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Basics Track: International

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IFA Fundamentals of International Franchising

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AUTHORS' NOTE

"Basics Track: International Expansion" has been a recurring workshop at the International Franchise Association ("IFA") Legal Symposium, serving as a "bridge" program for the IBA/IFA Joint Conference that follows the next day. Our mandate from the IFA was to update, revise and supplement, as necessary, the prior paper prepared for the 2025 session by Helen Fotinos, Jarina Duffy, and Jeremy Liebman, which itself built upon the 2024 version authored by Noah Leszcz, Kyle Lennox, and Melissa Murray, and earlier iterations authored by Mohammad M. Alturk, Arthur J. Anastos, and Hannah Fotsch (2023); Liz Dillon, Andraya Frith, and Larry Oberly (2022); Francesca Turitto, Larry Weinberg, Donald P. Wray Jr., and Tao Xu (2019); Lisa Greenlees, Debi Sutin, and Kendal Tyre (2017); Mark Siebert, Adiya Dixon, and Alan Greenfield (2016); and Marc Mushkin, Dominic Mochrie, and Robert Smith (2015).

The comprehensiveness of this 2026 edition of the paper is a credit to the collective expertise and contributions of all past authors and those who assisted them.

I. Introduction

For many successful franchisors, international expansion represents the next logical step in scaling their brand. The appeal is clear—entering new markets can unlock substantial revenue growth, diversify risk across geographies, and enhance global brand recognition. Franchising, in particular, offers a relatively capital-light and scalable method of international expansion, allowing franchisors to leverage the local knowledge, capital, and operational capacity of franchise partners abroad. As global demand for recognizable and proven business models continues to rise, franchisors frequently receive unsolicited interest from potential partners in neighboring or strategically aligned jurisdictions, including in emerging and non-traditional markets.

However, while international franchising presents significant opportunities, it also comes with a unique and increasingly complex set of legal, operational, and cultural challenges. Heightened regulatory scrutiny, evolving data privacy regimes, supply chain disruptions, geopolitical instability, sanctions compliance, and foreign investment restrictions have made cross-border expansion more nuanced than in prior years. Success therefore requires careful planning and a deep understanding of both the commercial and regulatory landscape in target markets. In this paper, we outline the key steps a franchisor must take to prepare for and execute a successful international expansion strategy through franchising.

We begin by examining what it means to prepare your business for international franchising, including critical foundational steps such as trademark protection, local domain registration, and feasibility assessments. This stage should also include a review of local cultural, linguistic, ESG/CSR, data privacy, and technology requirements, which may necessitate updates to training materials, operating manuals, and system infrastructure.

Once a business has been properly prepared for international expansion, franchisors must turn their attention to selecting the best expansion model for each target market. The optimal structure will depend on a variety of factors, including the franchisor's internal resources, market size and complexity, legal environment, and long-term strategic objectives. In this paper, we explore some of the most common structures, including direct, multi-unit, area development, master franchising, and hybrid or joint venture arrangements. Each option presents different levels of control, investment, and risk, and should be evaluated accordingly to make an informed decision, particularly in light of current economic and geopolitical uncertainty.

Next, we turn to the critical step of identifying and vetting the right franchise partner. The success of any international franchise venture hinges on the capabilities, integrity, and financial strength of the local operator. A rigorous selection process—comprising application forms, background checks (including sanctions and anti-corruption screening), interviews, and market visits—is essential to ensure alignment of values, capabilities, and long-term vision.

We then address the importance of carefully drafting and negotiating international franchise agreements. While domestic franchise agreements—particularly in the U.S.—may be relatively standardized, international transactions typically involve more negotiation and localization. Key commercial and legal terms will often be challenged by sophisticated franchisee candidates and must be tailored to comply with local requirements, including competition laws, consumer protection regimes, and currency and payment restrictions.

Finally, we review compliance with international franchise laws, which can vary significantly across jurisdictions. More than 40 countries impose franchise-specific disclosure and/or registration requirements, while other jurisdictions have laws that may prohibit or conversely mandate the inclusion of certain provisions in franchise agreements. We also touch on other essential legal considerations such as tax implications, foreign exchange controls, dispute resolution mechanisms, governing law clauses, and local operational compliance.

Together, these five pillars form the backbone of a robust international franchising strategy. Throughout this paper, we aim to provide franchisors with practical, current guidance on navigating the complexities of cross-border franchising while mitigating legal risk and maximizing long-term success.

II. Getting Ready to Franchise Internationally

When getting ready to franchise internationally there are multiple factors to consider. These include the registration of trademarks, domain names and social media, market feasibility assessments, supply chain considerations, and local document adjustments to, for example, the operating manual.

A. Ensure your trademarks are protected in key international markets

1. Core trademarks

When entering a new international market, you should ensure you register your core trademark(s) as soon as possible¹. This may be via a country registration, however, if possible, it could also be done via market wide registrations such as an EU wide registration. Trademark registrations can be expensive and can face opposition proceedings and or other issues such as local law assessments as to what type of trademarks can and cannot be registered (i.e. such as differences as to what is considered a generic trademark). With this being the case it is important to differentiate your core trademarks against your other trademarks so as to obtain the "biggest bang for your buck". This can be especially important if you are looking to enter the market with a specific local operator where there is a chance that the deal might fall through. By registering only your core marks you can avoid wasted costs if the deal doesn't materialize. To avoid disappointment, trademark searches should be conducted well ahead of making any filings. The best approach would be to map out the markets that the franchisor intends to enter in the next 3 years so that searches can be run and filings made 6-12 months before you sign a term sheet for the market. It is important to achieve a balance between filing multiple marks in future markets too early on a speculative basis against leaving it too late. If you file too early and do not use the trademarks after 3-5 years, those trademarks may be vulnerable to cancellation actions. If you leave it too late, local trademark pirates may register your trademarks in their country and this could become a major obstacle to the expansion of your business.

¹ See generally on the topic of trademarks in franchising, Babette Märzheuser-Wood, 'Dentons Franchise Guide: Seven steps to a successful franchise business', p.16. (*Dentons*) <[Dentons - Dentons Franchise Advisory](#)>, (accessed 22 April 2025). <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/dttl-digital-international-franchise-handbook-deloitte-legal.pdf>, <https://www.great.gov.uk/learn/categories/prepare-sell-new-country/routes-to-market/setting-franchise-abroad/>

2. Local market considerations

Language and cultural considerations - When considering registration of your core trademarks, you should also consider conducting a brand survey of the market into which you are entering.² This can be important if the local market has different language, different letters (for example Chinese, Japanese) or cultural aspects. Some markets may require translation and adaptations to your existing trademarks and logos. You may also want to check the market for local competitors who may be using similar trademarks and or logos, and who may thereby create a barrier to entry into the market via filing an opposition to your trademark registrations. There is also the danger that squatters have already registered your trademark.

Trademark squatters - The risk of trademark squatters varies from market to market, however, a market survey and local trademark search will serve to identify them so that appropriate actions can be taken prior to market entry. If squatters are not dealt with early on, they can become a big obstacle to closing a deal with local operators. Solutions to dealing with squatters can involve challenging their right to use the trademarks or can involve paying them off. The chosen solution should be based on a commercial assessment of the time and effort it would take to remove the squatter from the trademark as against the amount they are asking for selling the trademark.

3. Pop-up shops

In consideration of the earlier points, a pop-up shop could be considered to test local market conditions prior to establishing a full franchise model. This can help establish your trademark and name whilst serving as a limited time market study for sales data and for brand recognition surveys.

B. Register domain names and social media accounts

When entering a new market, you should ensure you obtain local domain names as soon as possible. Domain names are usually inexpensive to acquire and can be a good way of "planting your flag" in that market. The same can be said of social media handles. Early acquisition and protection of these assets can also assist in assessing local market sentiment toward your brand and mitigating brand misuse or impersonation risks.

1. Local market considerations

Language and cultural considerations – When entering a new market, it is important to ensure domain names, social media handles, and content reflect local languages and cultural norms. This may involve engaging translators or local marketing agencies to ensure that posts meet these requirements and avoid reputational missteps.³

Domain name and social media squatters – Squatters can also sit on domain names and social media handles. As with trademark squatters, the solution should be assessed from a commercial perspective—whether it is more efficient to acquire the assets or to challenge them through applicable dispute resolution mechanisms or platform policies.

² Warren Pengilly, *International Franchising Arrangements and Problems in Their Negotiation*, 7 Nw. J. Int'l L. & Bus. 185 (1985-1986)

³ Martin Mendelsohn, *How to Franchise Internationally*, published by HSBC in 2004

Local operator social media – After acquiring domain names and social media handles, there should be an assessment of who will control local marketing—the franchisor or the local operator. This is a commercial and compliance consideration, particularly given the increasing regulatory scrutiny on advertising, influencer marketing, and consumer protection. If the local operator is responsible, a robust monitoring, approval, and escalation framework should be built into the franchise agreement.

C. Red flag reporting. Is your business model feasible in your target market?

An important exercise when entering a new market is a comprehensive market assessment.⁴ This should cover population demographics, local tastes, cultural considerations⁵ (especially for food businesses where halal, kosher, or other dietary requirements may apply), real estate availability, competitive landscape, restrictions on advertising, and local taxes (including withholding taxes). Increasingly, franchisors should also assess labor availability, wage pressures, and macroeconomic stability.

Documents - A franchisor may have to adapt their operating system to local laws, rules and customs⁶, which may require changes to the operating manual or standards. Translations may also be required for the franchise agreement, operating manual, and related materials. In most cases, local adaptations are suggested by the franchisee; however, final approval must remain with the franchisor to protect brand integrity. Franchisors should also consider intellectual property ownership in translations and local adaptations.⁷

Technology – A franchisor must assess whether its technology stack (including POS systems, mobile apps, loyalty platforms, and data infrastructure) can be deployed in the local market or whether local solutions are required. This includes evaluating compatibility, licensing restrictions, cybersecurity risks, and data localization requirements. Increasingly, franchisors should also consider the use of AI-driven tools (e.g., marketing, customer analytics, or operations) and whether their deployment complies with local laws and internal governance standards.

Competition Law – Local competition and antitrust rules should be reviewed to ensure that restrictions imposed on the local operator are enforceable. Key considerations include resale price maintenance, exclusivity arrangements, and restrictions on passive sales.

D. Does the market meet minimum standards on anti-bribery and corruption, data privacy, human rights etc.

A local law review should be conducted to assess whether local standards on anti-bribery and corruption are sufficient. When engaging a local operator, it is also important to conduct sanctions screening (e.g., OFAC and other applicable lists) and broader integrity due diligence.

⁴ Warren Pengilly, International Franchising Arrangements and Problems in Their Negotiation, 7 Nw. J. Int'l L. & Bus. 185 (1985-1986)

⁵ Martin Mendelsohn, Effective Business and Professional Practices in Franchising, Middlesex University, July 1999

⁶ See for example some example countries with prohibitions on unfair terms as discussed in Babette Märzheuser-Wood, 'Franchising, a win-win model for hotel brands?', (*Dentons*, November 20 2024), <[Dentons - Franchising, a win-win model for hotel brands?](#)> (accessed 22 April 2025).

⁷ Brian Duckett, Three steps to successful international franchising; <https://www.global-franchise.com/insight/3-steps-to-successful-international-franchising>.

Reviewing which international brands are operating in the market can provide a practical indicator of regulatory viability:

- Regulatory Landscape – A local law review should assess not only the law "on the books" but also enforcement realities. Even where formal standards are strong, enforcement may be inconsistent. Franchisors should ensure robust contractual protections and compliance programs are in place to mitigate exposure under home-country laws (e.g., FCPA, UK Bribery Act).
- Environmental / Sustainability Considerations – Consideration should be given to local environmental and sustainability laws and expectations, including packaging, sourcing, and emissions-related requirements. Even in less regulated markets, franchisors may wish to impose global ESG standards to protect brand reputation.
- Human Rights and Labor – Child labor laws, working conditions, and broader human rights considerations remain critical. Increasingly, supply chain transparency and modern slavery compliance may also be relevant.
- Data Privacy and Cybersecurity – Franchisors must evaluate local data protection regimes (e.g., GDPR-style laws, data localization requirements) and ensure that customer, employee, and operational data is collected, stored, and transferred in compliance with applicable laws.

The above considerations should be periodically reviewed to ensure ongoing compliance as regulatory frameworks evolve.

E. Supply Chain. Are you permitted to import your products

There are several key steps to assessing how to establish and regulate the supply chain for the new market, particularly in light of ongoing global supply chain volatility and trade restrictions.

- Step 1 – Identify what must be sourced from the franchisor or approved suppliers versus what can or must be sourced locally. This assessment should consider (a) economic feasibility (including duties, tariffs, and logistics costs), (b) quality control, and (c) adaptability of products to local preferences.
- Step 2 – Evaluate the regulatory requirements for importing products and equipment. This includes (a) product approvals or registrations, (b) restrictions on ingredients or materials, (c) local standards of identity, and (d) whether import duties or trade barriers make importation impractical.
- Step 3 – Protection of trade secrets – Franchisors should carefully manage disclosure of proprietary information during supply chain discussions. Non-disclosure agreements should be used, and internal guidelines should be established to limit disclosures by non-legal teams.
- Step 4 – Commercial considerations – Evaluate equipment, costs, shipping times, and logistical constraints. Increasingly, franchisors should also consider geopolitical risks, trade sanctions, and supplier concentration risks when designing supply chains.

It may be that the most efficient supply chain from a cost perspective does not align with the franchisor's business model or brand standards. Local operators may push for local sourcing, particularly in larger or more developed markets..

F. Updating the Manual and your systems to service foreign markets

The manual, standards, and systems have been referenced above. Key considerations when entering a new market include: (a) language requirements; (b) access (digital vs. physical) and update protocols; (c) technology compatibility (including POS and reporting systems); (d) the ability to support international reporting and compliance requirements; and (e) whether materials require localization for legal, cultural, or operational reasons.

Franchisors should also consider version control, cybersecurity, and access restrictions for sensitive system materials, particularly where digital platforms are used to deliver manuals and updates across jurisdictions.⁸

III. Deal Structure: Selecting the Best Expansion Model for the Target Market

In international franchising, deal structure is one of the most consequential strategic decisions a franchisor will make. It directly impacts the degree of control a franchisor retains over brand standards and operations, the speed of expansion, and the allocation of financial, operational, and legal risk. Franchisors expanding internationally must carefully balance the desire for control against the capital, infrastructure, and personnel required to support that control in a foreign market.

At one end of the spectrum, a franchisor may elect to maintain significant direct oversight, including establishing a local presence, deploying internal resources, and directly supporting franchisees. While this approach allows for greater control and brand consistency, it requires meaningful investment and exposes the franchisor to increased operational complexity and local market risk. At the other end, a franchisor may delegate substantial responsibility to local partners, leveraging their capital, market knowledge, and operational capabilities in exchange for sharing fees and ceding a degree of control. This delegation can accelerate market entry and reduce upfront investment, but introduces execution risk, including challenges in partner selection, alignment of incentives, and consistent enforcement of system standards.

These structuring decisions have become more complex in the current global environment. Economic volatility, geopolitical instability, shifting trade and tariff regimes, foreign investment restrictions, and evolving regulatory frameworks all influence the viability of a given expansion model. Supply chain disruptions, currency fluctuations, and differing levels of legal and regulatory enforcement further complicate the analysis. As a result, franchisors must increasingly evaluate deal structures not only on traditional considerations of control and economics, but also on resilience, flexibility, and regulatory risk.

There is no one-size-fits-all approach to international expansion. Each target market presents unique legal, commercial, and cultural dynamics, and each franchisor brings its own strategic priorities, risk tolerance, and resource constraints. Accordingly, franchisors frequently deploy a range of structures across different markets, and in some cases within the same market over time, as their presence evolves. The selection of an appropriate model will depend on several

⁸ <https://franchising.eu/franchise-guide/27/international-franchising/>

key factors, including: (i) the desired level of control and brand oversight; (ii) available capital and internal resources; (iii) the maturity, size, and complexity of the target market; (iv) the regulatory environment, including franchise, competition, and foreign investment laws; and (v) the availability and quality of local partners.

Importantly, the chosen structure will have long-term implications beyond initial market entry. It will shape the franchisor's ability to enforce standards, adapt to local conditions, scale efficiently, and respond to underperformance or market disruption. In many cases, the cost and difficulty of unwinding or restructuring a poorly chosen model can be significant, particularly where sub-franchise relationships or local ownership rights are involved. For this reason, upfront structuring decisions should be made with a clear view toward both near-term execution and long-term strategic flexibility.

The following section provides an overview of the most common franchise structures used in international expansion, including the single-unit, multi-unit, area development, area representative, master franchise, and joint venture models. For each, we examine the key benefits and risks, the circumstances in which the model is most effective, and the practical considerations that should inform a franchisor's decision-making. By understanding these structures and their trade-offs, franchisors can better align their expansion strategy with market realities while maintaining the flexibility needed to navigate an increasingly dynamic global landscape.

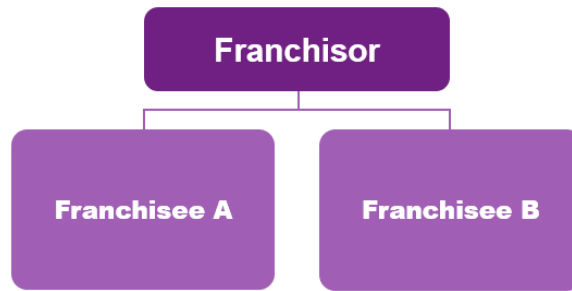
A. Single Unit Franchise Model

The single-unit franchise model is one of the most straightforward and commonly used structures in both domestic and international franchising. It is particularly well-suited for markets with limited demand, markets where the franchisor prefers a measured and controlled entry strategy, or jurisdictions where broader expansion may not yet be commercially or operationally viable. Under this model, the franchisor enters into a direct franchise agreement with a franchisee, granting the right to develop and operate a single outlet in a defined location.

In this structure, the franchisor performs its obligations directly, including providing training, operational support, inspections, and oversight of system compliance. As a result, successful implementation typically requires the franchisor either to establish a local presence or to manage the relationship remotely, which can introduce additional operational complexity.

From the franchisor's perspective, the single-unit model offers a relatively low-risk entry point into a new market. It allows the franchisor to test market conditions, assess consumer demand, and refine local adaptations before committing to a broader rollout—whether through the same structure or a different expansion model. This approach can also be useful in specific scenarios, such as temporary "pop-up" locations or pilot units used to establish or maintain trademark rights in a jurisdiction.

In smaller or more niche markets—whether due to population size, geographic constraints, or limited demand—the single-unit model provides a practical way to introduce the brand without overcommitting resources. It also allows the franchisor to focus on building brand awareness and operational know-how at a local level before scaling further.

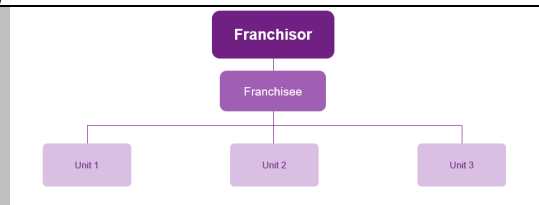


Single Unit Franchise	
Benefits	Risks
Lower Financial Risk: The franchisor's investment is limited to one or a small number of locations, reducing upfront capital commitment and exposure.	Slower Expansion: Growth in the market is incremental, as each unit is developed individually, limiting speed to scale.
Market Testing: Provides an opportunity to assess demand, refine the business model, and evaluate local conditions before broader expansion.	Longer Return on Investment: Lower fee generation and slower growth can delay meaningful financial returns.
Local Adaptation: Enables the franchisor to better understand cultural preferences, regulatory requirements, and operational challenges in the market.	Supply Chain Challenges: Smaller scale may make sourcing, logistics, and distribution more costly or inefficient, particularly where imports are required.
Increased Control: Direct relationship with the franchisee allows for closer oversight of operations and stronger enforcement of brand standards.	Higher Operational Burden: Requires greater involvement of franchisor resources, particularly where no local infrastructure exists.
Full Fee Retention: Franchisor retains all franchise fees and royalties without sharing with intermediaries (e.g., master franchisees).	Limited Market Penetration: A single or small number of locations may struggle to build brand recognition or compete effectively with established local players.
Flexibility / Easier Exit: Individual agreements can be terminated or allowed to expire, enabling the franchisor to reassess or exit the market with relative ease.	Direct Legal Exposure: The franchisor bears greater legal and regulatory risk due to the direct nature of the relationship, including potential liability for local operations.

B. Multi-Unit Franchise Model

Under the multi-unit franchising model, a franchisor grants a single franchisee the right to open and operate multiple franchise units within a specific territory or region. This model is often structured to encourage the franchisee to develop several outlets over a set period of time, with performance targets and deadlines attached. For the franchisor, the multi-unit franchise model allows for faster market penetration, leveraging a single franchisee's investment and operational expertise to establish a stronger, more widespread brand presence. The provisions regarding each outlet operated by the franchisee (i.e., site selection, operation, franchise fee, royalties, termination, etc.) are negotiated into a single multi-unit franchise agreement and

executed up front, instead of in separate unit franchise agreements for each location.⁹ Therefore, while a multi-unit franchise model may demand more time and strategic negotiation initially, it can afford greater administrative efficiencies in the future by eliminating the execution of multiple, individual franchise agreements, and the corresponding disclosure obligations that would attach to same. As a result, multi-unit franchise agreements are often preferred over single unit grants and area development grants (discussed below), in jurisdictions with strict or onerous disclosure requirements.¹⁰



Multi-Unit Franchise

Benefits	Risks
Faster Expansion: Enables rapid market penetration by opening multiple units in a shorter period.	Operational Complexity: Managing multiple units under one franchisee can introduce operational challenges and require more oversight.
Economies of Scale: With multiple units under one franchisee, the franchisor can achieve cost efficiencies in supply chain, marketing, and operations.	Risk of Overextension: If the franchisee is unable to manage all units effectively, it could harm brand reputation and overall performance.
Increased Brand Visibility: Establishing several outlets quickly improves brand recognition and presence in the market.	Quality Control Issues: Ensuring that all units meet the franchisor's standards and maintain brand consistency may require greater effort and resources.
Reduced Franchisee Management: Fewer franchisees to manage, which allows the franchisor to focus on strategic support for a select group.	Dependence on Franchisee Performance: The success of multiple units depends on the performance of a single franchisee, increasing risk if they underperform.
Local Knowledge and Expertise: Multi-unit franchisees often bring valuable local market knowledge, helping to navigate cultural, legal, and economic complexities.	Risk of Non-Performance: If the franchisee fails to meet expansion targets or manage multiple locations effectively, it can delay further expansion plans or result in financial losses.

C. Area Development Model

An area development agreement ("ADA") allows a franchisee (the "developer") to secure the right—and corresponding obligation—to develop and operate a specified number of franchise units within a defined territory over an agreed period of time. The territory may be granted on an exclusive, sole, or non-exclusive basis, and in some cases may be limited by geography, channels, or other parameters.

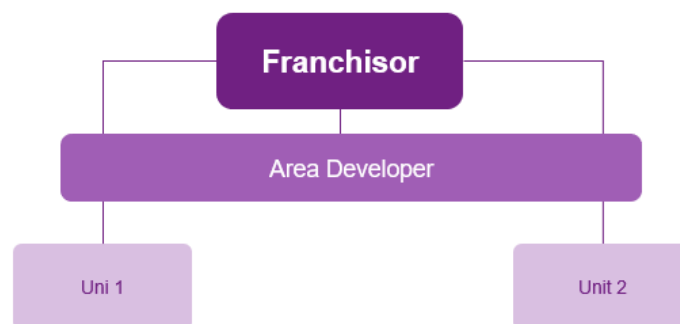
⁹ Leszcz, *supra* note 9 at 21.

¹⁰ *Ibid.*

Under this model, the developer typically assumes responsibility for both development and, in many cases, ongoing operational execution. However, unlike a master franchise structure, the developer does not have the right to sub-franchise. Instead, each unit developed pursuant to the ADA is operated directly by the developer or its affiliates, and each location is governed by a separate franchise agreement entered into directly with the franchisor. In practice, developers often establish separate legal entities for each unit to isolate liability and manage operations more efficiently. The ADA itself may terminate or "fall away" once the development schedule has been satisfied, unless the parties elect to retain certain ongoing obligations (e.g., territorial protections or development rights for future expansion). Importantly, the franchisor maintains direct contractual privity with both the developer and each operating entity, which distinguishes this model from the master franchise model.

From the franchisor's perspective, the area development model offers a balanced approach to international expansion. It enables relatively rapid growth within a defined market while avoiding the need for significant direct investment or the complexity of managing numerous independent franchisees. At the same time, it allows the franchisor to retain a higher degree of control than in a master franchise structure, given the direct contractual relationships at the unit level.

This model is particularly well-suited for markets with strong growth potential but meaningful cultural, regulatory, or logistical complexity. In large or diverse markets—such as China, India, or parts of the Middle East—where regional differences can materially impact operations, the ADA structure allows the franchisor to leverage local expertise for site selection, development, and day-to-day operations, while still maintaining oversight and enforcement rights across the system.



Area Development Agreements	
Benefits	Risks
<p>Faster Market Penetration: Enables development of multiple units within a defined territory, accelerating growth compared to single-unit models.</p>	<p>Developer Capability Constraints: It can be challenging to identify developers with sufficient capital, infrastructure, and operational expertise to both develop and operate multiple units effectively.</p>
<p>Local Expertise: Developer's knowledge of local market dynamics, culture, and regulatory environment enhances execution and reduces entry risk.</p>	<p>Concentration Risk: Reliance on a single developer for a territory means underperformance or disputes can materially impact the entire market.</p>

Streamlined Administration (Post-Launch): Fewer franchise relationships to manage compared to a dispersed single-unit strategy, while still maintaining direct contractual control.	Upfront Diligence Burden: Requires significant time and resources to identify, vet, and negotiate with qualified developers.
Maintained Control: Franchisor retains direct contractual privity with each unit, allowing for stronger enforcement of system standards compared to master franchise structures.	Higher Operational Demands: Franchisor must still provide training, support, and oversight across multiple units, often across borders.
Territorial Incentives: Exclusive or protected territories can incentivize developers to invest meaningfully in building out the market.	Reputational Risk: Poor execution by a single developer can adversely affect brand perception across the entire territory.
Economies of Scale: Multi-unit development can improve efficiencies in supply chain, marketing, and operations for both parties.	Administrative Complexity: Requires multiple franchise agreements, disclosures, and ancillary documents, increasing cost and risk of inconsistency or error.
Fee Upside: Franchisor may receive upfront development fees and retain full initial fees, royalties, and marketing contributions at the unit level.	Legal and Regulatory Exposure: Franchisor remains directly exposed to local legal and regulatory risks due to direct relationships with each unit.
Flexibility in Enforcement / Exit: Easier to restructure or terminate than a master franchise model, as there are no sub-franchisees.	Capital Intensity for Developer: Developer bears significant capital burden to build and operate multiple units simultaneously.
Regional Consistency: Centralized control by a single developer can promote consistent execution across locations.	Development Execution Risk: Failure to meet development schedules can delay market penetration and create contractual disputes.

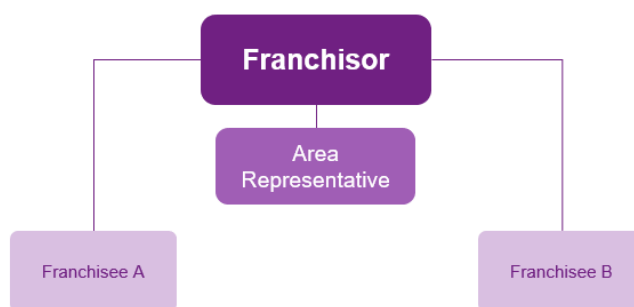
D. Area Representative Model

An area representative agreement is a franchise model in which a franchisor appoints a third party (commonly referred to as an "area representative" or "development agent") to support the development and operation of franchise units within a defined territory. The area representative does not operate the franchised units itself, but instead acts in a support and facilitation role—often assisting the franchisor with recruiting, screening, training, and supporting franchisees in the region. In many international arrangements, the area representative may also assist with post-sale obligations, such as site selection, build-out oversight, training delivery, operational support, and system compliance.

In exchange for these services, the area representative typically receives a portion of the initial franchise fees generated within the territory and, where ongoing services are provided, may also receive a share of royalties or other recurring fees paid by franchisees. The precise compensation structure is negotiated and can vary depending on the scope of responsibilities delegated to the area representative.

Structurally, the franchisor typically enters into two separate agreements: (i) an area representative agreement with the area representative, which governs the scope of services, territory, and compensation, and (ii) either individual unit franchise agreements or an area development agreement directly with each franchisee. Unlike the master franchise model, the area representative does not have the right to sub-franchise and does not enter into franchise agreements with the franchisees. As a result, the franchisor retains direct contractual privity with each franchisee, which allows for greater control over system standards, enforcement, and brand protection.

This model is often used in international markets where the franchisor seeks local market expertise and operational support, but is not prepared to fully delegate control as it would under a master franchise structure. It can be particularly effective in jurisdictions where direct involvement at the franchisee level is impractical or resource-intensive, while still allowing the franchisor to maintain a direct relationship with the operators. In this respect, the area representative model combines elements of both master franchising and area development, offering a flexible and scalable approach to market entry.



Area Representative Agreements	
Benefits	Risks
Local Market Expertise: Area representative provides valuable knowledge of real estate, supplier networks, consumer preferences, and regulatory environment, supporting more effective market entry and expansion.	Dependence on Area Representative: Poor performance, misalignment, or loss of the area representative can significantly disrupt development and ongoing support in the territory.
Retention of Contractual Privity: Franchisor contracts directly with franchisees, allowing for stronger control over brand standards, operations, and enforcement compared to master franchise structures.	Reduced Economics: Franchisor shares initial fees and/or ongoing royalties with the area representative, reducing overall profitability relative to direct franchising.
Reduced Operational Burden: Delegation of recruitment, training, and support functions allows franchisor to expand with fewer internal resources.	Ongoing Oversight Required: Franchisor must still monitor both the area representative and franchisees, potentially duplicating effort and increasing administrative complexity.
Faster Market Penetration: Leveraging local relationships and expertise can accelerate site selection, franchise sales, and development timelines.	Regulatory and Agency Risk: Area representatives may be characterized as agents under local law, potentially exposing the franchisor to liability for their actions.
Flexible Expansion Model: Provides a middle ground between direct franchising and master franchising, allowing tailored allocation of responsibilities.	Inconsistent Execution Risk: Quality of franchisee support and system implementation may vary depending on the capabilities of the area representative.
Lower Capital Investment: Franchisor can expand into new markets without establishing a full local infrastructure.	Transition Risk: If the relationship terminates, the franchisor may need to quickly replace the area representative or assume responsibilities without local resources in place.

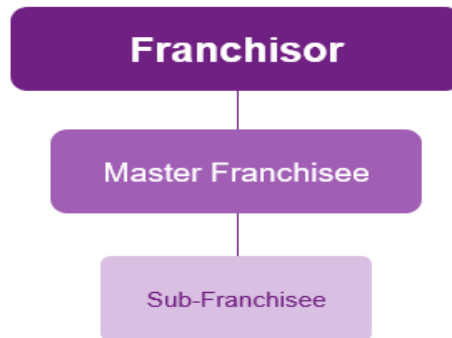
E. Master Franchise Model

A master franchise agreement ("MFA") is a structure under which a franchisor grants a master franchisee the exclusive or non-exclusive right to develop, operate, and expand the franchise system within a defined territory. The master franchisee is typically authorized to (i) open and operate company-owned units (often through affiliates) and (ii) sub-franchise to third-party operators within the territory, effectively "stepping into the shoes" of the franchisor in that market. In practice, the master franchisee will often begin by developing one or more flagship locations to establish the brand locally, serve as training centers, and support the recruitment and onboarding of sub-franchisees.

A defining feature of this model is the layered contractual structure. The franchisor enters into the MFA directly with the master franchisee, which governs the overall relationship, including territorial rights, development obligations, system standards, intellectual property rights, reporting requirements, and the revenue-sharing arrangement. The MFA typically includes a development schedule requiring the master franchisee to achieve specified unit openings (whether corporate or sub-franchised) within defined timeframes, with failure to meet those obligations triggering remedies such as loss of exclusivity or termination. Economically, the master franchisee pays an upfront master franchise fee for the territory and is responsible for collecting all system revenues within the territory—including initial franchise fees, royalties, and marketing contributions—from sub-franchisees, and remitting an agreed percentage to the franchisor.

At the unit level, sub-franchisees do not contract directly with the franchisor. Instead, they enter into sub-franchise agreements with the master franchisee, which acts as the local franchisor. These sub-franchise agreements are typically based on the franchisor's standard form (often attached to or approved under the MFA), but may be adapted to comply with local law and market practice. The master franchisee assumes primary responsibility for recruiting, vetting, training, supporting, and enforcing compliance against sub-franchisees, including collection of fees and day-to-day system oversight. While the franchisor may retain certain controls—such as approval rights over sub-franchisees, required use of a prescribed agreement form, audit rights, and "step-in" or cure rights if the master franchisee fails to enforce system standards—there is generally no direct contractual privity between the franchisor and the sub-franchisees. This can create both efficiency and risk, as the franchisor must rely heavily on the master franchisee to maintain brand standards and system integrity.

This model is often used where the franchisor lacks the resources or appetite to directly support expansion in a foreign market, particularly in jurisdictions with complex regulatory environments, cultural nuances, or logistical challenges. By leveraging a capable local partner, the franchisor can achieve rapid market penetration and operational scale without building its own infrastructure. At the same time, the structure requires careful drafting and strong partner selection, as the master franchisee effectively becomes the face of the brand in the territory. Misalignment, underperformance, or failure to properly manage sub-franchisees can have system-wide consequences, and unwinding the structure can be particularly complex once a network of sub-franchisees is in place.



Master Franchise Agreements	
Benefits	Risks
<p>Reduced Financial and Operational Risk: The master franchisee bears primary responsibility for developing, expanding, and operating the brand in the territory, significantly reducing the franchisor's capital investment and resource commitment.</p>	<p>Loss of Direct Control: The franchisor has limited control over day-to-day operations and sub-franchisee relationships, which can lead to inconsistencies in brand standards and customer experience.</p>
<p>High Upfront Fees and Ongoing Revenue Stream: The franchisor typically receives a substantial initial master franchise fee and an ongoing share of revenues generated within the territory.</p>	<p>Revenue Sharing Dilution and Visibility Risk: The franchisor must share fees and royalties with the master franchisee and relies on the master to collect and remit payments, often with limited transparency into sub-franchisee performance and system economics.</p>
<p>Local Market Expertise: The master franchisee is often better positioned to navigate local laws, culture, and consumer preferences, facilitating smoother market entry and adaptation.</p>	<p>Potential Misalignment of Interests: The master franchisee may prioritize its own financial returns (e.g., rapid sub-franchise sales) over long-term brand development and system integrity.</p>
<p>Operational Efficiency: The franchisor can focus on overall brand strategy while the master franchisee manages recruitment, training, support, and oversight of sub-franchisees.</p>	<p>Quality Control Challenges: Because the franchisor does not contract directly with sub-franchisees, enforcing consistent operational standards and compliance across the system can be more difficult.</p>
<p>Scalable Growth Through Sub-Franchising: The master franchisee can expand the system quickly by granting sub-franchises and leveraging third-party capital and resources.</p>	<p>Sub-Franchise Structure Risk: Sub-franchise agreements are entered into between the master franchisee and local operators, and may deviate from the franchisor's preferred terms (whether due to local law or negotiation), creating inconsistency and potential legal exposure.</p>
<p>Flexibility in Market Execution: The master franchisee can adjust development pace, site selection, and operations based on local market conditions.</p>	<p>Cultural and Operational Disconnects: Differences in business practices, communication styles, or expectations between franchisor and master franchisee can create inefficiencies or misunderstandings.</p>
<p>Reduced Direct Liability Exposure: The absence of direct contractual privity with sub-</p>	<p>Challenging to Terminate or Restructure: If the relationship breaks down, unwinding the structure can be complex, particularly where</p>

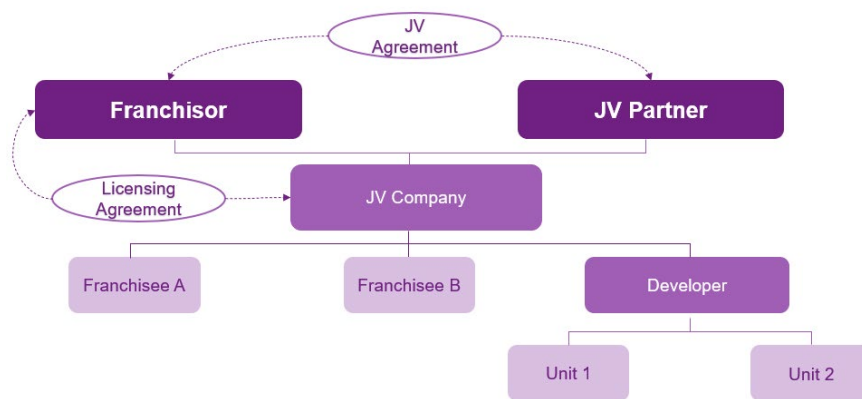
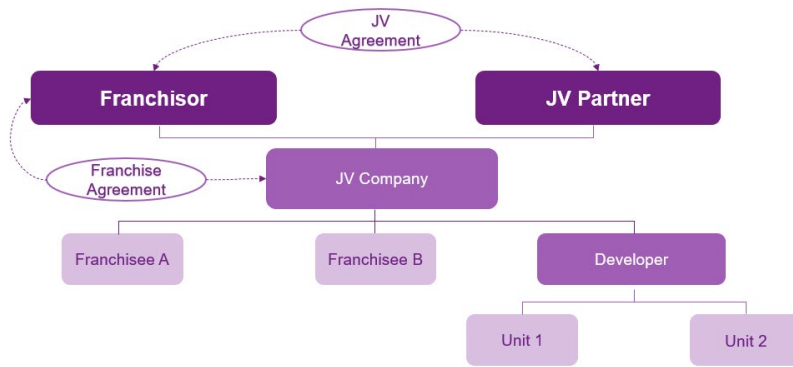
franchisees and local vendors may reduce exposure to certain third-party claims.	sub-franchisees are in place and local laws provide protections.
Lower Administrative Burden (at Franchisor Level): The master franchisee handles local administration, including franchisee recruitment, training, and support.	Concentration Risk: The franchisor is highly dependent on a single master franchisee for the success of the entire territory, increasing exposure if the partner underperforms or disputes arise.
Market Penetration in Complex Jurisdictions: Particularly effective in markets with regulatory, cultural, or logistical complexity where a local partner is critical.	Regulatory and Enforcement Risk: The franchisor may still face exposure under local laws, and its ability to enforce rights (directly or indirectly) may be constrained depending on the jurisdiction.

F. Joint Venture Model

A joint venture ("JV") in franchising involves a partnership between a franchisor and a local entity—typically in a foreign market—where both parties share ownership, control, and responsibility for developing and operating the franchise business. In this model, the franchisor contributes the brand, system, intellectual property, and operational know-how, while the local partner provides market knowledge, local relationships, and, in most cases, the majority of the capital required to establish and grow the business.

The JV entity itself typically serves as the local franchisee and is granted the right to develop outlets within a defined territory. Development may occur directly through the JV or, in some cases, through sub-franchising to third parties. From a structuring perspective, the franchisor will either enter into a franchise agreement with the JV entity—under which it collects initial fees, royalties, and marketing contributions—or, alternatively, a license agreement granting rights to use the system's intellectual property (e.g., trademarks, trade dress, operating manuals, and proprietary processes). Regardless of form, the arrangement will often be treated as a franchise under applicable local laws, potentially triggering disclosure, registration, or other regulatory requirements, subject to jurisdiction-specific exemptions. Unlike the master franchise model, where significant control is delegated to a third party, a JV structure involves shared governance and decision-making. This can allow the franchisor to retain a higher degree of strategic and operational influence while still leveraging local expertise. At the same time, the shared control dynamic introduces complexity, particularly around governance, financial arrangements, and long-term objectives. For this reason, JV agreements must be carefully structured to address decision-making authority, capital contributions, profit distribution, deadlock resolution, and exit rights.

Exiting a JV can be particularly complex, especially where the JV operates multiple franchised units or has granted sub-franchises. Accordingly, the governing agreements should clearly address ownership of assets, ongoing operations, treatment of franchise rights, intellectual property ownership, and post-termination restrictions. A well-defined exit framework—including buyout rights, valuation mechanisms, and transition obligations—is essential to minimize disruption and legal exposure if the relationship ends.



Joint Ventures	
Benefits	Risks
<p>Access to Local Expertise and Networks: Local partner provides insight into consumer behavior, regulatory landscape, supply chains, and business practices, improving execution and reducing entry risk.</p>	<p>Complex Legal and Regulatory Structure: JV arrangements often involve layered agreements (corporate + franchise/license), creating complexity across corporate, franchise, tax, and regulatory regimes.</p>
<p>Faster Market Entry: Local partner can accelerate market entry by navigating licensing, real estate, hiring, and operational challenges more efficiently.</p>	<p>Complex Financial Arrangements: Profit-sharing, capital contributions, and cost allocations can be difficult to structure and manage, particularly where contributions are uneven or evolve over time.</p>
<p>Regulatory Advantage: In some jurisdictions, partnering with a local entity may be required or provide practical advantages in obtaining approvals or operating licenses.</p>	<p>Management and Governance Conflicts: Shared control can lead to disputes over strategy, operations, or reinvestment decisions, particularly if governance mechanisms are not clearly defined.</p>
<p>Local Financing and Capital Flexibility: Local partner often provides capital and may have access to financing or incentives unavailable to a foreign franchisor.</p>	<p>Diluted Brand Control: Franchisor may not have full operational control, which can lead to inconsistencies in execution and potential brand impact.</p>
<p>Shared Financial Risk: Both parties share the costs and risks of market entry and expansion, reducing the burden on any one party.</p>	<p>Shared Liability Exposure: Both partners may be exposed to liabilities arising from the JV's operations, including third-party claims, regulatory issues, and tax exposure.</p>

Combined Resources and Expertise: Pooling of financial, operational, and strategic resources can enhance execution and long-term growth potential.	Alignment Risk: Differences in investment horizon, risk tolerance, or strategic priorities can create tension and impact performance.
Greater Strategic Involvement: Compared to master franchising, franchisor retains more influence over operations and long-term direction.	Exit Complexity: Dissolving or restructuring a JV can be difficult, particularly where there are ongoing operations, sub-franchisees, or unclear exit provisions.
Flexible Structuring: Can be tailored to specific markets, including hybrid models combining direct operations and sub-franchising.	Operational and Cultural Friction: Differences in business practices, governance styles, and communication approaches can create inefficiencies.

IV. Franchisee Selection and Due Diligence

Selecting the right local operator is one of the most critical drivers of success in international franchising. Even a well-structured deal and strong brand can fail if paired with the wrong partner. Accordingly, franchisors should adopt a disciplined, multi-layered diligence process that evaluates not only financial capacity, but also integrity, operational capability, cultural alignment, and long-term strategic fit.

Key components of this process include background checks, application forms, references, market visits, interviews, and discovery days, as well as enhanced diligence on compliance, funding sources, and reputational risk.

A. Background Checks

When identifying potential local operators, franchisors should conduct appropriate background checks tailored to the relevant market. The scope and depth of diligence will vary depending on jurisdictional transparency, regulatory risk, and the size of the proposed investment.¹¹

Checks Against Local Operator Group¹² – Core diligence should include financial history, litigation and regulatory history, criminal background (where available), and media/public domain searches. In many markets, informal sources (e.g., industry reputation, local press, and business networks) can be as important as formal records..

Ownership Structure – It is critical to identify the ultimate beneficial owners of the local operator. This includes working through layered ownership structures to identify controlling individuals and affiliated entities. This exercise often surfaces additional diligence considerations, including political exposure, related-party risks, or prior business failures.

Sanctions and Compliance Screening – Franchisors should confirm that neither the operator nor its affiliates or principals are subject to sanctions or other restrictions (e.g., OFAC or similar regimes). In higher-risk markets, enhanced anti-corruption and anti-money laundering diligence may be appropriate.

¹¹ Babette Märzheuser-Wood, 'Dentons Franchise Guide: Seven steps to a successful franchise business', p.17., (Dentons), <[Dentons - Dentons Franchise Advisory](#)>, (accessed 22 April 2025).

¹² James Walker CFE, How to spot the ideal international franchisee <https://www.franchise.org/2016/06/how-to-spot-the-ideal-international-franchisee/>

Third-Party Diligence Providers – In many cases, franchisors should engage specialized diligence firms to conduct independent background investigations, particularly in jurisdictions where reliable public data is limited.

Disclosure and Warranties – As a backstop, franchisors should require comprehensive disclosure of business interests, affiliations, and legal issues in the franchise agreement, coupled with appropriate representations, warranties, and ongoing reporting obligations.

Local Operator Funding – Franchisors should understand how the operator intends to fund the investment, including sources of equity and debt. This is both a commercial and compliance issue. Insufficient capitalization creates operational risk, while opaque funding sources may raise legal or reputational concerns.

Permissions – A local law review should identify any licenses, permits, or approvals required to operate the business or import products. Responsibility for obtaining such approvals should be clearly allocated to the local operator..

B. Application Form

Franchisors may require prospective operators to complete a formal application as an initial screening tool. These forms should be tailored to the relevant market and should, at the least, (i) capture key financial, operational, and ownership information; (ii) include appropriate disclaimers regarding the non-binding nature of discussions; (iii) obtain consent for background checks and data processing (in compliance with local data protection laws); (iv) and help filter out unqualified candidates early in the process.

Franchisors should also control the intake process to avoid being overwhelmed with unqualified or speculative inquiries.

C. References (Credit Checks and References from Existing Franchisors)

References – Where the local operator has experience with other franchise systems, franchisors should seek references from those systems. These references can provide valuable insight into operational discipline, compliance history, and payment practices. In addition, where the operator is active in multiple jurisdictions, performance in those markets should be reviewed to assess scalability and consistency.

Creditworthiness – The franchisor should independently verify the financial standing of the operator and its affiliates. This may include audited financials, banking relationships, and evidence of liquidity.

Legal Involvement – Legal counsel should be actively involved in reviewing diligence findings. Development teams alone may overlook legal or reputational risks that could become material later.

D. Market Visit

Where feasible, franchisors should conduct in-person visits to the operator's existing businesses. These visits provide direct insight into operational standards, customer experience,

employee management, and brand execution. Particular attention should be paid to consistency, cleanliness, compliance with local regulations, and overall professionalism.^{13,14}

E. Interview Process

Another key part of franchisee selection is the interview process. The interview process serves a broad array of different functions to support the franchisor in vetting the local operator. The franchisor should formulate standard written responses to certain questions and consider putting together a report after each interview. The questions in the interview should be about getting to the core of what the franchisor is trying to understand about the local operator.¹⁵

A crucial point to bear in mind is that the franchisor's team that are set to interview the local operators should be carefully trained in what information they can disclose during such an interview. This training can be critical when the franchisor team are responding to questions from the local operator around financials including targets and projected market performance. If misleading financial information is given (even inadvertently) to a party that goes on to become a franchisee this could become a serious problem in the event that a dispute arises.

F. Discovery Day

In addition to the interview process, if the franchisor is seriously considering a local operator, then the franchisor would be well advised to conduct a discovery day for the local operator to see and experience the franchise business model. Such a discovery day should have a clear agenda, with "dos and don'ts". The discovery day should aim to give the local operator an authentic view of the franchise business. This serves as a two-way street. It helps the local operator learn about the business, and in return helps the franchisor learn more about the local operator.

On a case-by-case basis it may be good to allow some flexibility into the discovery day process in order to get to know the team of the local operator on a more informal level. A personable relationship with the team of the local operator can be valuable in creating a good working relationship going forward. It can also help build an understanding between the parties as to what is expected.

On both a formal and informal level a discovery day should aim to establish (a) whether the franchisor and local operator have aligned interests and goals; (b) how the local operator sees the investment (is it a passive investment for them or will they be active in building the brand in the market); (c) whether the local operator is questioning and challenging too many points of the franchised business model – i.e. whether they may be better off running their own business where they have control over the brand (in this case it is important to make sure they are not simply trying to acquire information on how the franchisor's franchise business functions); (d) the level of knowledge of the local operator concerning the business model and whether they are suited to operating the franchise business in the local market.

G. Source of Funds and Financial Structuring

¹³ <https://franchising.eu/franchise-guide/27/international-franchising/>

¹⁴ Walker *ibid* 22

¹⁵ Joyce Mazero and Michael Seid, Finding the Right Overseas Franchisee to Take your Business Abroad; https://www.franchising.com/articles/finding_the_right_overseas_franchisee_to_take_your_brand_abroad.html

In the current regulatory environment, franchisors should place increased emphasis on understanding the source and structure of the operator's funding. This includes: (i) verifying that funds are derived from legitimate sources; (ii) assessing any reliance on government approvals, currency controls, or cross-border transfers; (iii) understanding debt structures and lender involvement; and (iv) evaluating whether funding timelines align with development obligations.

In certain jurisdictions, foreign exchange controls or capital restrictions may delay or prevent payments to the franchisor, which should be addressed upfront in structuring and documentation.

H. Reputational, ESG, and Strategic Fit

Beyond financial and operational capability, franchisors should evaluate the broader reputational and strategic profile of the local operator. This includes: (i) alignment with the franchisor's ESG standards and brand values; (ii) prior involvement in controversies, litigation, or regulatory issues; (iii) relationships with government entities or politically exposed persons; and (iv) long-term strategic alignment (e.g., growth expectations, exit horizon, brand stewardship).

In many markets, the local operator effectively becomes the face of the brand. As a result, reputational misalignment can create significant downstream risk that is difficult to unwind.

V. Key Terms

Once a franchisor has selected its local franchisee and determined the appropriate expansion structure, the next step is negotiating and documenting the contractual relationship. While many of the core provisions will be familiar from domestic franchise agreements, international transactions typically involve greater negotiation, localization, and sensitivity to legal and cultural differences.

At a practical level, the negotiation process itself often varies across jurisdictions. While the overall cadence—initial discussions, exchange of drafts, and iterative negotiation—may be similar to the United States, expectations around communication style, timing, and decision-making can differ significantly. In many markets, particularly in emerging economies, there is a stronger preference for in-person engagement and a more iterative, relationship-driven process.

Franchisors should therefore approach negotiations with flexibility and cultural awareness, while remaining disciplined in protecting core system standards. Local counsel and advisors play a critical role not only in ensuring legal compliance, but also in guiding negotiation strategy and market expectations. Equally important is the franchisor's ability to clearly articulate the rationale behind key provisions—particularly those tied to brand protection, quality control, and system integrity—as this often facilitates alignment and reduces friction during negotiations.

What follows is an overview of the principal commercial and legal terms that typically require careful consideration and negotiation in an international franchise agreement..

A. Territory and Exclusivity

When expanding into international markets, franchisors are often asked to grant broad, country-wide exclusivity to a single operator as a condition of entry. While this may be attractive in the short term, particularly where a well-capitalized partner is willing to commit significant resources, it can create long-term constraints if the market develops unevenly or the franchisee underperforms. For this reason, franchisors should carefully consider the appropriate scope of territory and exclusivity in light of their long-term development strategy.

Determining the size and structure of a territory requires a working understanding of the geographic, cultural, and economic diversity within the target market. In many jurisdictions, what appears to be a single market at a high level may in fact function as multiple distinct sub-markets, each with its own regulatory environment, consumer behavior, and operational challenges. Franchisees will often argue that country-wide exclusivity is necessary to avoid internal competition, streamline supply chains, and justify their investment. While these arguments have merit, they must be balanced against the franchisor's need to avoid underdevelopment and to preserve optionality.

A common approach is to grant exclusivity on a phased or conditional basis, tied to development milestones such as unit openings or revenue thresholds. This allows the franchisor to incentivize performance while retaining the ability to introduce additional operators if necessary. Structuring territories by region, city, or trade area—rather than granting an entire country at the outset—can also help ensure more focused and sustainable growth. Any exclusivity granted should be supported by appropriate consideration, including development commitments and fees.

Franchisors should also carefully reserve rights to alternative channels of distribution, including e-commerce, delivery platforms, retail or wholesale sales, and non-traditional venues such as airports, hospitals, and universities. These channels are increasingly central to modern franchise systems and should be clearly carved out from any exclusivity grant to avoid limiting future growth opportunities.

B. Reservation of Rights

In franchising, it is common for the franchisor to reserve certain rights, even where exclusivity is granted. This ensures that the franchisor retains flexibility to operate and grow the brand across multiple channels and formats. Typical reserved rights include the ability to:

1. Advertise and promote the brand within and outside of the franchisee's territory;
2. Operate, and license others to operate, locations at any location outside the franchisee's territory, including at locations that are adjacent to the franchisee's territory despite the proximity of such locations to the franchisee's territory or the site of the franchised business or their actual or threatened impact on sales at on the franchised business;
3. Offer and sell, and authorize others to offer and sell, approved collateral products and services, including those offered and sold at the franchised business under the franchisor's trademarks or other marks at or from any location or through any channel of distribution (e.g. grocery stores, catalogs, the Internet, other retail or

restaurant locations and other food service facilities such as kiosks, concessions, food trucks, or multi-brand facilities);

4. Establish and operate, and license others to establish and operate, any business, other than the franchised business, under the franchisor's trademarks or under other marks, whether or not located within the franchisee's territory and despite the proximity of such businesses to the franchisee's territory or the site of the franchised business or their actual or threatened impact on sales at the franchised business;
5. Establish and operate, and license others to establish and operate, any other businesses that franchisor or its affiliates may operate or license as a result of any acquisition, consolidation or merger, whether or not located within the franchisee's territory and despite the proximity of such restaurants to the franchisee's territory or the site of the franchised business or their actual or threatened impact on sales at the franchised business, whether or not such other restaurants or businesses operate under the franchisor's or under other marks; and
6. Establish and operate, and license others to operate, locations in non-traditional sites, which typically include airports and other transportation facilities, universities, military bases, reservations, office buildings, hospitals, hotels, stadiums, train stations, ferry/cruise line terminals, exhibition centers, sports stadia/centers, and other mass gathering locations or events.

Reserving these rights allows the franchisor to maintain a presence in and around the territory without unduly restricting future growth. In international markets, these provisions should be carefully reviewed to ensure compliance with local competition laws and to avoid unintended conflicts with exclusivity provisions.

C. Duration and Renewal

Franchise agreements typically provide for an initial term followed by one or more renewal options. The length of the initial term is often driven by the level of investment required and the expected time needed for the franchisee to achieve a return on that investment, with terms commonly ranging from five to twenty years. The commencement of the term may be tied either to execution of the agreement or to a defined operational milestone, such as the opening of the first location.

Renewal rights are generally subject to a number of conditions, including timely notice, payment of a renewal fee, compliance with the terms of the agreement, completion of required upgrades or refurbishments, and execution of the then-current form of agreement. Franchisors often also require the franchisee to provide a general release as a condition of renewal.

From the franchisor's perspective, shorter terms provide greater flexibility to update system standards and contractual requirements over time, while longer terms provide franchisees with greater certainty and a longer horizon for recovering their investment. In international markets, term length may also be influenced by local law, financing arrangements, and real estate considerations.

D. Non-Competition Covenants

In your partner selection process, you no doubt will have sought out partners with the level of resources and business acumen that suggests they will be successful in the enterprise. The good news is, if you are targeting emerging markets, you are more likely to find a partner with the financial resources necessary to handle a franchise. Your potential partners may also be more enthusiastic, energetic, creative and have a longer-term view of the business, given the youthful demographic of the emerging market partner pool. Still, and particularly in emerging markets, you may find it more difficult to find a partner that has the type of experience that you may typically require of a domestic partner. The obvious concern any franchisor will have in a situation like this is how to prevent your franchisee from taking all the skills and know-how you've shared with them over the course of the relationship and applying it to support or grow a rival brand. For this reason, a franchisor should include strict non-competition language in their agreement. The enforceability of noncompetition covenants varies by jurisdiction, and franchisors should consult with local counsel to ensure any such covenants would be enforceable in the event they are brought before a court. Noncompetition covenants should be reasonable both as between the parties and in reference to the public interest. When considering reasonableness, a non-competition covenant must protect a proprietary interest of the franchisor, such as the goodwill of the business, and must not be broader in geographical area, time period or scope of the activities covered than is necessary to protect such interests effectively and should be clear in their scope and duration. Generally, there are five key points to think about in the drafting of noncompetition covenants: (a) the definition of competing business, (b) the scope of the limitation during the term of the agreement, (c) the scope of the limitation after the term of the agreement, (d) the duration of the limitation, and (e) the consequences for breach.

1. Defining "Competing Business"

The definition of "Competing Business" goes toward the proprietary interests the franchisor is seeking to protect. In a truly emerging market with minimal competing businesses, you have the luxury of drafting this language more broadly as your franchise partner will not likely have available a host of other businesses in which to engage. Further, the franchisor may have a broader proprietary interest, given the lack of similar businesses. By contrast, in more saturated markets where competition is tight, you will likely face resistance from franchisees who have interests in other businesses and seek to narrowly define what constitutes competition for your brand, and the truly proprietary aspects of your business may be more limited. In either event, it is important for you to be well educated about the market before you propose your definition. Understanding the competitive landscape – the number and reach of your competitors as well as the products or services they offer – will help you determine the types of businesses that pose a threat, may become a threat as your brand takes shape in the market, or pose a minimal threat to your business.

2. Scope of Noncompetition during the Agreement

Once you have defined what constitutes a competing business, you will need to determine the scope of the noncompetition covenant. Do you want to limit the restrictions to the individual/entity that is your franchisee? Perhaps you want to include all owners and operators of the business? A wider net would include key employees of the business. In addition to the group to which the noncompetition agreement applies, what sorts of activities will trigger your noncompetition restrictions?

The obvious answer is that the partner should be prohibited from developing or operating a competing business. But the definitions and limitations get hazy when you consider the myriad ways in which an individual or entity could potentially contribute to a business. For example, would your partner offering guidance to a friend who is starting a competing business constitute a breach of the noncompetition covenant? Or again, if the partner has an interest in a bank and that bank issues a loan to a competing brand, would you consider that a threat to your business? Ultimately, therefore, the scope of your noncompetition agreement will be heavily dependent on the nature of your business and the partner, as well as your views on where the line should be drawn between permissible and prohibited activities. You may find that these questions are more complicated in the international context, given the likelihood that your partner is an individual or entity with a wide variety of business experiences, past and continuing, and a network of connected friends and family that may be in direct competition with your brand.

3. Scope of Post-Term Noncompetition Covenant

You will likely want a noncompetition provision that covers activities of the franchisee after the agreement is terminated. In general, as with domestic noncompetition agreements, limitations must be narrowly drafted to avoid being overly restrictive. You may find a noncompetition agreement that applies to the entire territory, depending on your definition of competing business and the individuals to which it applies, is unenforceable under local law. In that event, depending on the jurisdiction, you may risk having the entire provision invalidated by a court. In businesses that are heavily dependent on real estate and located in jurisdictions where real estate opportunities are tight, a broad noncompetition provision can prevent your former partner from flipping your locations into the hands of competitors, which itself could do damage to your brand image and make growing your brand a challenge.

4. Duration of Post-Term Noncompetition Covenant

Some jurisdictions will require a noncompetition covenant to clearly set forth a reasonable timeframe during which the restrictions apply to be enforceable. Restrictive covenants should be conservatively drafted, and a perpetual noncompetitive covenant is not likely to be enforceable. What is considered reasonable will depend on many of the considerations set forth above

E. Purchase Ties and Approved Suppliers

Franchisors generally have strict standards when it comes to purchasing products or services to be used in connection with the franchised business. Without strict standards, it would be more difficult for the franchisor to control the quality of the franchisee's operations. The goal for the franchisor is to control the uniformity and quality of goods and services used, sold or distributed in connection with the development and ongoing operation of the franchise business, maintain the confidentiality of franchisor's confidential information (e.g. recipes for secret sauce), and protect the reputation and goodwill associated with the franchise system and franchisor's trademarks.

For these reasons, franchise agreements tend to have strict provisions related to approved suppliers, such as requiring the franchisee to purchase or lease all products and services from designated or approved suppliers. Franchisors may also limit the number of approved suppliers and designate itself or any of its affiliates as an approved supplier, including as a sole supplier.

Purchase ties in franchising refer to contractual obligations that require franchisees to buy certain products, services, or supplies exclusively from the franchisor or from approved suppliers. These ties help ensure consistency in product quality, brand standards, and customer experience across all franchise locations. For example, a fast-food franchise might require all franchisees to purchase ingredients, packaging, or uniforms only from designated sources. While purchase ties can support brand integrity and simplify supply chain management, they can also be a point of contention if franchisees feel they are being charged more than market rates or denied the opportunity to source more competitively. In some jurisdictions, these arrangements are regulated to prevent anti-competitive practices.

Practically speaking, it may be difficult to enforce the standards related to purchasing if the designated or approved suppliers are less available in the designated country. See Section II.E of this paper for a more detailed discuss of supply chain issues.

F. Targets and Minimum Quotas

In the franchising context, franchisors often impose minimum performance targets or quotas on franchisees, most commonly in the form of development obligations and minimum royalty requirements. These mechanisms help ensure that franchisees actively build out their territories, maintain brand standards, and contribute to consistent performance across the system.

A franchise development schedule is a key tool in this regard. It is typically set out in the franchise agreement as a timeline of specific milestones the franchisee must meet in expanding within a defined territory. These milestones often include deadlines for site selection, lease execution, build-out, and opening of each location. The purpose of the schedule is to ensure that the franchisee is actively developing the market and not simply holding exclusive rights without meaningful progress. It also provides both parties with a clear roadmap for expansion and investment planning.

The consequences of failing to meet development milestones are typically addressed upfront. These may include loss or reduction of territorial exclusivity, termination of development rights, or other contractual remedies. From the franchisor's perspective, the development schedule is critical to driving market penetration and brand growth. From the franchisee's perspective, it provides structure and clarity but must be realistic. An overly aggressive schedule may initially appear attractive but can quickly become unworkable if early milestones are missed, while a schedule that is too lenient can result in underdevelopment of the territory. Accordingly, the appropriate schedule is best determined through a collaborative discussion that reflects the commercial realities of the market and the capabilities of the franchisee.

In addition to development obligations, franchisors may establish minimum royalty requirements to ensure a baseline level of financial performance. A minimum royalty requires the franchisee to pay a specified amount—either as a fixed fee or a minimum percentage of projected sales—regardless of actual performance. These payments provide the franchisor with a degree of revenue certainty and help support ongoing services such as brand development, training, operational support, and marketing. Minimum royalties are typically payable on a recurring basis, such as monthly or quarterly. Equally important is clearly defining the consequences of failing to meet these financial or development obligations. In most cases, such failures constitute a default under the franchise agreement, subject to a defined cure period

(often 30 days). If the default is not cured, the franchisor may have a range of remedies, including loss of exclusivity, reduction or termination of development rights, additional training or oversight requirements, increased royalty obligations during the period of non-compliance, acceleration of outstanding financial obligations, or termination of the agreement altogether.

There is no single formula for setting development schedules or minimum royalties. Both should be grounded in a careful market analysis and a realistic assessment of local conditions, including demand for the brand, regulatory requirements, supply chain considerations, and the franchisee's operational capacity. When properly calibrated, these tools serve to align incentives, promote disciplined growth, and protect the long-term success of the franchise system.

G. Global Marketing

Marketing funds are commonly used to support the advertising and promotional activities of a franchise system. As with domestic franchise arrangements, franchisors in international systems may establish marketing funds on a country-by-country basis, a regional basis, or as a single global fund to promote and develop the brand. Franchisees are typically required to contribute a specified percentage of their gross sales to the marketing fund, with contributions made on a regular basis, such as weekly, monthly, or annually.

These funds are generally used to cover a broad range of marketing and brand-building expenses. This may include the research, creation, and production of advertising content across various media (including video, audio, digital, and print), as well as the administration of local, regional, and global marketing campaigns. Marketing funds are also often used for product and consumer research, promotional events, and the development and maintenance of digital platforms, including websites and social media channels. In addition, franchisors may use these funds to engage third-party agencies, support public relations efforts, and undertake broader brand development initiatives. In most systems, the franchisor retains significant discretion over both the collection and allocation of these funds.

When entering a new market, franchisors should consider working closely with local franchisees to better understand consumer preferences and market dynamics. Cultural, religious, and other local considerations may require adjustments to marketing strategies, messaging, and allocation of marketing resources. Campaigns that are effective in one jurisdiction may not translate directly to another, making local input particularly valuable. At the same time, a global or regional marketing fund can provide meaningful advantages by allowing franchisors to pool resources across multiple markets. This broader funding base can support higher-cost, higher-impact initiatives—such as multi-country advertising campaigns, digital strategies, social media activations, and brand partnerships—that may not be feasible at the individual market level.

As part of international expansion, franchisors must decide whether to maintain separate marketing funds for each country or to combine contributions into a global or regional structure. This decision should take into account not only commercial considerations, but also legal requirements in each jurisdiction. In some countries, marketing funds are subject to specific regulations. For example, in Australia, marketing fund contributions are treated as

payments into a "specified purpose fund" and must be maintained in a separate account from the franchisor's general funds, in addition to meeting applicable disclosure obligations.¹⁶

H. Quality Control and Step-in

Maintaining the quality of the brand is always of utmost importance to the franchisor. This issue is even more critical during international expansion as the brand may not yet have the goodwill in the new country that it has in the home country. In an effort to protect the brand, the franchisor has to have very strict quality control procedures and provisions in its franchise agreement.

First, with respect to procedures, the franchisor should be prepared to spend time, effort and money traveling to and inspecting the franchised businesses regardless of geographic location. These obligations may require the franchisor to hire additional personnel that are able to travel to the additional franchised businesses across borders or overseas.

Second, when drafting the franchise agreement, it is important that the franchisor has the right to not only inspect the franchisee and franchised business, but also the ability to hire mystery shoppers, review the day-to-day operations, review franchisee's books and records, sampling and testing products, examining retail items, contacting franchisee's landlord, customers and/or employees, accessing the point of sale system and/or computer system. Further, the franchise agreement should have mechanisms for correcting violations and terminating them for failing to meet quality standards.

In extreme cases, the franchisor may want the ability to step in and manage the franchised business on behalf of the franchisee. "Step-in rights" in a franchise agreement allow a franchisor to take over the operation of a franchisee's business under specific circumstances, often when a franchisee defaults or violates the agreement. These rights are a mechanism to protect the franchisor's brand, reputation, and investment. Step-in rights are usually triggered by events like the franchisee's default on payments, a breach of contract, or failure to meet operational standards. Once triggered, the franchisor can assume management of the business, ensuring it continues to operate according to the franchise system's standards. In the U.S., there are concerns that, under the current legal framework, a franchisor having step-in rights may contribute to creating a joint employer relationship between the franchisor and franchisee, so these types of provisions have fallen out of favor in recent years. However, in other countries, this issue may not impact the relationship in the same way.

I. Buy Out Options

Franchise agreements in the United States often include a provision allowing the franchisor to purchase the assets associated with the franchised business and/or otherwise take over a franchised location. Often this provision applies upon termination or expiration of the franchise agreement, though some franchise agreements are drafted to grant the franchisor an in-term purchase option. Domestically, the ability to purchase and takeover a franchised location may be administratively and practically easy. But, when a franchisee is half-way across the world, the option to take over may be less feasible.

¹⁶ Competition and Consumer (Industry Codes-Franchising) Regulations 2024 – Part 7, Section 61. *Note that compliance is currently delayed until November 1, 2025.*

There are, however, several options that a franchisor may consider including in its franchise agreements in an effort to maintain the location of the foreign franchised business. First, where a franchisee seeks to sell the assets of the franchised business and/or its rights under the franchise agreement to a third party, franchisors often have the ability to purchase such assets upon the same terms offered to the third party and therefore prevent the franchisee from proceeding with its transfer.

Second, franchisors often also have a right of first refusal ("ROFR"), under which the franchisor can buy the assets of the franchised business on the terms offered to the franchisee by a third-party upon certain triggering events, such as a proposed transfer. ROFRs usually work as follows: (a) the ROFR is triggered by a bona fide offer from a third-party to buy the business; (b) the franchisee must provide the franchisor with notice of the bona fide offer; and (c) the franchisor will have period of time to evaluate the terms of the offer and determine whether or not to exercise the ROFR.

Although less common, some franchisors also have the right to purchase the assets of the franchised business without a triggering event (i.e., not only at the time a franchisee wishes to sell, or upon termination or expiration of the franchise agreement).

J. Personal Guaranties and Letters of Credit

It is common for franchisors to require a personal guaranty from the individual owners of a franchisee entity (and sometimes from their spouses) so that the individual owners remain personally liable for the franchisee's obligations under the franchise agreement. While a personal guaranty is generally acceptable in foreign jurisdictions, there are some exceptions of which franchisors should be aware, such as in the Canadian province of Alberta. Under Alberta's Guarantees Acknowledgment Act¹⁷ ("GAA"), a personal guaranty does not have effect unless the guarantor appears before a lawyer and both the guarantor and the lawyer acknowledge in a signed certificate (in the required form) that they understand the contents of the guaranty. While Alberta's GAA is not the norm, if a franchisor is concerned about the overall financial viability of the local franchisee, it should seek guidance from local counsel regarding the enforceability of a personal guaranty in the territory, as well as any formalities that must be followed.

In addition, franchisors often find that mature international franchisee conglomerates are unwilling to provide personal guaranties from its owners or even a corporate guaranty. In such instances, franchisors often rely on a letter of credit in lieu of a personal guaranty. Where a franchisor is concerned that it may face challenges enforcing the terms of the franchise agreement in certain jurisdictions, it may be prudent to obtain a letter of credit in every instance as the letter of credit can later be used as leverage to encourage the franchisee to comply with the agreements and, ultimately, to participate in arbitration if the parties are unable to resolve the dispute. It is recommended that the letter of credit be issued from an international financial institution with a presence in the U.S., and a draft of the proposed letter of credit should be reviewed by experienced counsel to confirm that it was issued correctly so that no further action will be required if the franchisor wishes to draw upon it.

K. Currency, Payments, and Repatriation

¹⁷ Guarantees Acknowledgment Act, RSA 2000, c G-11, <<https://canlii.ca/t/56fck>> retrieved on 2025-04-21.

In international transactions, payment mechanics are a critical but often overlooked issue. Franchisors must consider currency denomination, exchange rate risk, withholding taxes, and foreign exchange controls, all of which can impact the timing and value of payments. In certain jurisdictions, regulatory restrictions may limit the ability to remit funds or may require approvals for cross-border payments. These risks should be addressed both in the agreement and in the operational planning process.

L. Dispute Resolution and Enforcement

Dispute resolution provisions take on heightened importance in cross-border agreements. Franchisors should carefully consider governing law, forum selection, and whether to utilize arbitration or litigation. While arbitration is often preferred due to its neutrality and enforceability under international conventions, practical considerations such as cost, timing, and local enforcement realities should guide the final approach. The ultimate goal is to ensure that any dispute resolution mechanism is not only legally sound, but also practically enforceable in the relevant jurisdiction.

VI. Local Franchise Laws

When evaluating international expansion, franchisors must carefully consider the franchise disclosure and/or registration requirements applicable in each target jurisdiction. Even where a franchisor's home country has an established disclosure or registration regime, those requirements may differ significantly—both in substance and form—from those imposed in the destination market. By way of example, more than thirty countries have franchise-specific disclosure requirements, and while there may be some overlap in the types of information required, the scope, format, timing, and level of detail can vary meaningfully from country to country.

Accordingly, franchisors and their counsel should identify and understand the applicable disclosure and registration frameworks in each relevant jurisdiction at an early stage of the transaction. In addition, they should assess any applicable franchise relationship laws, which may govern the ongoing rights and obligations of the parties. These may include restrictions on termination or non-renewal, requirements to include or exclude specific contractual provisions, or statutory protections afforded to franchisees. Awareness of these requirements is critical not only for compliance purposes, but also for commercial planning, as they can affect deal timing, cost, and overall structuring. From a practical perspective, compliance with local franchise laws can materially impact both the economics and timing of a transaction. Franchisors should account for the additional costs associated with preparing localized disclosure documents, obtaining registrations or approvals where required, and engaging local counsel. These factors may influence the initial franchise fee or other economic terms of the arrangement. Similarly, disclosure and registration requirements can extend the timeline for closing, particularly in jurisdictions where regulatory review is required before an offer or sale may be made. Franchise laws also continue to evolve, with many countries adopting new regimes or updating existing frameworks, making it important to regularly reassess compliance obligations.

The differences between jurisdictions can be significant. For example, in Japan, franchise disclosure requirements are relatively limited compared to those in the United States, and there is no prescribed format or ordering of disclosures. By contrast, in the United States, the FTC

Franchise Rule¹⁸ mandates a highly structured disclosure document with specific content, organization, and formatting requirements, including detailed prescribed tables for certain disclosures such as initial investment¹⁹. In Indonesia, disclosure requirements go even further in certain respects, requiring not only current information about the franchisor and system, but also forward-looking financial projections for franchisees over a multi-year period.²⁰

A summary of franchise disclosure and relationship law considerations across key jurisdictions (excluding general civil code requirements) is provided in **Appendix A** to this paper.

In addition to jurisdictions with formal franchise disclosure laws, certain countries impose disclosure-type obligations through general legal principles, particularly under civil law frameworks. For example, in Austria, Germany, and the Canadian province of Quebec, parties to an agreement are subject to duties of good faith and fair dealing, which can require disclosure of material information—especially where one party is aware of facts that may impose significant obligations or risks on the other.

When assessing foreign legal and regulatory environments, franchisors should consider how these frameworks may affect their expansion strategy. Key considerations include: (i) the timing of market entry, including whether licenses, permits, or other governmental approvals are required before offering or selling franchises; (ii) the cost of expansion, particularly in jurisdictions that require franchisors to establish and operate a specified number of company-owned units prior to franchising; and (iii) judicial or regulatory trends, including whether courts or authorities tend to interpret franchise relationships in a manner that favors domestic franchisees over foreign franchisors.

While this paper does not attempt to provide a comprehensive analysis of the disclosure and registration requirements in every jurisdiction, the sections that follow outline the key categories of information that franchisors are commonly expected to disclose in international markets.

A. Disclosure Laws and the Typical Contents of a Disclosure Document

As expected, franchise disclosure documents almost always include information about the franchisor, its business model, the franchise system, the intellectual property of the franchisor and certain key rights and obligations between the parties. The degree of specificity or further detail varies by country. Also, in some countries, information about the industry of the franchise system is a requirement, as in Vietnam.²¹ Often, a franchisor is required to disclose the number of existing company-owned and franchised locations in the franchise disclosure document. In Ontario, Canada, a franchisor is required to disclose only those locations in operating in Canada, unless there are less than 20 franchises in Canada, in which case the list must include those franchises which are geographically closest to each of the six regulated provinces with franchise disclosure legislation, until information on at least 20 franchises is provided.²² But, in Vietnam, for example, a franchisor must disclose world-wide locations.²³

¹⁸ Medium and Small Retail Commerce Promotion Act and JFTC Franchising Guidelines.

¹⁹ *Id.*

²⁰ Government Regulation No. 35 of 2024 on Franchising (Indonesia).

²¹ Vietnam Circular No. 09 (09/2006/TT-BTM), Appendix III, Part B, Point VII.

²² General, O Reg 581/100, Part II, s. 17.

²³ Vietnam Circular No. 09 (09/2006/TT-BTM), Appendix III, Part B, Point IX.

This information may be difficult to gather for franchise systems that have long lists of a franchisees and company-owned locations.

Also, the financial statements of the franchisor are typically required. In some countries, three or fewer years are required, as with as with Canada where a new franchisor is permitted to issue an FDD with only an opening balance sheet, if the franchisor has operated for less than one fiscal year or if 180 days have not yet passed since the end of the first fiscal year of operations and a financial statement for that year has not yet been prepared²⁴ and China (two years),²⁵ and Indonesia (two years).²⁶ But, in Japan, three years is required.²⁷

Not only do the disclosure contents vary from country to country, but the waiting period (during with the franchisee must review the franchise disclosure document prior to executing a franchise agreement or paying to franchisor any initial fees) varies from country to country as well. For example, in the United States²⁸ and Indonesia²⁹, the required waiting period is 14 calendar days. But, in China, the waiting period is thirty calendar days³⁰ and in Spain, the waiting period is twenty business days.³¹ Also, when counting business days, franchisors need to research the public holidays in other countries when ascertaining the correct waiting period end date. It is possible that public holidays may affect the counting of "business days" differently in one country versus another.

B. Registration Laws

As stated above, certain countries require franchisors to submit the franchise disclosure document and/or franchise agreement to a government agency for substantive review, translation and approval before the agreement can become effective. These countries tend to regulate various provisions of the franchise agreement, such as choice of law, dispute resolution, termination, restrictive covenants, and fees and currency. In some countries, this registration process can take months (e.g., Malaysia). In addition, government approval of the franchise agreement may be required in some countries with respect to trademark issues or customs requirements, but the franchisor can include language in the franchise agreement so that its effectiveness is contingent on obtaining such approvals. Certain countries require that the franchisor maintain a franchise registration issued by the relevant government authorities to engage in franchising activities in the country. Much like in the United States, some countries require registration with the government of the franchise disclosure document or franchise

²⁴ Section 3(3), O. Reg. 581/00: GENERAL, under the *Arthur Wishart Act (Franchise Disclosure)*, 2000, S.O. 2000, c. 3. This reference is to the Ontario statute, however, similar provisions exist in the franchise statutes of all 6 regulated Canadian provinces.

²⁵ 《商业特许经营管理条例 (Shangye Texujingying Guanli Tiaoli)》 /Commercial Franchise Administrative Regulation, Ordinance No. 485, adopted at 167th Regular Meeting of the State Council on January 31, 2007, came into force on May 1, 2007, Art. 22(9).

²⁶ Government Regulation No. 35 of 2024 on Franchising (Indonesia).

²⁷ Medium-small Retail Business Promotion Act, Act no. 101 of 29 September 1973, as amended April 2002, Section 10, Item 4 of the Ministerial Order.

²⁸ 16 CFR Part 436.2(a).

²⁹ Government Regulation No. 35 of 2024 on Franchising (Indonesia).

³⁰ 《商业特许经营管理条例 (Shangye Texujingying Guanli Tiaoli)》 /Commercial Franchise Administrative Regulation, Ordinance No. 485, adopted at 167th Regular Meeting of the State Council on January 31, 2007, came into force on May 1, 2007, Art. 21-23.

³¹ Royal Decree of February 26, 2010, regulating the commercial activities of franchising and the communication of data to the franchisor registry.

agreement on an initial basis and annual basis. For example, such countries include Australia,³² China,³³ Malaysia,³⁴ Saudi Arabia,³⁵ South Korea³⁶ and Vietnam.³⁷

C. Relationship Laws

In addition to the disclosure and registration laws in certain countries, franchisors should also consult with local counsel regarding relationship laws or other laws that may influence the franchise relationship so that the franchisor has the appropriate expectations when attempting to enforce its rights under the franchise agreement. Generally, international relationship laws are like those laws that franchisors encounter in the U.S., which require the franchisor to have good cause to terminate (with a cure period), to not renew, or to disapprove the transfer of a franchise agreement. In addition, many international relationship laws also require that certain provisions are covered in the franchise agreement. For example, China's relationship law provides that the franchisee must not transfer the franchise without the franchisor's approval.³⁸ And, Malaysia's franchise law stipulates that the franchisee and its employees must not carry on any business similar to the franchised business both during the franchise agreement term and for two years after the expiration or termination of the franchise agreement.³⁹

In domestic franchise agreements, termination rights are typically structured in tiers based on the severity of the franchisee's default. These generally include (i) defaults permitting immediate termination without notice, (ii) defaults permitting termination upon written notice, and (iii) defaults that require notice and an opportunity to cure within a specified period before termination may occur.

In the international context, however, termination must be approached more cautiously, both as a legal and practical matter. Even where the contract clearly permits termination, enforcing that termination in a foreign jurisdiction may be slow, costly, and uncertain. Local courts or regulators may be reluctant to enforce termination against a domestic operator, particularly where the franchisor is a foreign entity. In addition, from a practical standpoint, the franchisor may not be in a position to step in and operate the business following termination, especially where the operations are geographically distant or dependent on local relationships, supply chains, or personnel.

These challenges are particularly acute in master franchise structures. If the franchisor terminates the master franchisee, it must then determine how to address the network of sub-franchisees operating in the territory under agreements to which the franchisor is not a direct party. Depending on the structure and applicable law, the franchisor may need to assume those relationships, appoint a replacement master franchisee, or unwind the system entirely. Where

³² Competition and Consumer (industry Codes-Franchising) Regulation 2014 (Australia).

³³ 《商业特许经营管理条例 (Shangye Texujingying Guanli Tiaoli)》/Commercial Franchise Administrative Regulation, Ordinance No. 485, adopted at 167th Regular Meeting of the State Council on January 31, 2007, came into force on May 1, 2007.

³⁴ The Franchise Act (1998) and Franchise (Forms and Fees) Regulations 1999.

³⁵ Saudi Arabia Cabinet Decision No. 122/1441 on the approval of the Commercial Franchise Law.

³⁶ Act of Fairness in Franchise Transactions (effective from November 1, 2002, last amended on August 13, 2013).

³⁷ Vietnamese Commercial Law (Law No. 36/2005/QH11) and Decree No. 35/2006/ND-CP, Arts. 5.2 and 17.

³⁸ 《商业特许经营管理条例 (Shangye Texujingying Guanli Tiaoli)》/Commercial Franchise Administrative Regulation, Ordinance No. 485, adopted at 167th Regular Meeting of the State Council on January 31, 2007, came into force on May 1, 2007.

³⁹ The Franchise Act (1998) and Franchise (Forms and Fees) Regulations 1999, Art. 27.

no viable replacement exists, termination may effectively force the franchisor to either operate the business directly in the market—often without the necessary infrastructure—or exit the market altogether. Compounding this risk, it is not uncommon in certain jurisdictions for a defaulting franchisee to resist or ignore termination, further complicating enforcement.

For these reasons, franchisors should be deliberate in how termination provisions are structured and exercised. Certain categories of defaults should remain subject to immediate termination, including events such as bankruptcy, abandonment, unauthorized transfers, serious criminal conduct, violations of in-term non-compete obligations, attempts to appropriate the franchisor's intellectual property (such as filing local trademark applications), or violations of applicable franchise sales laws. These types of defaults go to the core of the relationship and present significant risk to the system. For other types of defaults, however, franchisors may wish to build in greater flexibility, including extended cure periods, staged remedies, or alternative enforcement mechanisms, given the costs and uncertainty associated with termination in an international setting.

In practice, franchisors often rely on additional leverage to manage performance issues and avoid termination where possible. For example, requiring a letter of credit or similar financial security can provide a practical tool to encourage compliance and create a more immediate consequence for non-performance, without resorting to termination.

Where termination does occur, the franchise agreement should clearly define the franchisee's post-termination obligations. These typically include requirements to immediately cease all franchise sales and solicitation activities (including sub-franchising, where applicable), de-identify all locations and discontinue use of the franchisor's trademarks and system, pay all outstanding amounts owed (including interest and, in some cases, enforcement costs), return or destroy all proprietary materials (including any translated versions of manuals or system documents), and comply with post-term non-compete and non-solicitation covenants. These provisions are critical to protecting the brand and limiting ongoing misuse of the system following termination.

Finally, franchisors must be mindful of the potential application of local agency or commercial laws, which in some jurisdictions—particularly in parts of the Middle East, Spain, Latin America, and other civil law systems—may apply to franchise relationships. In certain cases, franchisees may be characterized as commercial agents or sales representatives, even where the agreement labels them as independent contractors. These laws can impose significant restrictions on termination, including requirements that termination be for "just cause," and may entitle the franchisee to statutory indemnification or compensation upon termination, non-renewal, or modification of the relationship—even where the franchisor has acted in accordance with the contract. The scope and application of these laws vary widely and are often highly fact-specific, making it essential for franchisors to consult local counsel when structuring termination rights and assessing enforcement risk in a given jurisdiction.

D. Taxes and Foreign Currency Controls

International tax considerations add a significant layer of complexity to cross-border franchising arrangements. Businesses operating in multiple jurisdictions must navigate a patchwork of tax regimes, bilateral tax treaties, and local compliance requirements, all of which can materially impact the economics of an international franchise structure. Tax treaties—designed to prevent double taxation and facilitate cooperation between countries—are often

central to this analysis, but they must be carefully applied to ensure that the franchisor is not subject to duplicative or unintended tax exposure. Similarly, transfer pricing rules, which govern related entities price intercompany transactions, require that fees and other payments reflect arm's length standards, and failure to comply can result in audits, penalties, or disputes with local tax authorities.

Against this backdrop, the allocation of tax responsibility must be addressed directly in the international franchise agreement. As a practical matter, franchisors should engage both domestic and local tax advisors early in the process to evaluate the structure and determine how tax liabilities should be allocated between the franchisor and the local partner. This analysis should be built into the initial financial modeling of any new market. Key considerations typically include whether the target jurisdiction has an applicable tax treaty with the United States (or the franchisor's home jurisdiction), whether withholding taxes apply to royalties, fees, or other payments (and at what rates), and whether additional taxes—such as stamp duties or similar transaction-based levies—may be imposed. Advisors can also assist in identifying required filings, documentation, and procedures necessary to comply with local tax regimes and to benefit from any available treaty relief.

In addition to tax treatment, franchisors must evaluate restrictions on the movement of funds across borders. Many jurisdictions impose currency controls or other regulatory limitations that can directly affect the franchisor's ability to receive payments. These controls may take various forms, including restrictions on inbound or outbound transfers, limits on foreign currency conversion, caps on outbound investments, taxes or fees associated with currency exchange, and regulatory approval requirements for remittances. In some cases, jurisdictions may also regulate the amount or structure of royalties and fees payable under franchise agreements, or require that certain goods or services be sourced locally, which can indirectly impact the franchisor's revenue model. These constraints should be carefully assessed as part of the overall feasibility and structuring of the market entry.

By way of illustration, a number of countries—including China, Argentina, Brazil, Russia, Saudi Arabia, and others—maintain varying degrees of foreign exchange controls that restrict the transfer of funds outside their borders. In China, for example, foreign exchange is regulated by the State Administration of Foreign Exchange ("SAFE"), which imposes limits on the amount of foreign currency that individuals and businesses can convert and remit abroad. These restrictions—such as the commonly cited annual cap of approximately \$50,000 per individual—can have practical implications for franchise systems, particularly where franchisees must remit royalties or other fees to a foreign franchisor. While businesses often structure around these limitations through approved channels or commercial arrangements, the presence of such controls underscores the importance of upfront planning and local advice.⁴⁰

Taken together, tax considerations and currency restrictions are not merely technical issues—they are central to the viability of an international franchise arrangement. A well-structured approach that accounts for these factors at the outset can help avoid unexpected costs, delays, and compliance risks, while ensuring that the economic model of the franchise system remains sustainable across jurisdictions.

⁴⁰ *Id.*

E. Consequences for Failure to Comply with Disclosure or Registration Obligations

As is expected, failing to comply with disclosure or registration requirements in various countries can result in serious consequences. For example, in Vietnam where the franchisor must register prior to offering or selling franchises in the country, penalties include administrative sanctions and administrative fines.⁴¹

In addition, franchisees operating in these countries may bring actions against the franchisor and seek rescission of the franchise agreement and a refund of their fees paid to the franchisor or reimbursement of amounts paid in pursuing the franchising opportunity. Or, from the other direction, a franchisor may find that its franchise agreement terms are unenforceable against the franchisee in the country where the franchise documents were not properly registered. In Indonesia, for example, its newly revised franchise law (as of September 2024), provides for escalating stages of administrative sanctions to including warning letters, a 14-day suspension from business activities and revocation.⁴²

F. Dispute Resolution and Governing Law

While franchisors in the United States generally have wide latitude to determine dispute resolution, governing law, and venue provisions in franchise agreements (subject to franchise laws in certain states), local counsel in other countries is essential in identifying any restrictions or limitations on these provisions that may exist within the territory, as these types are of restrictions are more common outside the United States. For example, pursuant to the franchise laws of the applicable Canadian provinces,⁴³ a franchisor cannot avoid a statutory claim based on a breach of such laws by choosing a foreign law to govern the franchise agreement and any provision in a franchise agreement purporting to restrict venue to a forum outside the relevant province is void with respect to a claim the franchisee has under the franchise legislation. Also, when operating in Islamic countries, franchisors need to be aware of Sharia law, or the religious law and Code of Islam that governs the local judicial system. Further, while many U.S. franchisors choose litigation to resolve their domestic disputes, arbitration is typically recommended for resolving disputes with international franchisees because, provided the franchisee's home country is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards⁴⁴ (the "New York Convention"), it is generally much easier to enforce an arbitration award than a court award. And, to further complicate things, even if the country allows for arbitration outside the country, enforcement of the decision may need to be governed by local law, which may allow for collateral attacks under the country's law.

G. Formalities and Experience Requirements

In addition to registration and disclosure requirements, some countries require a franchisor entity to have a certain level of experience prior to offering or selling franchises in that country. The purpose of these requirements is generally to protect potential franchisees from purchasing a franchise from a franchisor with an unproven model and ensure that the franchisor has a

⁴¹ Vietnamese Commercial Law (Law No. 36/2005/QH11) and Decree No. 35/2006/ND-CP, Art. 24.

⁴² Government Regulation No. 35 of 2024 on Franchising (Indonesia).

⁴³ Joseph Adler, Idan Erez, Stephanie Chong, *Franchise Laws and Regulations Canada 2025*, (Apr. 21, 2025), <https://iclg.com/practice-areas/franchise-laws-and-regulations/canada>.

⁴⁴ 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

mature or established system prior to offering or selling franchises to third parties in the respective country.

For example, in China, the franchisor must first operate two company-owned units under the franchised brand for more than one year prior to being able to offer franchising in China.⁴⁵ This rule is intended to confirm that the franchisor owns and operates a mature system, and that it has the adequate resources and experience to support the franchisees effectively in China. If a franchisor conducts franchising activities without satisfying this experience requirement, then it may be subject to the following administrative penalties: (i) order to rectify; (ii) confiscation of proceeds obtained from the franchising activities; (iii) fines between RMB 100,000 to RMB 500,000 (approximately \$13,000 to \$68,000); and/or (iv) publication of the violation and penalty.⁴⁶ The "two store" criterion can be satisfied by an affiliate provided that the affiliate is a direct subsidiary of the franchisor and the franchisor holds a majority requisite interest in the subsidiary.⁴⁷

In Indonesia, a franchisor seeking registration of its franchise documents must demonstrate three years of continuous operation and provide evidence of profitability through audited financial statements for the last two years.⁴⁸ The experience requirement is a reduced requirement that came into effect in September 2024. Prior to the new regulation, franchisors were required to demonstrate five years of continuous operation.⁴⁹

In Saudi Arabia, franchisors must have at least one year of operational experience before offering franchises in the country.⁵⁰ This requirement is aiming to ensure that the franchisor has established a viable business model before expanding through franchising.⁵¹

H. Other Local Law Issues

In addition to laws governing franchise sales and the ongoing franchise relationship, franchisors must carefully evaluate the practical and logistical feasibility of establishing and operating a franchise system in a foreign jurisdiction. One of the most critical considerations in this regard is the development of a reliable and cost-effective supply chain. Franchisees must be able to source both proprietary and non-proprietary inputs required to operate the business, including ingredients, inventory, equipment, POS systems, uniforms, signage, and other brand-standard materials.

While local sourcing may help avoid import and export complications, it is not always feasible—particularly where the system relies on proprietary products, specialized equipment, or tightly controlled inputs. As a result, franchisors often need to conduct detailed diligence into local supply options, import restrictions, and regulatory requirements, which may involve

⁴⁵ 《商业特许经营管理条例》(Shangye Texujingying Guanli Tiaoli) /Commercial Franchise Administrative Regulation, Ordinance No. 485, adopted at 167th Regular Meeting of the State Council on January 31, 2007, came into force on May 1, 2007, Art. 7.

⁴⁶ Shuting Zhang, *Special Pre-qualifications for Franchising in China: 2+1 Rule*, (Apr. 21, 2025), <https://www.dlapiper.com/es-pr/insights/publications/2022/05/special-prequalifications-for-franchising-in-china>.

⁴⁷ *Id.*

⁴⁸ Government Regulation No. 35 of 2024 on Franchising (Indonesia).

⁴⁹ Government Regulation No. 42 of 2007 on Franchising (Indonesia).

⁵⁰ Royal Decree No. M/22 in 2019 (Saudi Arabia).

⁵¹ *Id.*

engaging local experts or deploying internal resources to assess the market. This process can be time-consuming and costly, but is essential to determining whether the system can be successfully replicated in the target market.

Import and export restrictions present an additional layer of complexity. Certain jurisdictions impose limitations based on the type of goods, country of origin, or applicable quotas. Even where importation is permitted, the cost of shipping, customs duties, and applicable taxes must be carefully allocated between the franchisor and franchisee, as these costs can materially affect the economics of the system. In some cases, goods may be subject to duties more than once—for example, where products are routed through an intermediate country before reaching their final destination—further increasing costs.

Currency considerations are also intertwined with supply chain and operational planning. Exchange rate fluctuations can impact the cost of imported goods and the calculation of fees under the franchise agreement, as well as the franchisor's ability to repatriate payments. These factors should be evaluated holistically alongside tax and regulatory considerations discussed above.

In certain markets—particularly emerging markets—there may also be opportunities to leverage the franchise platform for export-oriented operations. In these cases, a strong local partner may be able to produce or source goods within the territory for distribution to other markets, creating additional strategic value beyond local operations.

VII. Conclusion

International expansion through franchising represents a natural and strategic progression for many successful brands seeking to scale. The potential benefits are substantial: access to new markets, diversified revenue streams, and increased global brand recognition make international franchising an attractive pathway for growth. By leveraging the capital, local expertise, and market knowledge of capable partners, franchisors can expand efficiently while limiting direct investment.

At the same time, international franchising is inherently complex. Legal regimes, cultural expectations, and commercial conditions vary significantly across jurisdictions, requiring a thoughtful and informed approach. While franchising is fundamentally a contractual relationship, success depends on much more than the agreement itself—it requires careful preparation, including securing intellectual property rights, evaluating market feasibility, and adapting the system to local legal and cultural realities.

The choice of expansion model—whether single-unit, area development, master franchise, or joint venture—is a foundational decision that will shape the franchisor's level of control, risk exposure, and long-term scalability. Equally important is the selection of the right local partner, as the strength, alignment, and capabilities of that partner will often determine the success or failure of the venture.

Negotiating and structuring the underlying agreements is only one part of the process. Franchisors must also navigate a range of regulatory considerations, including disclosure and registration requirements, tax obligations, currency controls, and supply chain constraints. These issues can materially impact both the timing and economics of expansion and should be addressed early with the support of experienced local advisors.

Ultimately, while international franchising offers significant opportunity, it requires discipline, flexibility, and a clear strategic vision. Franchisors that invest the time to understand local markets, structure their relationships thoughtfully, and align with the right partners will be best positioned to succeed. By applying the principles outlined in this paper, franchisors can approach international expansion with greater confidence and build a foundation for sustainable, long-term growth in an increasingly interconnected global marketplace.

APPENDIX A
DISCLOSURE AND RELATIONSHIP LAWS

Country / Jurisdiction	Disclosure Laws	Relationship Laws	Registration Required
Albania	✓	✓	—
Angola	—	✓	—
Argentina	✓	✓	No
Australia	✓	✓	Yes
Azerbaijan	✓	✓	—
Barbados	—	—	Yes
Belarus	—	✓	—
Belgium	✓	—	No
Brazil	✓	—	No
Cambodia	—	—	Yes (recordation required)
Canada*	✓	✓	No
China	✓	✓	Yes (post-sale registration)
Costa Rica	✓	—	No
Ecuador	—	✓	—
Estonia	—	✓	—
France	✓	—	No
Georgia	✓	✓	—
Indonesia	✓	✓	Yes (pre-sale registration)
Italy	✓	✓	No
Japan	✓	✓	No
Kazakhstan	—	✓	—
Kingdom of Saudi Arabia	✓	✓	Yes
Kyrgyzstan	—	✓	—
Latvia	✓	✓	—
Lithuania	—	✓	Yes (may be waived)
Macau	✓	✓	No
Malaysia	✓	✓	Yes (pre-sale registration)
Mexico	✓	✓	Yes (summary registration)

Moldova	✓	✓	—
Mongolia	✓	✓	—
Netherlands	✓	✓	No
Nigeria	—	—	Yes (technology registration regime)
Philippines	—	—	Yes (technology transfer clearance)
Poland	—	—	No (law under consideration)
Romania	✓	✓	No
Russia	—	✓	Yes (IP-related registration)
South Africa	✓	✓	No (but exchange control filings may apply)
South Korea	✓	✓	Yes (pre-sale registration)
Spain	✓	—	No
Sweden	✓	—	No
Taiwan	✓	—	No
Thailand	✓	✓	No
Tunisia	✓	✓	No
Turkmenistan	✓	✓	—
Ukraine	—	✓	—
Vietnam	✓	✓	Yes (pre-sale registration)

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