non-U.S. persons. They spend roughly 60–75 days a year in the U.S.—under the substantial-presence threshold—and hold some U.S.-situs assets already (their shares in the Texas company, a U.S. brokerage account, and cash).

What he wants now:

- 1. More permanency in the U.S. personally**—likely a green card or another long-term status—so he and Carmen can live there a meaningful part of the year while he keeps running the Mexican and foreign business.
- 2. To invest in U.S. real estate:** a Houston primary residence (~\$6M) and a commercial/investment property portfolio (~\$20M).
- 3. Certainty.** His stated reason for shifting is that he trusts U.S. legal and market stability, and wants to anchor personal and investment wealth there while the business stays in Mexico and abroad.

Key facts at a glance

- . Age 56, Mexican citizen/resident, spouse Mexican citizen, one U.S.-resident child + one U.S.-citizen grandchild.
- . Net worth ~\$130M: ~\$70M Mexican manufacturing group, ~\$15M U.S. distributor, ~\$20M Mexican real estate/personal, ~\$25M offshore portfolio.
- . Related-party cross-border sales (Mexican manufacturer → U.S. distributor).
- . Currently a non-resident, non-citizen for U.S. tax; about to change that.
- . Wants: U.S. residency, ~\$26M of U.S. real estate, business unchanged.



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FOREIGN INVESTMENT IN U.S. REAL ESTATE – ANALYSIS AND PLANNING

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INCOME TAX ISSUES FOR THE FOREIGN INVESTOR IN U.S. REAL ESTATE

INCOME TAXATION OF FOREIGN PERSONS

- The first determination that a foreign investor in real estate must make is whether the investor is considered a U.S. person or a Foreign Person for U.S. income tax purposes, because :
 1. **U.S. persons** are subject to worldwide taxation, IRC §61(a)
 2. **Foreign persons** are subject to taxation of U.S. source income. IRC §871(b) & 882(a)

1. U.S. persons are subject to worldwide taxation, IRC §61(a)

2. Foreign persons are subject to taxation of U.S. source income. IRC §871(b) & 882(a)

DEFINITION OF U.S. PERSONS

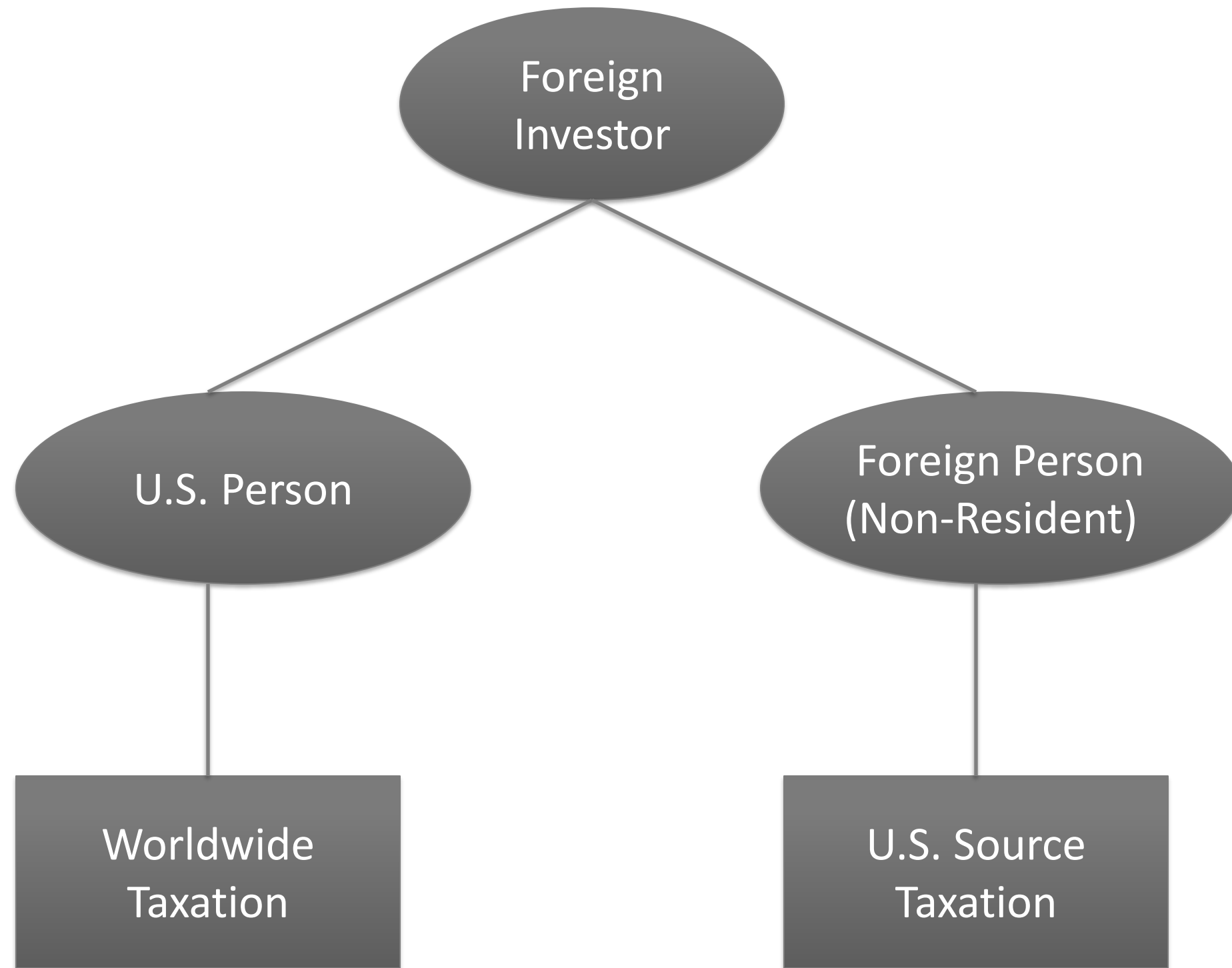
IRC SEC. 7701(a)(30)

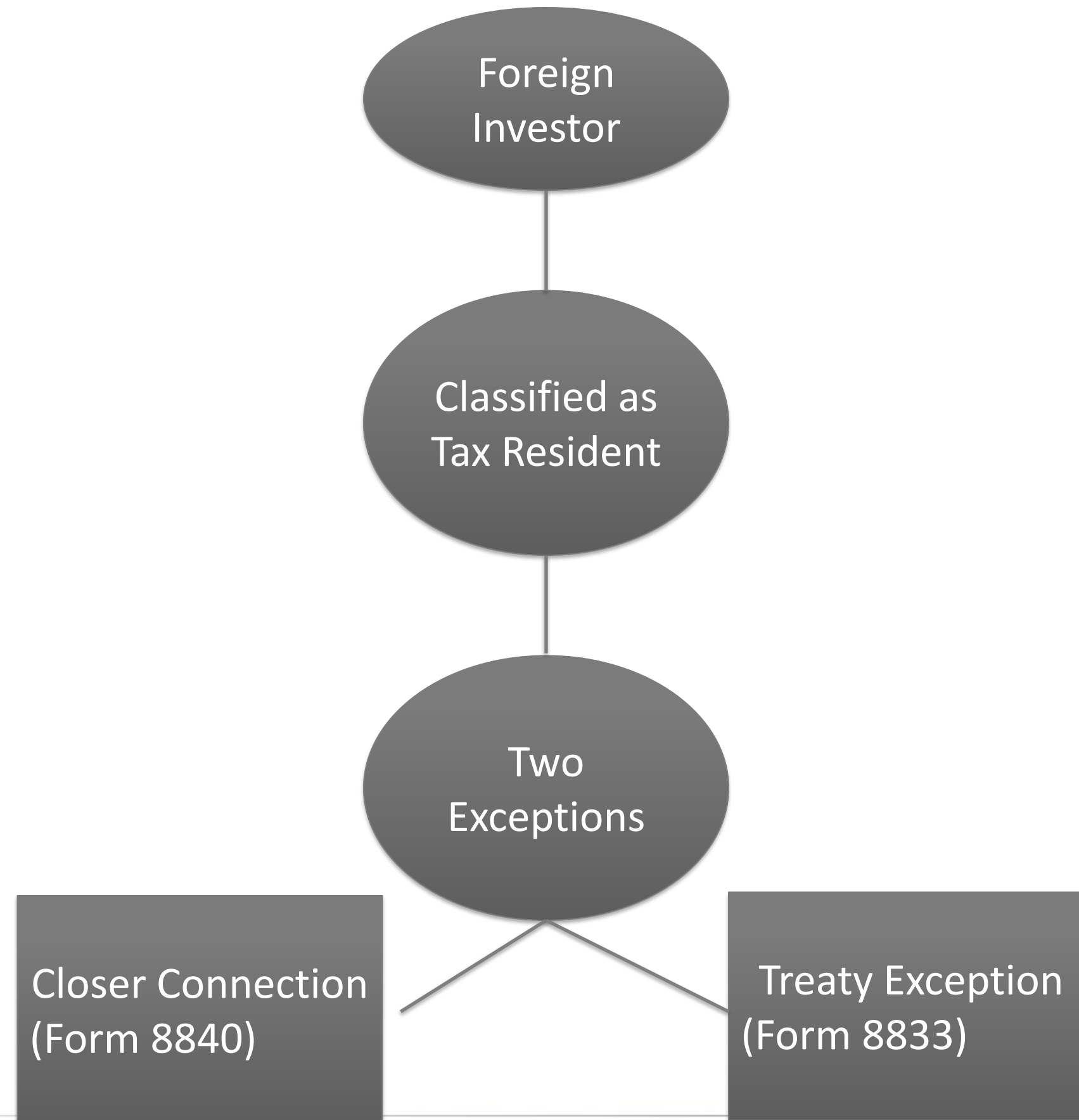
- Definition of U.S. persons:
 1. **U.S. citizens**- Born or naturalized in the U.S.
 2. **Resident Aliens**- Green card test and substantial presence test
 3. **Domestic corporations**- Corporations created or organized in the U.S.
 4. **Domestic Partnerships**- Partnerships created or organized in the U.S.
 5. **Domestic Estates**- Any Estate if subject to U.S. taxation of worldwide income
 6. **Domestic Trust** – Any trust if U.S. tax court has jurisdiction over the administration and one or more U.S. persons have authority to control all substantial decisions of the trust
- If a foreign investor is classified as a U.S. person then he/she will be taxed on worldwide income not just U.S. source income.

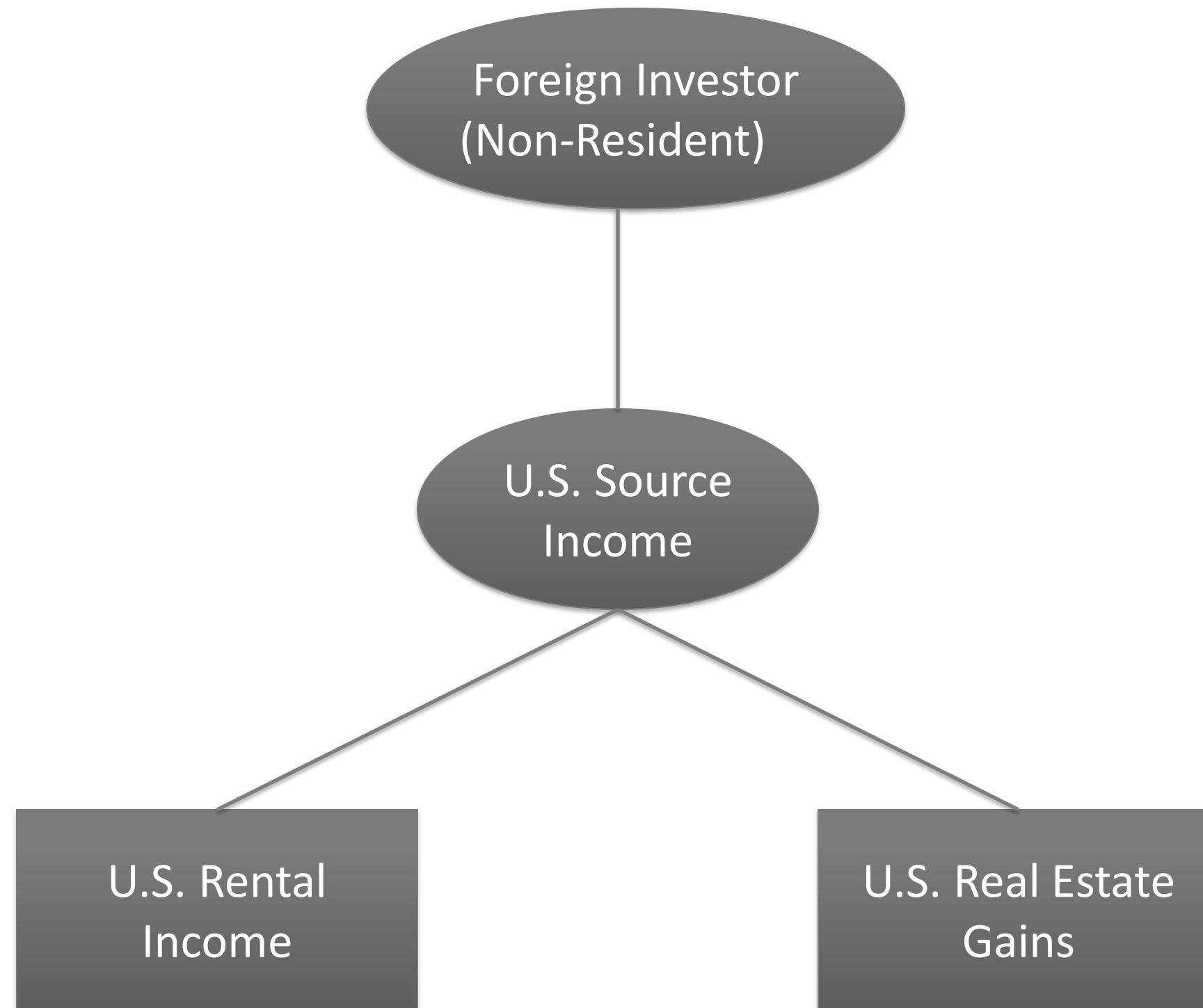
DEFINITION OF RESIDENT ALIEN

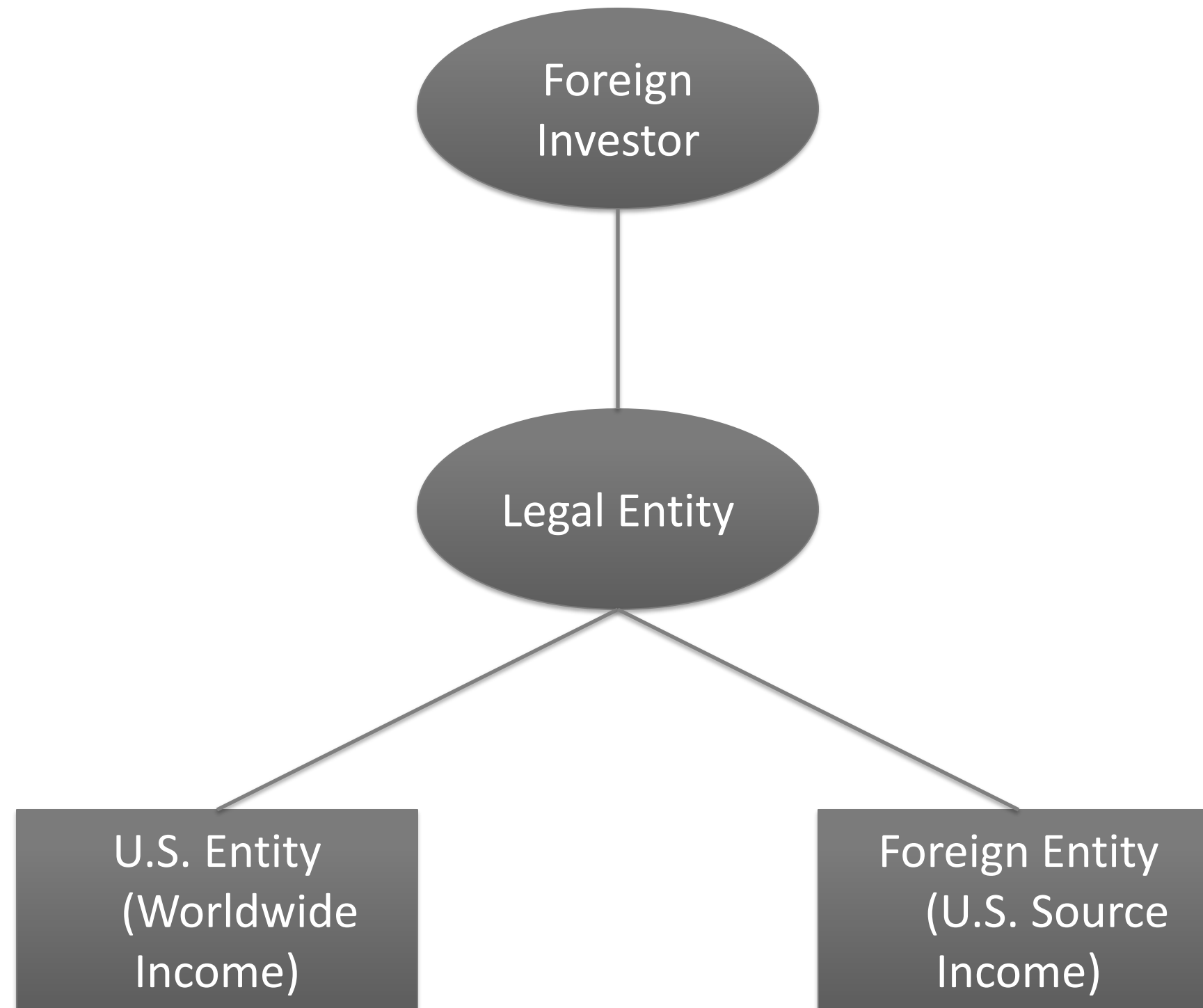
IRC SEC. 7701(b)(1)(A)

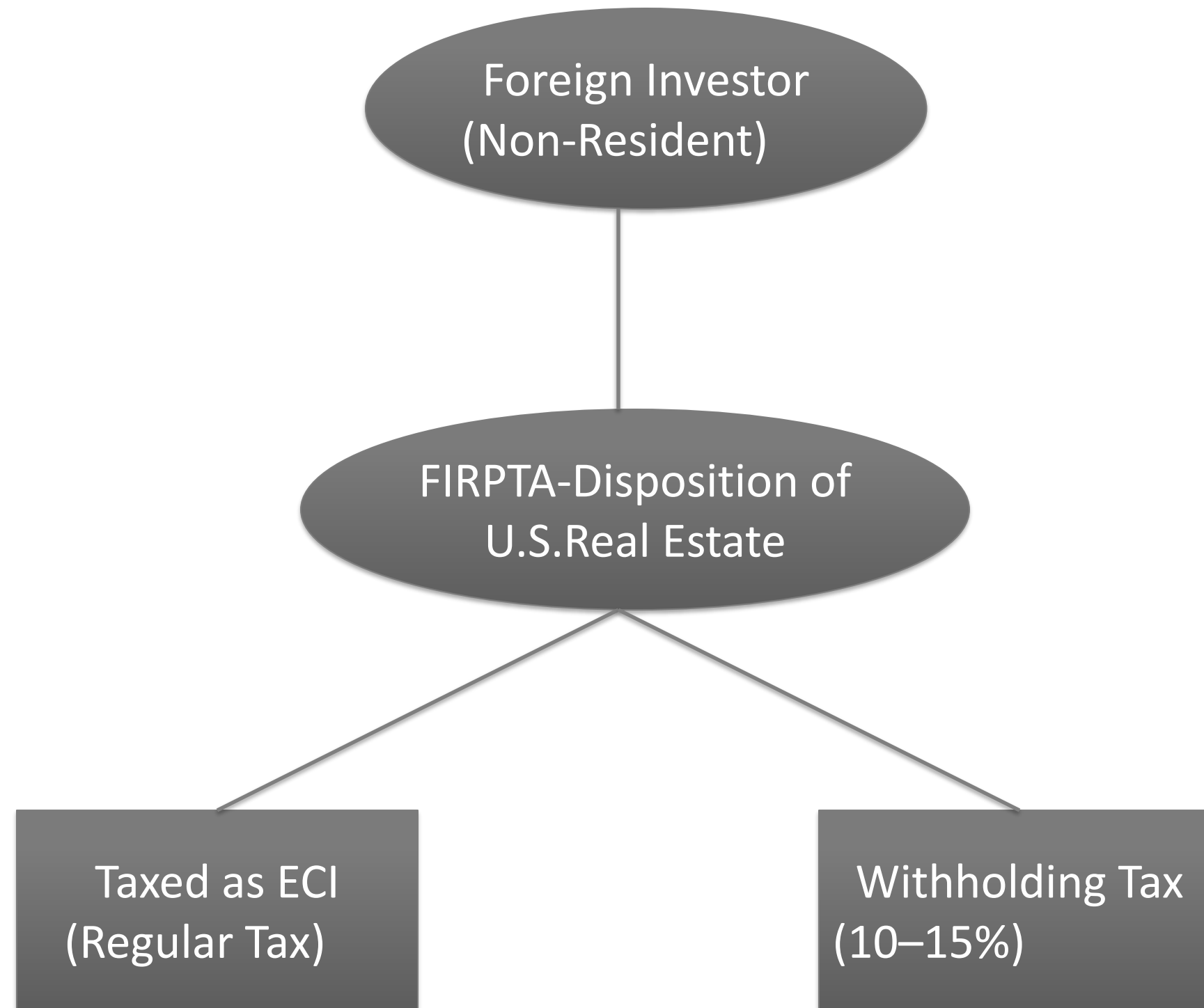
- Foreign investors in U.S. real estate may be considered Tax Residents if:
 - 1. Green card test**
 - 2. Substantial presence test**
- The U.S. taxes foreign individuals (aliens) based on their residency status:
 - 1. Residents taxed on worldwide income**
 - 2. Non- residents taxed on U.S. source income**











FIRPTA TAXATION AND WITHHOLDING

FIRPTA TAXATION AND WITHHOLDING

Gain from disposition of a USRPI is treated as "effectively connected income" subject to regular net income tax

- Gains can qualify for long-term capital gains rates
- Foreign corporations may also be subject to a 30% branch profits tax

FIRPTA tax liability is generally enforced through withholding obligations imposed on purchaser/transferee

Foreign sellers are required to file U.S. income tax returns and are taxed on gains at the same rates applicable to U.S. sellers

.

UNITED STATES REAL PROPERTY INTERSTS

USRPI is defined as an interest in real property (located in the US or the US Virgin Islands), other than an interest solely as a creditor

- Land, buildings and other improvements on the land
- Growing crops and timber, and mines, wells and other natural deposits that have not been severed or extracted
- Certain "associated personal property"
- Leasehold interests
- Options to acquire land or improvements thereon
- Any direct or indirect right to share in the appreciation in the value of, or in the gross or net proceeds or profits from the real property (e.g., shared appreciation loans)

INDIRECT INTERESTS IN UNITED STATES REAL PROPERTY

USRPI also includes certain indirect interests:

- Interest in a US real property holding corporation (USRPHC)
 - USRPHC defined as a domestic corporation where the fair market value of its USRPIs equals or exceeds 50% of the sum of its (i) USRPIs, (ii) non-US real property interests and (iii) other non-real property trade or business assets.
 - Look through for interests in partnerships and stock of controlled subsidiaries
- Interest in a partnership to the extent gain on the disposition of a partnership interest is attributable to USRPI held by the partnership

FIRPTA APPLIES TO DISPOSITIONS OF USRPIs

FIRPTA only applies to a "disposition" of a USRPI

“Disposition” is not defined in the statute but has been broadly interpreted to include the following:

- Sales and exchanges
- Capital contributions (to corporations or partnerships)
- Distributions (by a corporation or a partnership)
- Transfers in connection with corporate mergers
- **Gifts (where the transferred property is subject to liabilities in excess of its adjusted basis)**

FIRPTA REQUIRES WITHHOLDING

FIRPTA requires a transferee to withhold 15% of the gross "amount realized" from the sale or exchange of USRPI by a nonresident

- Amount realized equals sum of cash received and fair market value of other property received, plus the outstanding amount of liability assumed by the transferee to which the USRPI is subject
- Withholding certificate to avoid excess withholding (IRS Form 8288-B and Rev. Proc. 2000-35)

Exemptions from Withholding

- Non-foreign status
- Transferred interest not a USRPI
 - Non-USRPHC status
 - Partnership does not meet the 50/90 test
- Sales price <\$300,000 on property buyer will use for personal residence
- Publicly traded stock
- Non-recognition transfers
- Withholding certificate

ESTATE TAX FOR FOREIGN INVESTORS IN U.S. REAL ESTATE

ESTATE FOR FOREIGN INVESTORS

- The estate tax is imposed on individuals, both U.S. residents and Non- Residents:
 - 1) **U.S. residents** subject to estate taxation on their **worldwide estate** (IRC §2001(a))
 - 2) **Non- residents** subject to estate taxation on **property located in the U.S.** (IRC §2101 & §2106)

GIFT TAX FOR FOREIGN INVESTORS

- **Gift tax** is imposed on both U.S. residents and Non-residents, (IRC §2501):
 - 1) U.S. residents subject to gift tax on all gifts they make, regardless of location.
 - 2) Non- residents are taxed only on gifts of:
 - A. U.S. situs tangible property
 - B. U.S. situs real estate

Note: Gifts of intangibles not subject to gift tax, may include gifts of corporate stock and partnership interest.

RESIDENCY FOR ESTATE TAX PURPOSES

- A resident for estate/gift tax purposes is defined differently than for income tax purposes:
 - 1) **Estate Tax Resident** – A person who is “domiciled” in the U.S. at the of death or time of gift
 - 2) **Domicile test** is a subjective test based on intent of the foreign person

DETERMINING RESIDENCY FOR ESTATE TAX – INTENT TEST

- **Intent Test** - The Internal Revenue Code provides that a foreign individual is deemed to be a resident for estate tax purpose if he/she has the **intent to remain indefinitely in the U.S.**
- The Internal Revenue Code and regulations do not provide much guidance as to what constitutes a subjective intent to remain indefinitely the U.S. (Treas. Reg. 25.2501-1(b))

FACTORS FOR DETERMINING RESIDENCY FOR ESTATE TAX

- The courts have developed several factors, which can be used to determine if a foreign individual has a subjective intent to remain indefinitely in the U.S., there are two classes of factors:
 - 1) **Personal Interest Factors** – Location of the family, place where children attend school, place of social and religious activities.
 - 2) **Business Interest Factors** – Location of employment, place of management of business, rate of investments between U.S. and foreign countries.
- Many foreign countries do not use the personal interest factors to determine intent or residency, which makes it more difficult for foreign investors.

DETERMINING THE TAXABLE ESTATE

- **Foreign investors** may be subject to the estate tax, even if they are not residents of the U.S.
- **Estate Tax on US situs** - -If a non-resident individual dies with **property located in the U.S.** he/she will be subject to U.S. tax on such property (Treas.Reg.20.2104-1(a):
 - 1) U.S. real property
 - 2) Tangible personal property located in the U.S.
 - 3) Stock in U.S. corporations (Not foreign corporations)
 - 4) Debt obligations of U.S. persons, unless portfolio exception applies

OPTIONS FOR INVESTING IN U.S. REAL ESTATE

- A foreign investor should carefully plan and structure their investments in the U.S., and determine which is the best legal/corporate form of ownership:
 - 1) Invest as an individual directly** in U.S. real estate, subject to estate/ gift tax
 - 2) Invest as a U.S. corporation** that invests in U.S. real estate , U.S. stock subject to estate tax.
 - 3) Invest as a foreign corporation** that invests in U.S. real estate, foreign stock not subject to estate /gift

PLANNING OPTIONS FOR FOREIGN INVESTORS IN U.S. REAL ESTATE

INDIVIDUAL DIRECT OWNERSHIP

**FOREIGN
INVESTOR**

U.S.
REAL
ESTATE

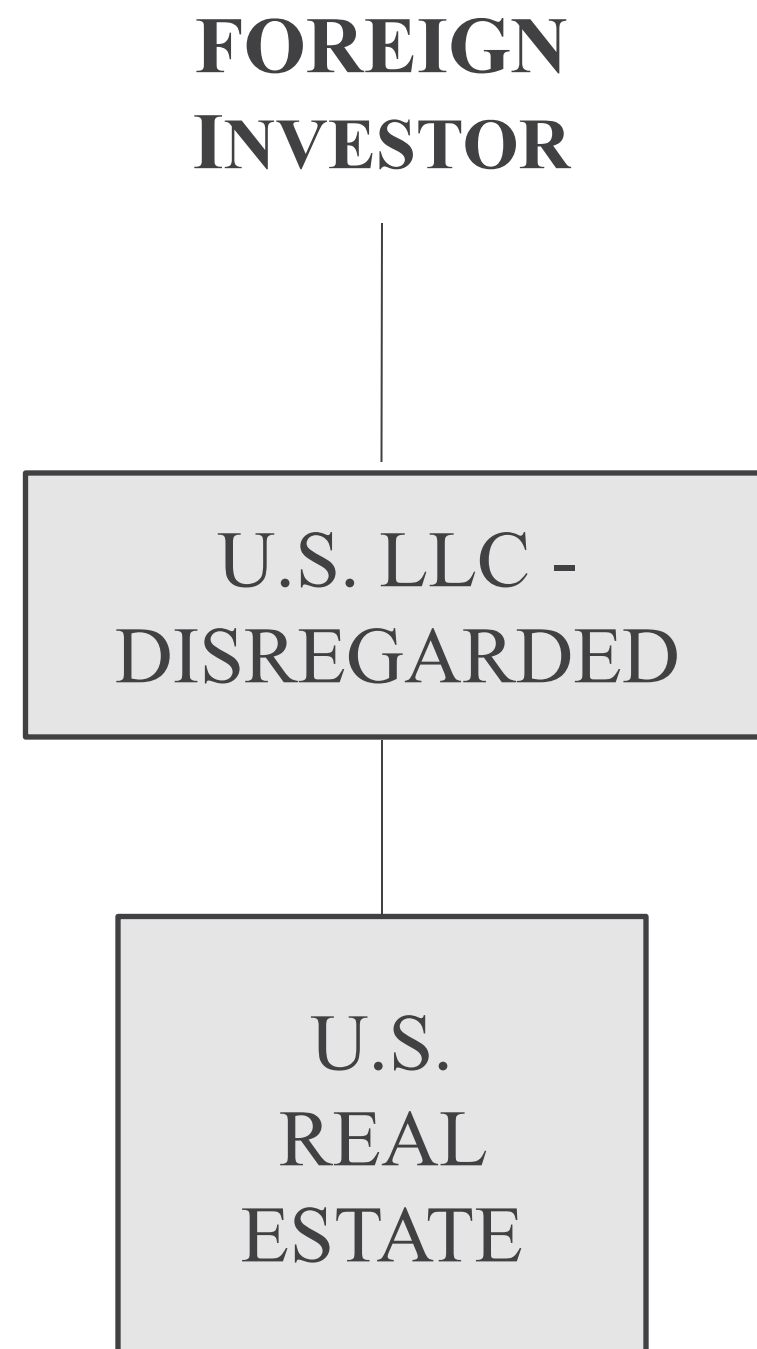
Advantages:

- LT capital gains rate on sale of property

Disadvantages:

- No Asset Protection
- Estate tax
- Gift tax
- Federal Tax Return by foreign Investor
- FIRPTA applies on sale of property

INDIVIDUAL/ U.S. LLC OWNERSHIP



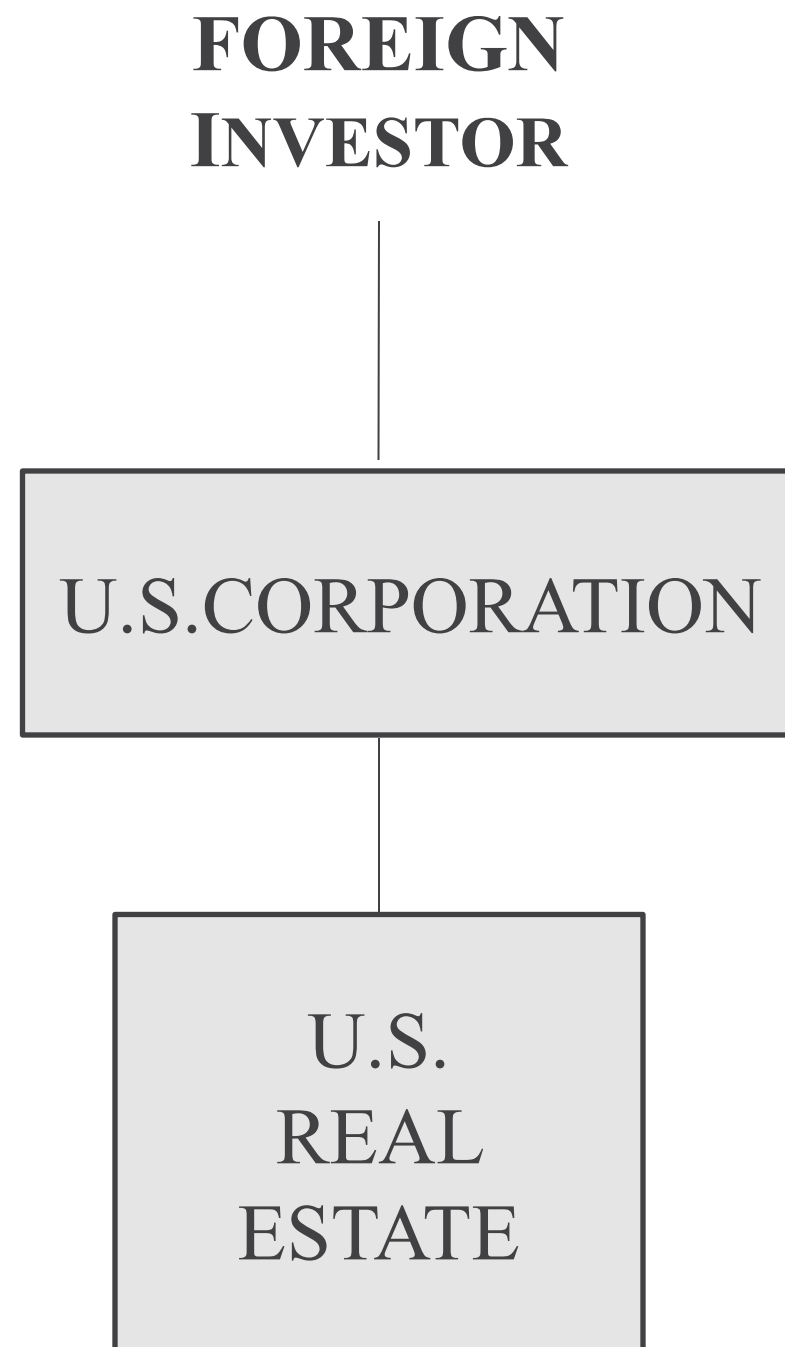
Advantages:

- Asset Protection
- LT capital gains rate on sale of property
- Franchise tax

Disadvantages:

- Estate tax
- Gift tax
- Federal Tax Return by foreign Investor
- FIRPTA applies on sale of property

OWNERSHIP THROUGH U.S. CORPORATION



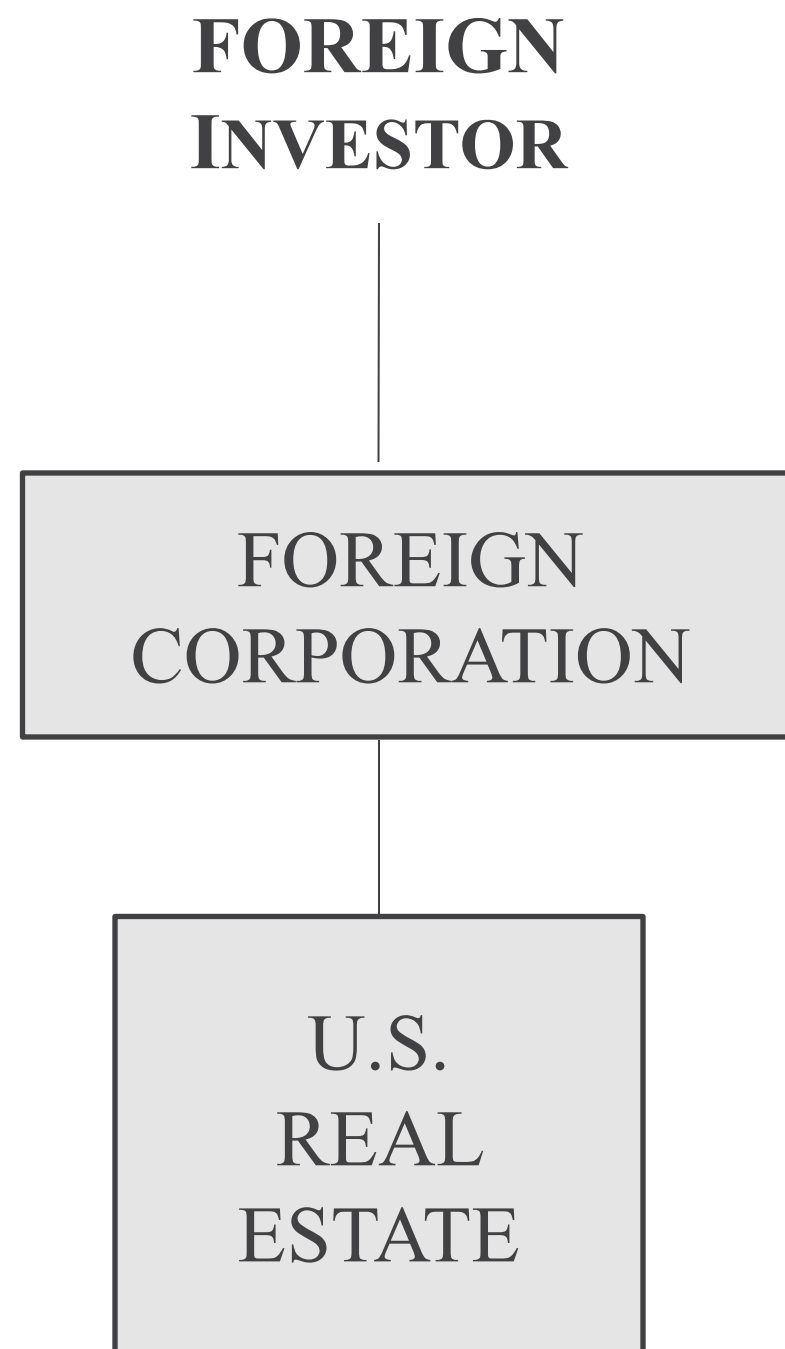
Advantages:

- Asset Protection
- No gift tax on transfer of shares (intangible)
- No U.S. tax return for foreign shareholder(s)
- No FIRPTA on sale of property

Disadvantages:

- Estate tax
- Federal tax on sale at 21%
- No LT capital gains rate on sale of property
- FIRPTA may apply to sale of U.S. shares
- State Franchise tax

OWNERSHIP THROUGH FOREIGN CORPORATION



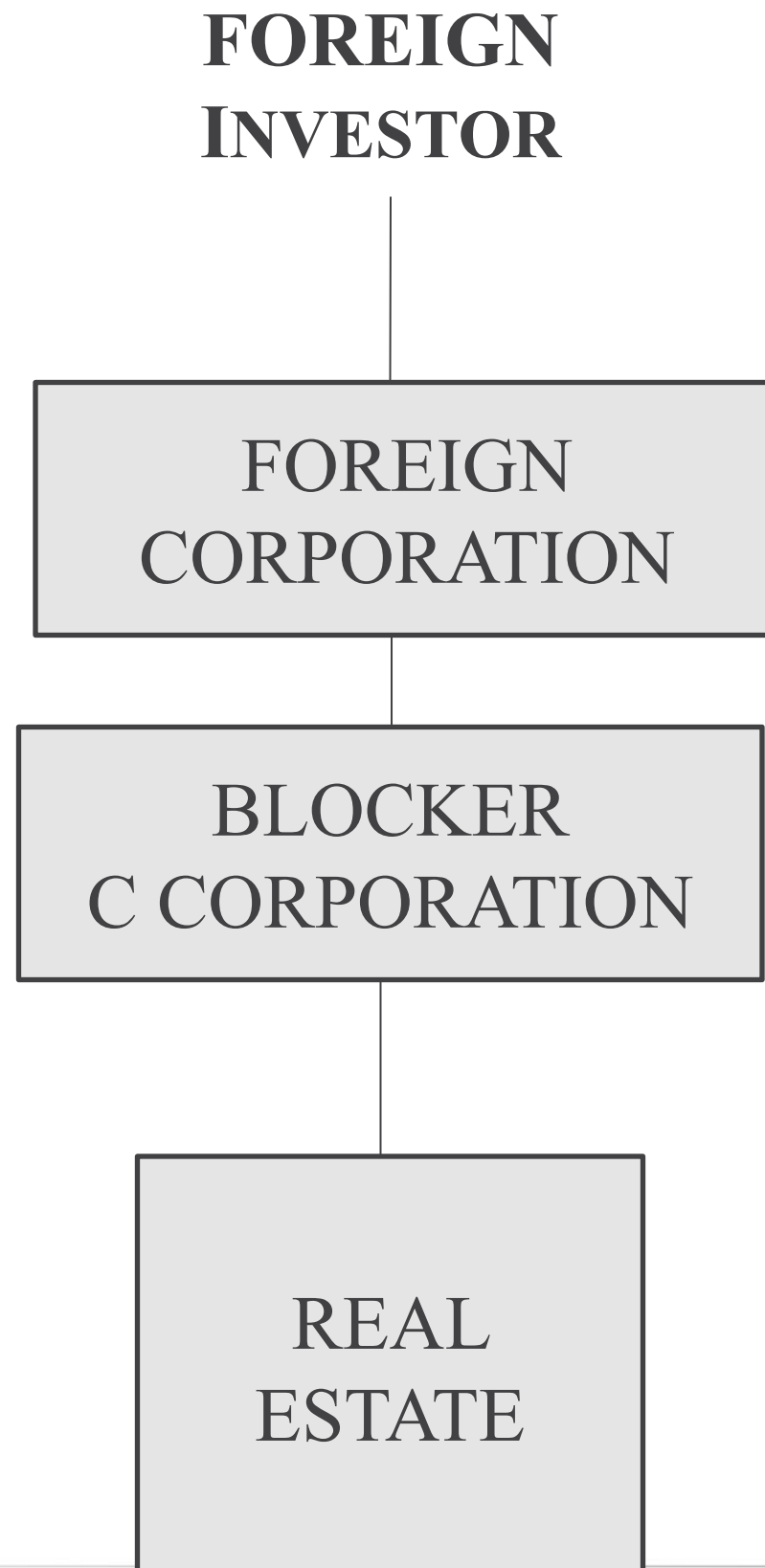
Advantages:

- Asset Protection
- No estate tax
- No gift
- No U.S. tax return for foreign shareholder(s)
- No FIRPTA on sale of foreign stock

Disadvantages:

- 21% Federal tax on sale of property
- State franchise tax
- FIRPTA applies to sale of property
- Branch Profits Tax

OWNERSHIP THROUGH FOREIGN AND U.S. CORPORATIONS



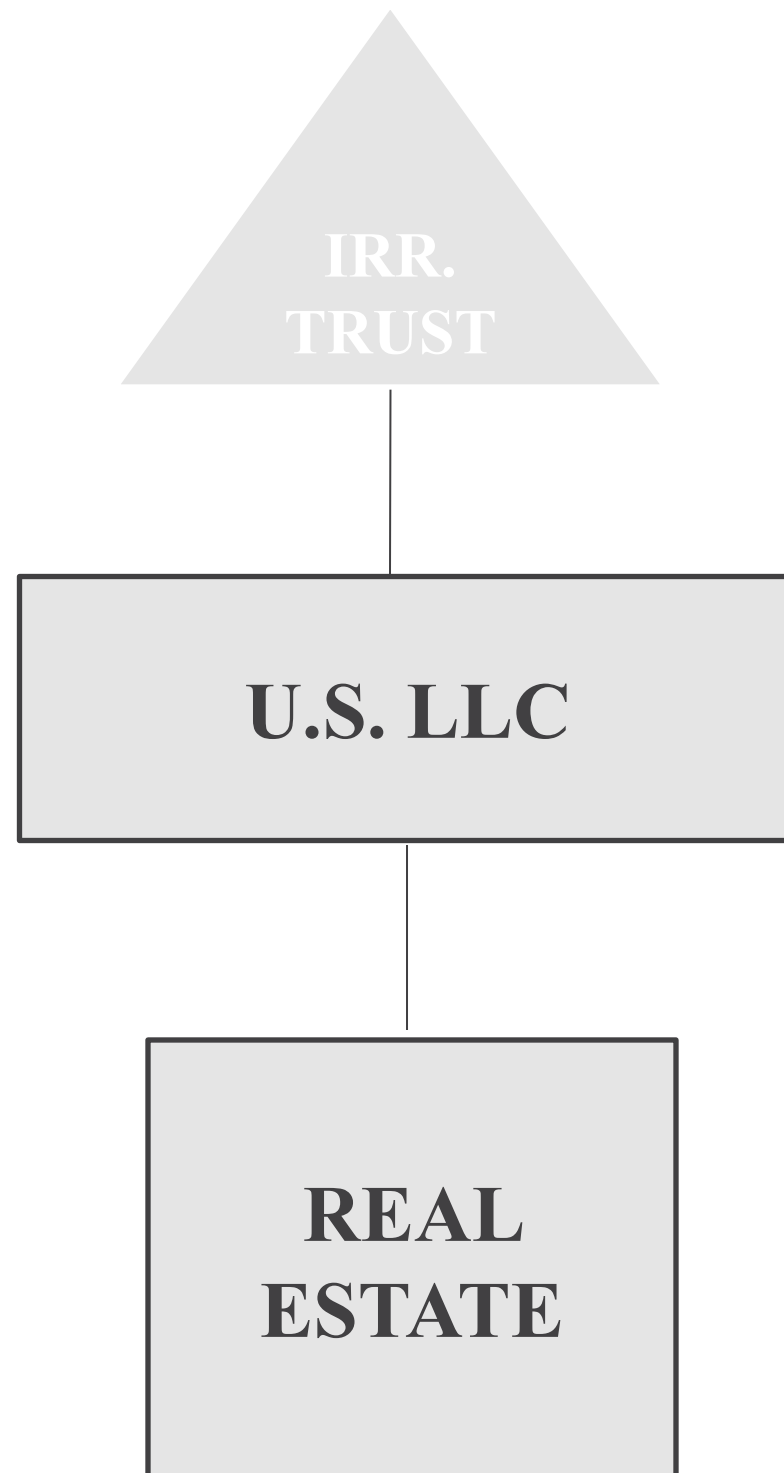
Advantages:

- Asset Protection
- No estate tax
- No gift tax on transfer of the shares
- No U.S. tax return for foreign shareholder(s)
- No FIRPTA on sale of property
- No FIRPTA on sale of foreign stock

Disadvantages:

- 21% Federal tax on sale of property
- State franchise tax
- FIRPTA may apply to sale of U.S. shares
- No LT capital gains rate

OWNERSHIP THROUGH IRREVOCABLE TRUST



Advantages:

- No estate tax
- No gift tax (if LLC transferred to trust prior to closing)
- No U.S. tax return for foreign investor(s)
- LT capital gains rate on sale of property
- Succession plan
- No franchise tax

Disadvantages:

- Requires irrevocable transfer of control to trustee or limited powers
- FIRPTA may apply to sale of property

CONCLUSION

- The foreign investor will find that there is no easy and ideal structure for investing in U.S. real estate. The foreign investor should determine their short and long term goals, evaluation the purpose of the investment, and try to quantify the costs and benefits of each structure
- Finally, the foreign investor must seek professional legal and tax advice on these matters in both the U.S. and their home country to determine their obligations.

DISCLAIMER

- This information is a presentation of the general rules and should not be used or relied upon for any particular investments or transaction. We recommend you consult your tax attorney or advisor for your specific situation. If you would like more information on these matters we would be glad to visit with you.
- As required by United States Treasury Regulations, you should be aware that this communication is not intended or written by the sender to be used, and it cannot be used, by any recipient for the purpose of avoiding penalties that may be imposed on the recipient under United State federal tax laws.



SEPTEMBER 3, 2026

USMBA 2026 CONFERENCE • MEXICO CITY

COMPLIANCE PANEL

Law, Technology, and Geopolitics: Practical Strategies for Uncertain Times



MODERATOR

Carlos Ramos Miranda

Hogan Lovells Cadwalader (MX)



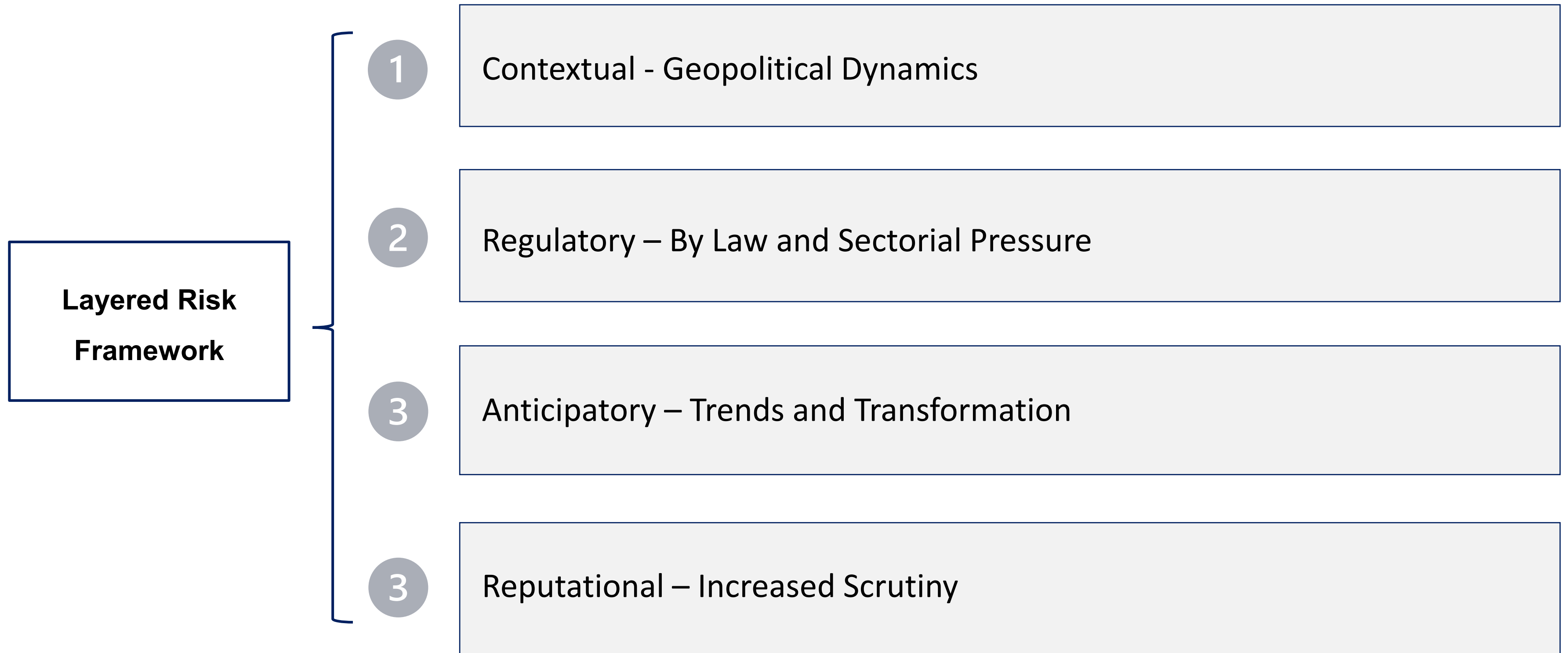
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Sitting tight is not a viable response

Adopt a Strategic Risk Management Mindset: Align Enterprise Risk with Long-Term Business Strategy





SEPTEMBER 3, 2026

USMBA 2026 CONFERENCE • MEXICO CITY

TRADE PANEL

Trade in Turmoil: Navigating Tariffs, USMCA, and Enforcement in U.S.–Mexico Trade



MODERATOR

Matthew Cummins

Sandler, Travis & Rosenberg (US)



PANELIST

Chandri Navarro

Baker McKenzie (US)



PANELIST

Alejandro García Seimandi

Alvarez & Marsal (MX)



Trade in Turmoil: Navigating Tariffs, USMCA, and Enforcement in U.S.– Mexico Trade

USMBA 2026 Annual Conference
September 3, 2026

Disruption



- Developments in Trade Law: Complex Environment
- Trade Relationship Impact between Mexico-US
- Enforcement Trends
- Client Counseling

Our Speakers



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Tariff Actions- A Complex Trade Landscape

Trump Campaign and Industrial Policy

President Trump entered his second term having repeatedly argued that tariffs should be used to rebuild domestic manufacturing capacity in sectors he views as essential to U.S. economic and national security.

- Throughout the 2024 campaign and after taking office in January 2025, Trump identified:
 - pharmaceuticals;
 - steel;
 - aluminum;
 - automobiles;
 - semiconductors;
 - critical minerals;
 - and other strategic industries as sectors where the United States had become excessively dependent on foreign production.
- This approach was consistent with Trump's first-term use of Section 232 tariffs on steel and aluminum and reflected a broader policy objective: use tariff pressure to incentivize domestic investment and reduce perceived national security vulnerabilities within critical supply chains

Early 2025 Tariff Strategy

IEEPA Reciprocal Tariffs While Preserving Sector-Specific Actions

- IEEPA tariffs were first threatened to be imposed on Colombia in January 2025, followed by orders directing the imposition of IEEPA tariffs on products of China, Mexico, and Canada. While the China IEEPA tariffs went into effect, the Mexico/Canada IEEPA tariffs were delayed before being implemented with a carve-out for USMCA-originating articles.
- Executive Order 14257, issued on April 2, 2025, established a "reciprocal tariff" framework intended to address what the Administration characterized as large and persistent U.S. trade deficits and related national security concerns.
- The Administration excluded a number of strategic sectors from these IEEPA reciprocal tariffs through Annex II of the executive order.
 - The rationale was that these products were already subject to existing Section 232 actions or were expected to become the subject of future Section 232 investigations.
- IEEPA tariffs were announced and implemented for products of India and Brazil in the summer of 2025.
- Supreme Court found that the IEEPA statute does not authorize tariffs on February 20, 2026

Supreme Court Ruled IEEPA Tariffs Unlawful February 20, 2026

- In a landmark 6-3 decision, *Learning Resources, Inc. v. Trump*, the Supreme Court held that IEEPA does not authorize the President to impose import tariffs under the International Emergency Economic Powers Act (IEEPA), thereby invalidating the slew of IEEPA tariffs imposed by the Trump Administration
- President Trump revoked all IEEPA tariff orders immediately following the ruling and CBP issued guidance stating that IEEPA tariffs will no longer be collected as of 12:00 am eastern time on February 24, 2026.
- Also immediately following the ruling, President Trump announced new 10% tariffs on all imports from all countries under **Section 122**
- Other trade authorities (e.g., Sections 232 and 301) remain fully in effect and are unaffected by the ruling.
- The decision provides no guidance on a refund process, leaving recovery of paid tariffs unresolved and instead, the matter is being handled by the Court of International Trade (CIT)

Tariff Actions Invalidated by Supreme Court

Tariff	Authority	Most Recent Rates
Mexico/Canada	IEEPA	Mexico: 25%/10% (potash)/ USMCA goods were excluded Canada: 35%/10% (Energy and Potash) / USMCA goods were excluded
China – Fentanyl	IEEPA	10%
Reciprocal Tariffs	IEEPA	10% (baseline); some country-specific rates up to 41% for some trade partners; China reciprocal agreement held at 10% until 10 Nov 2026 under 4 Nov 2025 EO.
Brazil (“Free Speech”)	IEEPA	40% on all nonexempted goods.
Russian Oil (India)	IEEPA	25% on all nonexempted goods of India.
Secondary Tariffs on countries that import Venezuelan Oil	IEEPA	No country ever designated.
Secondary Tariffs on countries that sell or provide oil to Cuba	IEEPA	No country ever designated.
Secondary Tariffs on countries that directly or indirectly purchase, import, or otherwise acquire goods or services from Iran	IEEPA	No country ever designated.

Supreme Court Rules IEEPA Tariffs Unlawful - What Next?

- President Trump revoked all IEEPA tariff orders immediately following the ruling and CBP has issued guidance stating that IEEPA tariffs will no longer be collected as of 12:00 am eastern time on February 24, 2026.
- Also immediately following the ruling, President Trump announced new 10% tariffs on all imports from all countries under Section 122
- At that same moment, USTR's Section 301 “forced-labor” tariffs (10% / 12.5% on ~60 economies) took effect. There was no gap in coverage.
- Other trade authorities (e.g., Sections 232 and 301) remain fully in effect and are unaffected by the ruling; USTR already initiating or completing Section 232 and 301 investigations.
- Court of International Trade now holding CBP to account to refund \$166 billion in IEEPA tariffs.
- Section 122 tariffs are also being challenged in the courts, with the CIT ruling them unlawful and the CAFC indicating that it may uphold the Section 122 tariffs as lawful.

New Tariff Actions

Section 122; 10% additional duties implemented on February 24, 2026

- Section 122 authorizes temporary import surcharges of up to 15% for 150 days to address “large and serious” U.S. balance-of-payments deficits.
- The surcharge expired automatically at 12:01 am ET on July 24, 2026. It could not be extended unilaterally, and Congress did not act to extend it.
- Exemptions (Found in Annex I and II of the Executive Order):
 - In-transit exemption for goods loaded on the final mode of transport before 12:01 am on February 24, 2026, and entered or withdrawn from warehouse before 12:01 am on February 28, 2026.
 - USMCA-qualifying goods.
 - Goods or the content of the goods subject to a Section 232 action.
 - CAFTA-DR free trade agreement-qualifying textiles and apparel.
 - Identical exclusions to IEEPA for certain goods in defined sectors: critical minerals; currency and bullion; energy and energy products; national resources and fertilizers not sufficiently available in the United States; agricultural products; pharmaceuticals and pharma ingredients; electronics; vehicles (types of trucks, buses, and passenger vehicles); and aerospace products.
 - Information materials, donations, and personal baggage.

New Tariff Actions

Section 122: Expiration and Litigation

- While in force, the 10% Section 122 duty applied on top of “any other duties, taxes, fees... and charges,” except Section 232 tariffs (the 232 carve-out applied to the covered “part” of a good).
- May 7, 2026 — The Court of International Trade held Section 122 unlawful in a 2-1 decision (Oregon v. United States / Burlap & Barrel v. United States), finding a general merchandise trade deficit is not the statutory “balance-of-payments deficit” Congress intended. Relief was limited to three plaintiffs.
- May 12, 2026 — The Federal Circuit entered an administrative stay; CBP continued collecting from all other importers until the statutory sunset.
- July 24, 2026 — The surcharge expired by operation of law at the 150-day mark. The appeal on legality (and any resulting refund eligibility for Feb. 24–July 24 entries) remains pending — importers should preserve Section 122 entry records.
- Practical effect: the strict 150-day limit forced the Administration to pivot to more durable authorities (Sections 232 and 301) before the window closed, which it did via the Section 301 forced-labor tariffs (next slide).

New Tariff Actions

The President is imposing additional tariffs under Section 232

- Section 232 of the Trade Expansion Act of 1962 authorizes the President to “adjust imports”—including tariffs, quotas, tariff-rate quotas, license fees, or embargoes—if imports threaten to impair U.S. national security.
- Requires a Commerce Department investigation into national security impacts, which must be completed within 270 days before presidential action.
- Considered a more legally durable authority than IEEPA because it includes substantive and procedural safeguards tied to national security findings.
- These tariffs are applied on a sectoral basis and existing tariffs (e.g. steel, aluminum, vehicles, and wood) imposed under Section 232 are still in effect.
- Investigations have been initiated in the following sectors: commercial aircraft and jet engines, integrated circuits, medical equipment, pharmaceuticals, polysilicon, processed critical minerals, robotics and industrial machinery, unmanned aircraft systems, and wind turbines.

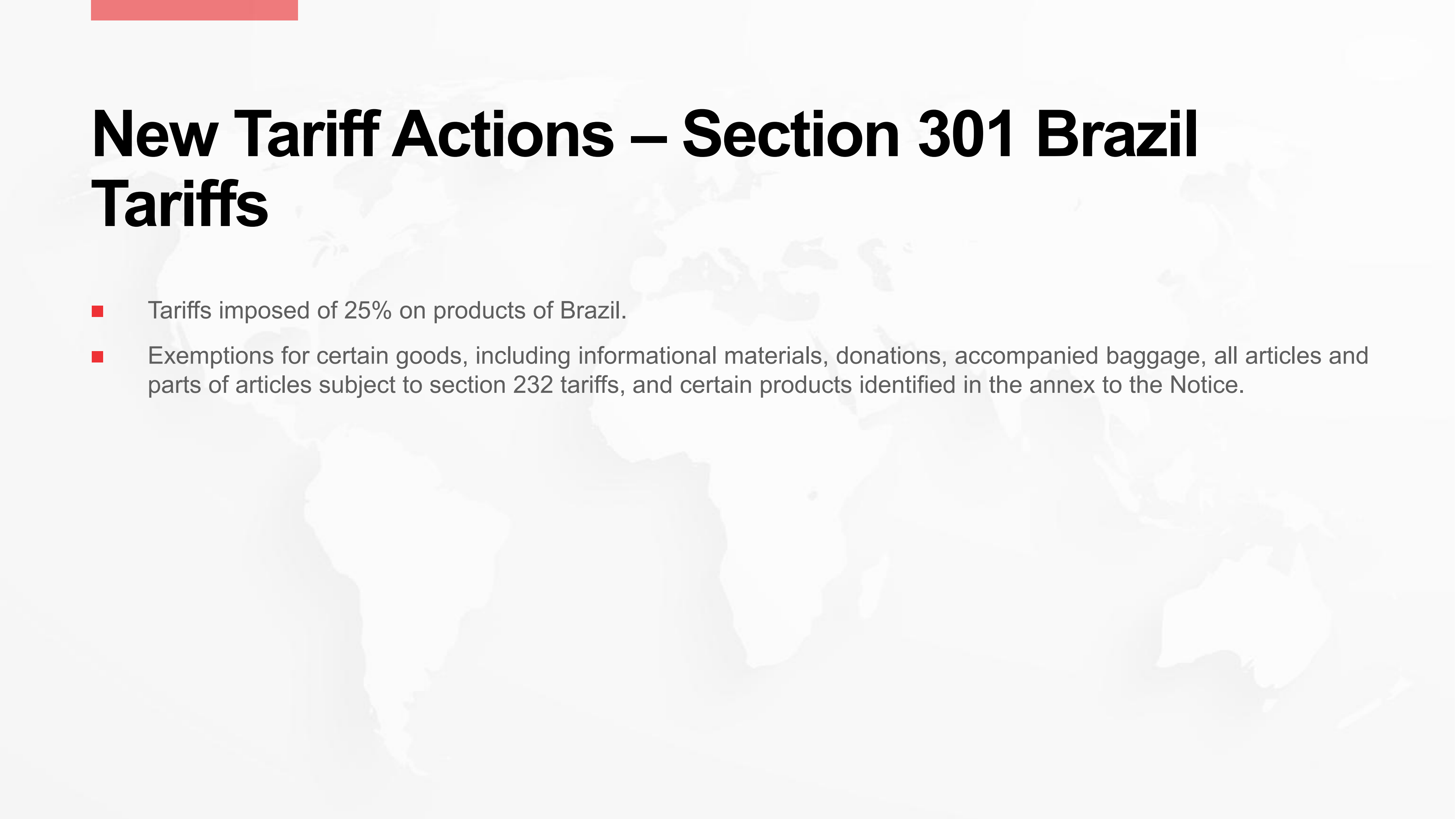
New Tariff Actions

The President is imposing additional tariffs under **Section 301**

- Section 301 of the Trade Act of 1974 authorizes the U.S. Trade Representative (USTR) to investigate and respond to “unfair” or “discriminatory” foreign trade practices with tariffs or other measures.
- Tariffs under Section 301 must be tied to a formal investigation, often involving fact-finding, agency analysis, and sometimes public hearings.
- Section 301 measures can be broad in scope and applied based on the specific country/jurisdiction, though they must be justified through the investigative record.
- USTR has said the new investigations would cover most major trading partners and could range across areas from industrial excess capacity and forced labor to drugs pricing and discrimination against U.S. tech companies and digital goods
- Existing tariffs imposed under Section 301 on products of China are still in effect; other Section 301 investigations that were previously concluded can also be invoked such as the Digital Services Tax, the Vietnam currency, and the Vietnam Timber investigations.

New Tariff Actions- Section 301 “Forced Labor” Tariffs

- Effective 12:01 a.m. ET on July 24, 2026, the exact moment Section 122 expired, so there was no gap in tariff coverage.
- Two-tier headline rates:
 - 10% — economies that maintain a forced-labor import prohibition, have a partial regime, or committed to adopt/enforce one via an Agreement on Reciprocal Trade.
 - 12.5% — all other covered economies. Considered a more legally durable authority than IEEPA because it includes substantive and procedural safeguards tied to national security findings.
- Covers 60 economies (59 countries plus the EU) — roughly 99.4% of U.S. imports, including nearly all major trading partners.
- Key exemptions: USMCA-originating goods; CAFTA-DR textiles and apparel; goods subject to Section 232; specified excluded products; and in-transit relief for goods entered before July 28, 2026.
- Already being challenged in court (e.g., Liberty Justice Center).



New Tariff Actions – Section 301 Brazil Tariffs

- Tariffs imposed of 25% on products of Brazil.
- Exemptions for certain goods, including informational materials, donations, accompanied baggage, all articles and parts of articles subject to section 232 tariffs, and certain products identified in the annex to the Notice.

Section 232 Tariffs in Effect

Tariff	Effective Date	Rates
Steel, aluminum, and certain derivatives	June 4, 2025 (increase to 50%)	50% (increased from 25% to 50%, effective June 4, and applicable to only steel or aluminum content (200% for aluminum content if country of smelt/cast is unknown; non-steel/aluminum content subject to other tariffs if applicable)); U.S. Bureau of Industry and Security expanded coverage to additional 407 HTSUS codes for derivative steel and aluminum products (effective August 18). More are likely to be added.
Passenger Vehicles / Light Trucks, Parts	April 3, 2025 (autos) May 3, 2025 (parts)	25% / temporary pause on USMCA Parts / 100,000 vehicles from the UK (and certain auto parts of UK origin) at 10%
Copper and certain derivatives	August 1, 2025	50% semi-finished copper products and intensive copper derivative products
Lumber, timber, and derivative products	October 14, 2025 (initial; subject to phased increases)	Softwood timber and lumber 10% Upholstered wooden furniture (UK origin: 10%, EU and Japan origin: 0% for all products with a Column 1 Duty Rate ≥ 15%; 15% minus Column 1 Duty Rate for all products with a Column 1 Duty Rate < 15%; All other countries: 25% ((Oct. 14–Dec. 31, 2025), 30% (starting Jan. 1, 2026) Kitchen cabinets and vanities (UK origin: 10%, EU and Japan origin: 0% for all products with a Column 1 Duty Rate ≥ 15%; 15% minus Column 1 Duty Rate for all products with a Column 1 Duty Rate < 15%; All other countries: 25% ((Oct. 14–Dec. 31, 2025), 50% (starting Jan. 1, 2026)

Section 232 Tariffs in Effect

Tariff	Effective Date	Rates
Truck and Truck Parts (effective November 1, 2025)	November 1, 2025	Medium and Heavy Duty Vehicles: 25% (Potential USMCA exceptions for US content on an importer by importer basis) Buses: 10% Medium and Heavy Duty Vehicle Parts: 25% (USMCA Exception until CBP and Commerce establish a process for applying the value of tariff to only non-US content)
Critical Minerals and Derivative Products	January 14, 2026	No immediate tariffs. DOC and USTR ordered to negotiate agreements to adjust imports of PCMDPs (to include price floors, trade restrictions, or other import-adjustment mechanisms). If negotiations fail, tariffs possible.
Semiconductors, Semiconductor Manufacturing equipment, and derivatives including electronics	January 14, 2026	Immediate 25% tariff on a narrow category of advanced computing chips and derivatives, unless the imports either (1) support U.S. data centers, or (2) are used for U.S. R&D, startups, repairs, public sector uses, or domestic manufacturing Duties apply to imports of articles under three HTSUS headings that meet certain processing thresholds. Reserves authority to impose additional, broader tariffs at a later date

Section 232 Tariffs in Effect

Tariff	Effective Date	Rates
Pharmaceuticals, pharmaceutical ingredients, and derivative products	July 31, 2026 (17 companies named in Annex III) September 29, 2026 (all other importers)	Article IV products and ingredients: 0% Article I products and ingredients: (a) 0% for companies listed in Annex II until Jan. 20, 2029, (b) 0% for companies listed in Annex III until Sept. 29, 2026, (c) 0% for items with a Column 1 Duty Rate $\geq 100\%$, (d) 0% for EU-, Japanese-, Liechtenstein-, South Korean-, and Swiss-origin items with a Column 1 Duty Rate $\geq 15\%$, (e) 10% for UK-origin items, (f) 15% minus Column 1 Duty Rate for EU-, Japanese-, Liechtenstein-, South Korean-, and Swiss-origin items with a Column 1 Duty Rate $< 15\%$, (g) 20% of items subject to a qualifying onshoring plan (h) 100% minus Column 1 Duty Rate for items with a Column 1 Duty Rate $< 100\%$ Excluded: generic pharmaceuticals, biosimilars, and U.S.-origin products.
Unmanned Aircraft Systems (UAS/drones), docking stations, and components	September 3, 2026 (Annex I & II) February 9, 2027 (additional Annex III components)	100% — UAS with maximum take-off weight > 25 kg; any UAS integrating a thermal imager (regardless of weight); UAS docking stations; and critical components in Annex I. 25% — UAS with max take-off weight ≤ 25 kg (Annex II, most consumer/commercial drones); certain additional components (Annex III, eff. Feb. 9, 2027). Country caps (if "substantially all" critical components/hardware/software originate in qualifying countries + U.S.): 15% for EU, Japan, Korea, Taiwan, Switzerland, Liechtenstein; 10% for UK. Relief: 0% during construction under the Commerce onshoring program (facilities committed before Jan. 20, 2029); 180-day grace period for Blue UAS Cleared/Framework or FCC Conditional Approval List members. Applies on top of other duties, including Section 301 China tariffs.

Pending Tariffs

Tariff	Authority	Rates
Structural Excess Capacity and Production in Manufacturing Sectors	Section 301	• Investigation ongoing
China's Implementation the 2020 Phase One Agreement	Section 301	• Investigation ongoing.
Vietnam’s Acts, Policies, and Practices Related to Intellectual Property Protection and Enforcement	Section 301	• Investigation ongoing
Germany’s Persistent Underpayment for Innovative Pharmaceutical Products	Section 301	• Investigation ongoing
Civil Aircraft and Civil Aircraft Parts	Section 232	• Investigation ongoing.
Polysilicon and its derivatives	Section 232	• Investigation ongoing.
Unmanned Aircraft Systems	Section 232	• Investigation ongoing
Wind turbines, parts and components	Section 232	• Investigation ongoing.
Robotics and industrial machinery	Section 232	• Investigation ongoing.
Personal Protective Equipment and Medical Supplies	Section 232	• Investigation ongoing.
Anthracite Coal	Section 232	• Investigation ongoing

New Tariff Actions – Section 338 Tariffs on Canada

- Effective August 22, 2026, the United States began imposing additional 50% tariffs on certain products of Canada under Section 338 of the Tariff Act of 1930. The duties were imposed through three Presidential Proclamations issued on July 20, 2026, addressing alleged Canadian discrimination against U.S. products including dairy, alcoholic beverages, and motor vehicles.
- The tariffs were originally scheduled to take effect on August 19.
 - On August 18, President Trump temporarily suspended their implementation for three days while negotiations with Canada continued, moving the effective date to 12:01 a.m. Eastern Time on August 22, 2026.
- That temporary reprieve expired August 22, and U.S. Customs and Border Protection (CBP) has issued guidance explaining how importers, customs brokers, and filers should handle affected entries.

Section 338

- Section 338 of the Tariff Act of 1930, codified at gives the President authority to impose additional duties of up to 50% when a foreign country discriminates against U.S. commerce or imposes certain unreasonable or unequal restrictions that place U.S. commerce at a disadvantage.
- Although Section 338 has existed for nearly a century, its use against Canada represents an unusual application of the statute.
- While the July 20 proclamations invoked Section 338 in response to three categories of alleged Canadian discrimination: alcoholic beverages, dairy and motor vehicles, the products subject to the 338 tariffs announced apply to products beyond these three sectors.
- Section 338 does not require the imported product subject to the additional duty to have a direct connection to the discriminatory practice the United States is seeking to offset.

Section 338 - Canada Retaliates

- On August 25, 2026, the Canadian government announced that it will impose additional tariffs on \$27.6 billion of U.S. goods, matching the value of Canadian goods affected by the new U.S. Section 338 tariffs.
- The Canadian counter-tariffs will take effect at 12:01 am on September 8, 2026, and will impose additional duties of 15%, 25%, or 50%, depending on the product.
- The affected products are drawn from goods targeted by the US under both Section 338 and Section 232, with Canada generally applying a rate corresponding to the U.S. tariff on the same goods.
- This delay in implementation, appears to be giving the countries until September 8th to negotiate. Certainly, Canada knows that US businesses will demand continuity of the USMCA in some form. And they have seen the strong arming of other trading partners who have given up a great deal in their agreements with the US to lower tariffs.
- Section 338 tariffs rest on unsteady statutory grounds. Canada may view threats to use these tariffs as a temporary threat until the US courts find the use of Section 338 for these tariffs illegal as it did with IEEPA tariffs.



USMCA - Key Developments and Nearshoring Impact

USMCA Negotiations

- USMCA mandatory 6-year review did not result in a “routine” 16-year extension, but into an annual joint-review process that will continue until the parties agree an extension or the treaty expires in 2036.
- Mexico and the US are engaged in bilateral negotiations. Three rounds took place between May and July. A fourth one expected in September.
- Mexican Secretary of Economy Marcelo Ebrard has declared that of the initial 54 issues raised by the American government, only 12 remain.

Friction issues:

- China investment
- Quick response labor mechanism
- Automobiles rules of origin
- Biotechnology trade measures
- Pharma regulatory compatibility
- Seasonality restrictions to
- Mexican agricultural products
- 1944 water-sharing agreement

USMCA and Tariffs

US continues to provide relief of 301 and 338 tariffs for USMCA originating goods.

Mexico has taken concrete measures to align with US trade policy:

- MFN tariffs were increased up to 35%-50% for various products including iron, steel, aluminum, textiles and others.
- Plan Mexico sets goals for substituting imports and increasing domestic and regional content under Plan Mexico.
- Customs law was amended to increase importers' obligations to trace imported goods, and customs brokers' liability.
- Mexican regulations on dual-use export controls amended to adopt additional export controls in effect in the US.
- IMMEX program has been amended to exclude garments and shoes from the program.

Nearshoring

Pros

- Reshoring to the US may be cost-prohibitive.
- Proximity to the US market.
- Deep manufacturing integration.
- Competitive labor costs.

Cons

- Insecurity costs.
- Water and energy availability.
- Tax authority aggressiveness.
- Uncertainty due to reform to the judiciary.

USMCA negotiations bring an additional layer of uncertainty, but don't close the window.

Comments on USMCA Renewal

- **Industry groups** and **academics/think tanks** generally expressed support for USMCA renewal, with some companies recommending certain changes.
 - USMCA enhances industry competitiveness and supply chain resilience – especially automotive, manufacturing, dairy, technology, and cybersecurity.
 - USMCA supports predictable cross-border integration and reduces vulnerabilities in critical sectors.
 - Recommend focusing on rules of origin, labor-value content, regulatory harmonization, and digital trade in USMCA renewal negotiations.
 - Address investments from non-market economies into the North America market.
- **Labor** and **consumer groups** were more negative about the benefits of the USMCA and whether it should be renewed.
 - Raise concerns about rules for digital trade that would limit oversight on AI, data governance, and transparency.

USTR Greer's Comments on USMCA Renewal

- **Broad support for renewal, with conditions:** Stakeholders across industry, agriculture, and policy communities generally view the USMCA as successful and support extending it but emphasize renewal should be contingent on addressing shortcomings.
- **Emphasis on enforcement and compliance:** A recurring theme is need for more rigorous enforcement of existing commitments—particularly Mexico's energy policies and Canada's agricultural and dairy market access obligations—before the United States agrees to extend the agreement.
- **Agriculture remains a focal point of concern:** Stakeholders highlighted unresolved agricultural issues, including Canadian dairy tariff-rate quota administration, exports of certain Canadian dairy products, Mexican seasonal produce, and maintaining science-based SPS measures and duty-free trade.
- **USMCA review seen as leverage for modernization:** Commenters view the review mechanism as an opportunity to update the agreement to reflect post-pandemic supply-chain realities, address non-market practices, and ensure the agreement continues to serve U.S. economic and strategic interests.

Trade negotiation with the US (non-exclusive)

Jurisdiction	Thailand	Vietnam	Indonesia	Malaysia	Japan	Philippines	Taiwan	India
US reciprocal tariff rate	19%	20%	19%	19%	15%	19% (all US goods)	15% (with 0% on certain goods)	18%
Reduction of duty for US goods	Yes (99% of US goods)	Yes (all US goods)	Yes (99% of US goods)	Yes	Yes	Yes	Likely	Yes (all US industrial goods and a wide range of US food and agricultural products)
Market access for US goods	Automotive, medical devices, pharma, ethanol, agricultural products	Automotive, medical devices, pharma, agricultural products	Automotive, medical devices, pharma, cosmetic and agricultural products	Automotive, medical devices, pharma, agricultural, food, industrial products	Aerospace, agriculture, food (with expanded quotas), energy, automobile, and industrial goods	Automobiles, soy and wheat products	Possibly automotive	India will address non-tariff barriers that affect bilateral trade in priority areas.
Other areas of commitment	Remove reward systems for enforcement actions, export controls, investment security, supply chain resilience, IP, labour, environment, trade facilitation, digital tax, investment, etc	IP, labour, environment, trade facilitation, digital trade, investment, etc	Rules of origin, local content requirement, duty evasion, export controls, labour, permanent moratorium on customs duties on electronic transmissions	US export control enforcement, supply of rare earth, moratorium on customs duties on electronic transmissions, IP, labour, environment, trade facilitation, digital tax, investment, etc	Invest in US semiconductors, pharma, metals, critical minerals, shipbuilding, energy and AI/quantum computing, alignment on export controls, mutual supply of rare earth, etc	IP, transshipment enforcement, military purchases	Taiwan chips and technology companies to invest USD 250 billion in US chipmaking and energy, and AI capacity, supported by Taiwanese government's guarantee of USD 250 billion in credit.	Commit to negotiate rules of origin which benefit US and India as well as bilateral digital trade rules that addresses discriminatory or burdensome practices, etc.
Status	Pending (framework agreement)	Pending (framework agreement)	Signed	Signed	Signed	Pending	Pending	Pending (framework agreement)

Status of trade negotiations with the US

- The Supreme Court decision raises questions as to whether existing trade deals entered into by the Trump administration remain valid.
- In the near term, China and certain ASEAN jurisdictions with higher agreed reciprocal tariff rates may stand to benefit.
- Other countries with lower reciprocal tariff rates (e.g., Singapore and Australia) may face higher tariffs than before.



Enforcement is Coming - Best Practices and What to Tell Your Clients

US Customs Enforcement Increasing

- On June 3, 2026, President Donald Trump signed Executive Order “Strengthening Customs Enforcement,” empowering U.S. Customs and Border Protection with a comprehensive set of tools to “safeguard American consumers, businesses, and revenue while increasing transparency and compliance across international supply chains.”
- The Order offers insights into the administration’s specific enforcement priorities, including enforcement tied to forced labor violations, misclassification, undervaluation, and illegal transshipment.
- The Order requires CBP to enhance penalties, including establishing a minimum penalty floor and eliminating the ability of repeat offenders to secure penalty mitigation.
- the Order directs the Secretary of Homeland Security to take any action necessary to bolster customs enforcement, including:
 - enforcing liquidated damages claims (i.e., administering predetermined penalties against IORs or brokers for failing to meet the conditions of their customs bond);
 - restricting in-bond utilization (i.e., limiting an IOR’s ability to move goods into the United States without paying duties); and
 - increasing audit activity.

US Customs Enforcement – by the numbers

- \$88 billion in duties collected in FY2024 to \$282 billion in FY2026
- \$31 billion thus far in Section 122 duties in FY2026
- \$166 billion IEEPA tariffs collected that must be refunded
- \$667 million collected in FY2024 from entry summary reviews vs.\$7.8 billion in FY2026
- \$118 million collected from importer audits in FY2024 versus \$204 million in FY2026
- 22,399 penalties imposed in FY2024 versus 50,333 in FY2026
- \$26.2 million in FY2024 versus \$70.6 million collected from trade penalties and liquidated damages

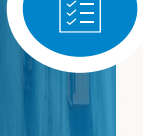
Mexico Enforcement Trends

Customs audit planning evolving to smart risk assessment based on continuous data analytics.

Customs law reform and regulation amendments include:

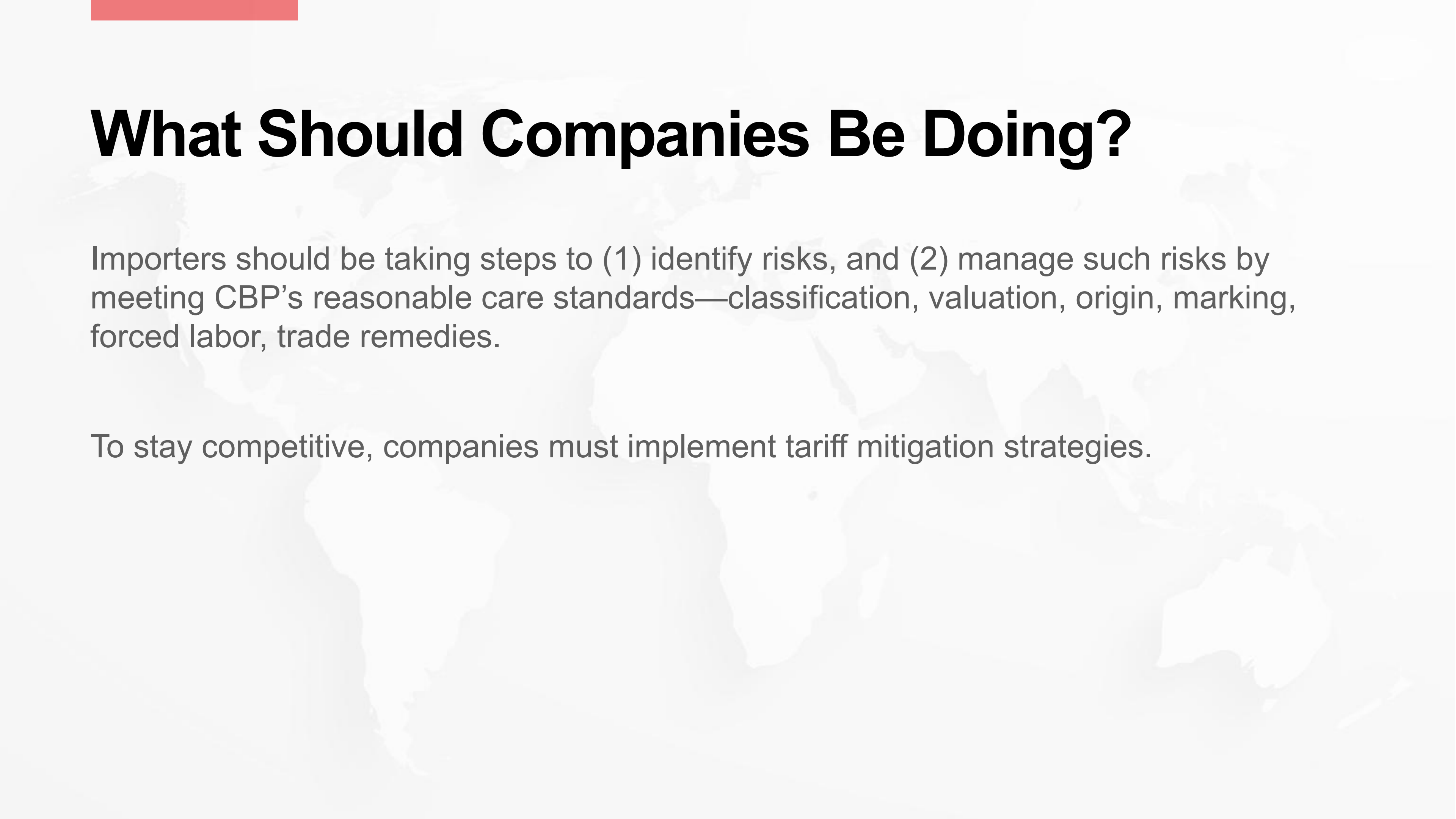
- Enhanced customs records allowing traceability of imported goods.
- Electronic customs value declaration.
- Customs authority gain remote access to certain systems of IMMEX companies, bonded facilities and courier companies.
- Increased liability for customs brokers.
- Fines for serious infractions raise from 70% to 250% of goods value.

Focus Areas

-  IMMEX: timely exportation (Annex 24 inventory control system).
-  IMMEX: compliance with VAT certification requirements.
-  FTA preferential treatment: verification of origin.
-  Non-tariff regulations: detecting evasion through misclassification.
-  Bonded facilities: permanent compliance with applicable requirements.
-  Customs valuation: reviewing operations with under market value.
-  Domestic taxes: verify taxes for domestic sale of imported goods.
-  VAT exempt imports: reviewing exemption criteria are correct.



What do Clients Need to Understand



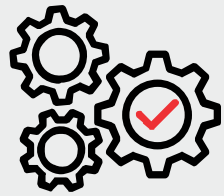
What Should Companies Be Doing?

Importers should be taking steps to (1) identify risks, and (2) manage such risks by meeting CBP's reasonable care standards—classification, valuation, origin, marking, forced labor, trade remedies.

To stay competitive, companies must implement tariff mitigation strategies.

Tariff Mitigation Strategies

How to remain competitive and stay ahead of the curve?



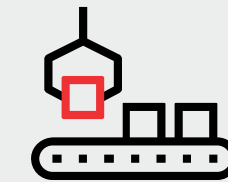
Change origin of goods

- Change supply source or key production location.
- Non-preferential rules of origin generally require substantial transformation.



Optimise valuation

- Identify opportunities to reduce value of goods.
- Utilise "**first sale of export**" rule where multiple sale transactions are involved; review Valuation Method to determine if nondutiable costs can be removed.

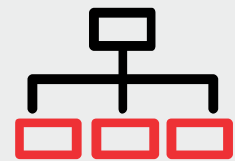


Reclassify products

- Identify product changes that may result in favorable tariff classification of goods.
- Ensure re-classification is defensible.

Tariff Mitigation Strategies

How to remain competitive and stay ahead of the curve?



Disaggregate products

- Conduct final assembly in country of importation or third country.



Utilise trade facilities

- Use free trade zones and duty drawback programs to reduce tariff exposure.
- Relocate distribution hubs to free trade zones.

Trade Compliance Recommendations



Regulatory environment requires preparing robust customs filings and records, pushing for pre-clearance self-review of tariff, origin, valuation and regulatory compliance.



Contractual framework should be ready for customs, tariff and regulatory changes and contingencies, including agreements with suppliers, clients and customs brokers.



Preparation for digital supervision is strategic, as the authority expands its level of access to companies' systems. IMMEX's Annex 24 systems require special attention.



Disperse ownership of processes and lack of communication between areas increases risk in case of audit exponentially.

Questions?



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Hugo Hernández Ojeda Alvírez

Partner at Hogan Lovells Cadwalader (Mexico City)



MASTER OF CEREMONY



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ENVIRONMENTAL PANEL

U.S.–Mexico Legal Trends and Updates



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Mexico-U.S. Relevant legislative Updates

NEW GENERAL ENVIRONMENTAL LAW

- **Comprehensive overhaul:** SEMARNAT bill would repeal the 1988 LGEEPA and enact a new Law. Filed in Congress on August 28.
- Reinforced **precautionary** principle: authorities may adopt preventive and safety measures where there is scientific uncertainty of serious or irreversible environmental risk.
- Broader **investigation & enforcement** powers for the new *Procuraduría Federal de Justicia Ambiental*.
- **Ex-post regularization:** projects that began without authorization must submit an environmental damage assessment and a sufficient guarantee for restoration or compensation.
- Recalibrated sanctions regime: maximum fine up to 2M UMA (**MXN 234.6M - US 13.8M**), weekly continuing fines, and a new Environmental Offenders Registry accessible only to federal authorities.
- Existing permits are not a shield: environmental provisions issued after an authorization may prevail over its conditions when in the public interest: **audit compliance**, insurance and guarantees **now**.

Mexico-U.S. Relevant legislative Updates

RAPID RESPONSE ENVIRONMENT MECHANISM (RREM)

- Proposed USMCA enforcement tool, modeled on the Rapid Response **Labor** Mechanism (RRLM).
- Would allow the U.S. to bring **facility-specific complaints** against Mexican operations for environmental violations.
- Remedies would mirror the RRLM: **suspension of preferential tariff treatment and penalties** on goods from the covered facility.
- Status: policy proposal only. No bill introduced in the 119th Congress.
- Momentum is building through the ongoing **USMCA Joint Review renegotiation**; next U.S.–Mexico round in Washington this month.
- Implication: companies exporting from Mexico under USMCA preferences should **start environmental compliance audits** now, ahead of any formal rollout.

“

The USMCA made great strides towards enforcing labor commitments by creating a Rapid Response Mechanism for labor violations. There should be a similar mechanism for environmental violations.”

**Sen. Sheldon Whitehouse (D-RI),
Letter to USTR Ambassador
Jamieson Greer, March 17, 2026**



General Circular Economy Law



General Circular Economy Law:

- Establishes a national framework for transitioning from a linear to a circular economy in Mexico.
- Seeks to reduce waste generation and the consumption of virgin raw materials while keeping products and materials in use for longer.
- Incorporates principles such as circularity, resource efficiency, life-cycle approach, shared responsibility and environmental protection.
- Applies across production, distribution, consumption, reuse, repair, recycling, recovery and final disposal.
- Creates responsibilities for federal, state and municipal authorities, as well as producers, importers, distributors, consumers and waste managers.



Key obligations

Introduces Extended Producer Responsibility (EPR)

Promotes collection, return, reuse, recycling, recovery and appropriate waste management

Encourages eco-design (with increased durability, repairability, recyclability and reduced use of virgin raw materials)

Provides for circular economy plans to achieve measurable targets and actions

Strengthens traceability and information requirements concerning materials, products and waste

Encourages the incorporation of recycled or secondary materials into production processes

Implications for businesses



COMPANIES SHOULD ASSESS THE **ENTIRE LIFE CYCLE OF THEIR PRODUCTS**, RATHER THAN FOCUSING ONLY ON WASTE GENERATED AT THEIR FACILITIES AND MAY REQUIRE ASSESSMENT OF EXISTING WASTE AND ESG PROGRAMS



MAY REQUIRE DESIGN AND MATERIALS CHANGES
CIRCULARITY REQUIREMENTS MAY CREATE ADDITIONAL COMPLIANCE COSTS AND REPORTING OBLIGATIONS, PARTICULARLY FOR PRODUCERS AND IMPORTERS.



AT THE SAME TIME, THE LAW CREATES OPPORTUNITIES FOR MATERIAL RECOVERY, RECYCLING, REUSE, INDUSTRIAL SYMBIOSIS AND NEW CIRCULAR BUSINESS MODELS.



IMPLEMENTING REGULATIONS, SECONDARY RULES AND TECHNICAL STANDARDS WILL BE CRITICAL IN DETERMINING THE SPECIFIC OBLIGATIONS APPLICABLE TO EACH INDUSTRY.



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ARBITRATION PANEL

Litigation / Arbitration Cross-Border Update



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LAW FIRM MANAGEMENT AND ADMINISTRATION PANEL

The Right Size to Lead: How Law Firms Govern, Grow, and Compete



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KEYNOTE ADDRESS

Ministro José Ramón Cossío

Retirado (MX)



KEYNOTE SPEAKER

José Ramón Cossío



SEPTEMBER 4, 2026 • 12:00 PM – 01:00 PM

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CORPORATE GOVERNANCE AND COMPARATIVE ETHICS PANEL

The Deal, the Board, and the Lawyer: Ethical Challenges in U.S.–Mexico Transactions



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The Deal, the Board, and the Lawyer

Ethical Challenges in U.S.–Mexico Transactions



Corporate Governance • M&A • Comparative Professional Responsibility

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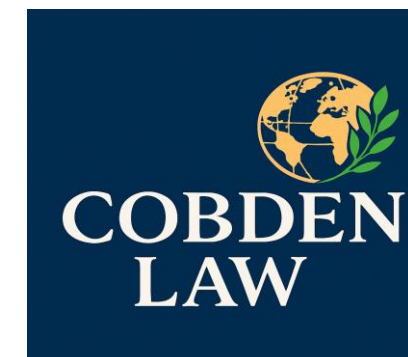
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MODERATOR

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Holland & Knight



Three Seats at the Table

The ethical problem changes depending on whose perspective is driving the transaction.

THE DEAL

- Commercial momentum and closing certainty
- Valuation, financing and timing pressure
- Contractual deal protections and the practical ability to walk away

THE BOARD

- Informed and independent judgment
- Duties of care and loyalty
- Conflicts, information quality and oversight

THE LAWYER

- Who is the client?
- Conflicts and independent professional judgment
- Confidentiality, escalation and when separate counsel is needed

Two Legal Systems — Different Starting Points

Use the comparison to frame the discussion, not to suggest identical rules.

UNITED STATES

- State corporate law governs board duties; Delaware is used here as the principal comparative reference.
- DGCL §141 places management of the corporation under the direction of the board.
- ABA Model Rules provide the ethics framework used here; actual governing rules depend on the lawyer's jurisdiction.

MEXICO

- LGSM supplies the general corporate framework, including conflict rules for administrators.
- LMV contains a more developed statutory duties framework for publicly traded companies (SABs), including diligence, loyalty and conflicts.
- Professional-responsibility obligations are not organized around a single nationwide analogue to the ABA Model Rules; applicable law and bar rules must be identified.

QUESTION 1

How can boards of multinational companies effectively exercise their fiduciary and oversight responsibilities in cross-border transactions when navigating different legal and regulatory regimes, compliance requirements, political risks, and business cultures across multiple jurisdictions?

Listen for how directors obtain enough information to exercise judgment across jurisdictions—not merely approve a cross-border deal.

Multinational Boards — Oversight Across Legal Regimes

Cross-border M&A requires the board to translate different risks into one informed decision.

BOARD OVERSIGHT

- Directors should identify which jurisdictional risks are legally mandatory, commercially material or reputationally significant.
- Political, regulatory and cultural risks can affect valuation, deal certainty, integration and post-closing liability.
- Board materials should show that directors considered alternatives, mitigation steps and changed circumstances.

U.S.–MEXICO COMPARISON

- U.S.: DGCL §141 and fiduciary doctrine focus on informed, independent board decision-making and oversight.
- Mexico: LGSM and, for SABs, LMV duties require directors to act diligently and loyally within the company's legal framework.
- The board may need local-law input from each relevant jurisdiction before relying on a consolidated recommendation.

COUNSEL'S ETHICS ROLE

- Counsel should identify limits of expertise and coordinate local counsel where foreign-law issues are material.
- Rule 2.1 supports candid advice that includes legal, reputational, economic and political considerations relevant to the client.
- Rule 1.13 keeps counsel focused on the organizational client when management's preferred path may not protect the company.

QUESTION 2

What are the associated risks in 50–50 partnerships, joint ventures and similar transactions, and what means can legal counsel recommend to reduce or mitigate those risks to acceptable levels?

The ethics issue is often not the 50–50 split itself, but failing to design for disagreement.

50–50 Partnerships & Joint Ventures — Governance at the Front End

STRUCTURAL RISKS

- Deadlock: equal ownership can paralyze budgets, strategy, appointments, financing and exit decisions.
- Misaligned incentives: each party may protect its own business, affiliates or market position over the JV.
- Information asymmetry, related-party transactions and different compliance cultures can erode trust.
- A 50–50 structure can make fiduciary, contractual and client-identity issues harder for counsel.

RISK-REDUCTION TOOLS

- Reserved matters; budgets; audit, information and inspection rights; clear officer authority and reporting lines.
- Deadlock escalation: senior-executive negotiation, mediation, expert determination or limited casting-vote mechanisms.
- Exit tools: put/call rights, buy-sell, shotgun/Texas shoot-out, ROFR/ROFO, drag/tag rights and termination triggers.
- Compliance covenants, remediation rights and call/termination rights for serious legal or reputational breaches.

COUNSEL'S ETHICS ROLE

- ABA Rule 1.7: joint representation of both parties—or the JV and a parent—may create current-client conflicts.
- ABA Rule 1.13: when the JV is the client, counsel represents the organization, not either 50% owner personally.
- Separate counsel, written consents, engagement-letter clarity and privilege protocols may be essential.
- Counsel should make governance failure foreseeable and addressable before the deal documents are signed.

QUESTION 3

What is the role of legal advisors when compliance and cultural risks are discovered during due diligence, and how should those issues be escalated when important risks may create reputational exposure for the contracting parties?

Listen for who receives the red flag, who owns it, and when counsel must escalate it.

Due Diligence Red Flags — Counsel's Role in Escalation

DUE DILIGENCE FINDINGS

- Compliance and cultural risks identified in due diligence may affect the structure, terms, or viability of the transaction.
- Classify red flags by legal, regulatory, reputational, integration and closing risk.
- Track severity, owner, recommended action and whether the matter must be disclosed to the board or decision-makers.
- Use the diligence process to test whether the target's practices are compatible with the buyer's governance and compliance standards.

ESCALATION PATH

- Escalate beyond the deal team when a red flag may affect value, legality, approvals, reputation or post-closing integration.
- Consider the GC, compliance, audit committee, special committee or full board depending on severity.
- Preserve privilege, but do not let privilege become a substitute for board-level awareness of material risk.

U.S.–MEXICO LENS

- U.S.: FCPA, fiduciary duties and Rule 1.13 may require counsel to protect the organizational client when legal violations threaten substantial injury.
- Mexico: third-party relationships, government interactions, and local business practices may create anti-corruption or governance risks that can affect the transaction.
- ABA Rule 2.1 supports candid advice that includes reputational, moral, economic and political considerations relevant to the client.

QUESTION 4

At what point does deal momentum itself become an ethical risk, and who has the responsibility and independence to challenge the transaction—or recommend walking away?

Listen for the point at which commercial momentum begins to replace independent judgment.

Deal Momentum — Governance & Ethics Framework

BOARD / GOVERNANCE

- Directors must keep exercising judgment throughout the process; prior approval does not make later facts irrelevant.
- Changed circumstances or material new information may require renewed deliberation.
- Minutes and board materials should reflect risks, alternatives and changed facts—not merely a path to closing.

U.S.–MEXICO COMPARISON

- U.S.: DGCL §141 anchors board authority; fiduciary doctrine focuses on informed, loyal decision-making.
- Mexico: LGSM imposes responsibility for statutory and bylaw duties; LMV adds express diligence and loyalty duties for SAB directors.
- In both systems, conflicts and incentives can undermine the credibility of the process.

LAWYER'S ETHICS OVERLAY

- ABA Rule 1.13: the organizational client is the company—not management personally.
- If management conduct threatens substantial injury through a legal violation, Rule 1.13(b) may require counsel to act in the organization's best interests and escalate.
- Counsel should distinguish legal advice from the business decision whether to close.

QUESTION 5

Transactions create conflicts and incentives among management, directors, advisers and shareholders. Is disclosure enough—or should boards assume that conflicts can unconsciously distort judgment even when everyone is acting in good faith?

The practical question is not only whether a conflict was disclosed, but how it was managed.

Conflicts & Incentives — Disclosure Is Often Only Step One

UNITED STATES

- Duty of loyalty focuses on whether decision-makers are acting for the corporation rather than personal interests.
- DGCL §144 provides statutory pathways for specified interested-director/officer and controlling-stockholder transactions; process matters.
- Depending on the transaction, disinterested approval, independent committees, independent advisers or stockholder approval may be central.

MEXICO

- LGSM art. 156: an administrator with an interest opposed to the company must disclose it and abstain from deliberation and resolution.
- LMV art. 34: conflicted SAB directors must abstain from participating and being present in deliberation and voting.
- Bonuses, rollover equity, retention packages and future employment deserve explicit scrutiny.

COUNSEL'S ETHICAL QUESTION

- Who exactly is the client? ABA Rule 1.13 says the organization.
- Rule 1.7 bars concurrent conflicts unless the requirements for consentable representation are met, including informed written consent.
- Rule 1.13(g): dual representation of the organization and a constituent remains subject to Rule 1.7.
- A conflict among company, board member and executive may require separate counsel.

QUESTION 6

How should multinational companies structure the governance of foreign subsidiaries and joint ventures to balance the parent company's need for effective oversight and consistent global standards with the autonomy required for local directors and management to comply with their fiduciary duties, local law, and market practices?

The design challenge is balancing global control with local directors' legal duties and practical authority.

Subsidiaries & Joint Ventures — Global Standards, Local Duties

Governance design should make oversight effective without turning local boards into rubber stamps.

STRUCTURAL TENSION

- Parent companies need visibility, escalation and consistent compliance standards across the group.
- Local directors and managers may owe duties under local law and need authority to respond to local legal and market realities.
- Too much central control can obscure who is responsible; too little control can create compliance and reputational gaps.

GOVERNANCE TOOLS

- Reserved matters, delegation-of-authority matrices and clear reporting lines.
- Board composition, committee structures, information rights and escalation protocols.
- Compliance covenants, audit rights, remediation plans and exit or termination rights for serious violations.

LAWYER'S ETHICS ROLE

- Clarify whether counsel represents the parent, the subsidiary/JV, local directors, or multiple parties.
- Rule 1.7 issues can arise when the parent's interests diverge from the JV, subsidiary or local decision-makers.
- Rule 1.13(f) may require counsel to explain client identity when constituents misunderstand counsel's role.

CLE Takeaways

Six questions to carry into the next cross-border transaction.

THE DEAL, THE BOARD & THE LAWYER

- Momentum is not a substitute for independent board judgment.
- Due-diligence red flags require triage, privilege discipline and escalation to the right corporate actor.
- Disclosure identifies a conflict; process determines whether the conflict is adequately managed.
- 50–50 JVs and similar structures require governance design before disagreement arises.
- Multinational boards need a process for integrating legal, regulatory, political, compliance and cultural risks across jurisdictions.
- Counsel must clarify the client, manage conflicts and balance parent-company oversight with local fiduciary and legal duties.