

Overseas transaction management

Do you know the nuances of managing your real estate transactions in a global market? **By Brian Zurawski**

Navigating the real estate procurement or disposition process can oftentimes be difficult because of differences in the way transactions are managed market-to-market throughout the United States. Even more complicated can be the process of acquiring and disposing of properties in markets overseas.

The challenges of executing global real estate transactions are many. They include, but are not limited to:

- Even the basics of real estate terms or business practices are not consistent throughout the world. Standard lease terms such as the way deposits, insurance repairs, maintenance and tenant improvements are handled vary significantly from market to market.

- In some cases, corruption will influence the process. Knowing what to expect will help protect your organization against the pitfalls of a corrupt business environment.

- Currency issues also enter the equation. The issue is not only about tracking exchange rates; rather, it is about negotiating the currency in which payments should be made and/or establishing a means to hedge against vast movements in exchange rates.

- The legal framework of the real estate transaction also varies greatly around the world. Issues such as “What constitutes a binding contract?” “Where does liability lie?” “What rights does a foreign company have in a particular market?” are examples of questions to be asked throughout the process.

- Unfortunately, the lack of control of an organization’s own local staff in a foreign country is oftentimes a detriment to an effective real estate process. It is crucial to set global corporate real estate procedures to ensure that all local business units follow corporate policy and are not making commitments and signing leases independently.

The vast differences in real estate practices are illustrated in this comparison of the typical U.S. Practices versus those of China, France and Japan.

	United States	China	France	Japan
Typical Lease Length	3 to 10 years	2 to 3 years	9 years	Old Law: 2 years New Law: 1-20 years
Typical Termination Options	Negotiable	Negotiable	Every 3rd Year	Old Law: Every 3rd Year New Law: Negotiable
Frequency of Rent Payments	Monthly	Monthly or Quarterly	Quarterly	Monthly
Typical Security Deposit	One Month Rent	2-3 Months Rent (Usually Cash)	3 Months Rent	6-16 Months Rent
Inflation Index	CPI	N/A	Cost of Construction Index (INSEE)	Negotiable
Internal Maintenance	Tenant Responsibility	Tenant Responsibility	Tenant Responsibility	Tenant Responsibility
Exterior Maintenance	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord Responsibility	Landlord responsible, but Tenant pays through operating expense pass-throughs
Common Area Maintenance	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs
Building Insurance	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs	Landlord responsible, but Tenant pays through operating expense pass-throughs
Property Taxes	Tenant Responsibility	Tenant and Landlord Share Expense	Tenant Responsibility	Tenant Responsibility
VAT	N/A	N/A	19.6%	5%
Tenant Requirements at Lease End	Original condition less wear & tear	Original condition less wear & tear	Original condition less wear & tear	Original condition
Comment				Two co-existing and very difficult lease styles exist: old lease law and new lease law

- Language and communication barriers are often overlooked. Documents will likely be drafted in the local language. Assembling a team that can translate documents and conversations reduces the potential for costly errors.

Differences in business practice, language, legal framework, the potential for corruption and numerous other issues can, however, be mitigated. Establishing the appropriate processes and procedures will guide your organization to a successful outcome.

It is also critical to perform adequate due diligence on each market before getting into the process. Finally, be sure to

place the proper internal and external individuals and service providers on your team. An organization shouldn’t assume that its local staff has the knowledge, skills and/or motivations to truly manage the process.

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