



2024 EOR TO ENTITY TRANSITION CHECKLIST

If you're currently using Employer of Record (**EoR**) to hire employees overseas, you already know that this solution can help you sidestep the complexity of the legal, financial, and regulatory requirements involved in overseas hiring.

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However, EoR is *not* a permanent hiring solution for most companies. For legal and compliance reasons – and the high cost – EoR is intended to be a short-term solution in most countries. In fact, frequently, clients come to us within 12 to 18 months of first using an EoR to:

- > understand their options because they know they will be ready to transition off EoR soon
- > execute a successful transition from EoR to establishing themselves in that country via a legal entity



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To create a seamless transition, our experts in international employment have created a checklist to serve as a roadmap for the process ahead.

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Headcount and Activities

Which types of employees and activities are your company undertaking in a particular country now and in the next 12–18 months?

Your headcount and the types of activities you’re conducting can send a flag to the authorities and require you to terminate your EoR arrangement and become a tax-paying entity in that country – known as a “permanent establishment” (PE).

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Growing headcount: Depending on the size of your headcount, the number of employees can require you to end EoR and shift to a taxable status (“permanent entity”).

- ☐ How has your headcount increased since you began EoR?
- ☐ How much will your headcount change over the next 12–18 months?

Revenue- and value-generating activities: The types of activities that you’re conducting can require a transition from EoR to a legal entity.

- ☐ What types of activities are your employees conducting in-country?
- ☐ Are you conducting value-generating activities like direct sales, establishing a brick-and-mortar location, or R&D (to name a few)?

Employee Benefits

How will transitioning from EoR to entity change employee benefits?

If you're transitioning from EoR, how employees are affected by that transition is one of the most important things to consider. Because every country's laws and requirements are different (and many vary by jurisdiction or locale), understanding these upfront is key to a successful transition.

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Benefit gap analysis: The benefits that the EoR provider offers are not necessarily the same ones that you'll be able to offer to your employees under the new entity.

- ☐ Which supplemental benefits are employees receiving under the existing EoR?
- ☐ To what degree are you required to match those under your legal entity?
- ☐ If you can't match these benefits, how are you obligated to compensate employees for those lost benefits?



Employee Transition from EoR to Entity

How will you handle the employee separation from EoR?

One of the biggest gaps in EoR to entity transition centers around one of a company's most valuable resources – the people. The transition from EoR to entity can be a time of significant change for employees – they will experience unexpected changes in benefits and compensation. If not handled correctly, those changes can create stress, loss of goodwill, turnover, and even legal liability for the company. That's why companies need to exercise great care and consideration around managing the employee transition process. A crucial part of this responsibility is understanding the entire transition process – what you are **required** to do (requirements from a legal and EoR provider perspective) and what you **should** do (provide proactive, clear, and accurate information to employees).

- ☐ Are you prepared to structure that transition in a way that ensures a positive experience for employees?
- ☐ Do you understand the entire transition process beyond simply noting the EoR provider's notice period?



EoR provider requirements: Every EoR provider has their own requirements and process for handling the process of moving the employees off EoR employment. In addition, how those transitions will be handled varies by country. These distinctions are incredibly important because not only do the laws and regulations that govern them differ significantly but also because there is a considerable impact on the employee.

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Example: In some EU countries, these transitions are considered a transfer of employment, while in others, it may be a termination or resignation and re-hire.

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- ☐ Check with the EoR provider about how they will handle the employee transfer.
- ☐ Discuss with the EoR provider what the communication plan will be and who will be communicating what to the employees.
- ☐ If the EoR provider indicates this will be a TUPE transfer (see below), ensure you understand what that means and your obligations as the new employer.

Country-specific statutory requirements and employee

protections: Each country has specific rules and regulations around the termination, many of which serve to protect employees. These rules cover issues such as whether (and how) employees can be terminated with or without cause, required notice periods and documentation, and regulations around severance (to name a few). These protections can range from ensuring that workers retain their original service date (used to calculate many benefits) to preserving the terms and conditions of their employment and any collective bargaining agreements.

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Example: *In the UK, employees transferred to a different employer have very specific statutory protections (called TUPE, or “Transfer of Undertakings (Protection of Employment) regulations”) that employers must observe to ensure that the transfer does not disadvantage employees.*

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- ☐ A clear plan regarding how the transferee (new employer) will inherit the employment liability and obligations from the transferor (EoR provider).
- ☐ With enough time before the planned transfer date, the EoR provider will need to inform and consult with the applicable employees.
- ☐ Ensure that the proper letters and documentation from both the transferor and the transferee are in place and that employees are fully informed of the process and what is changing.



Impact of employment transition on employees: The effect of this transition (whether it is a transfer of employment or a termination/resignation and subsequent re-hire) on employees can't be overstated. If your company neglects to plan for (and communicate) the inevitable changes that employees will experience in their employment, it can cause problems for both you and the employee. At a minimum, this results in needless stress and disruption for employees. At its worst, this can cause your company to run afoul of the law.

One of the most significant changes employees will experience is that, as a new entity, you may be unable to offer the same benefits (for example, healthcare plans) as the EoR.

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Example: The EoR may have offered a group plan that you may be unable to offer due to your smaller headcount. Changing plans may cause an employee to lose their family doctor. Understanding this upfront allows you to develop a plan to address this before it becomes a problem (for example, by offering employees an allowance to purchase supplemental health insurance).

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Employee's original date of service carry over: How you carry over the employee's original date of service (the date the EoR provider hired them) when that employee transitions to an entity is incredibly important. Because so many employee benefits and responsibilities are tied to the original hire date, workers will be very concerned about ensuring they don't "lose" the benefits accrued from their original hire date.

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Example: Many important employment terms are tied to an employee's original date of service, such as:

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- ☐ Required notice periods (generally notice period provided to the employee by their employer)
- ☐ Statutory severance or gratuity entitlements
- ☐ Annual leave entitlements
- ☐ Long-service awards
- ☐ Certain statutory benefits, depending on the country



Operational Readiness

How long until your employees are ready to work under the new entity?

Operational readiness plan: Even after you've made the decision to move to an entity, your transition isn't over until your employees are actually working. Operational readiness can be tricky to plan for. You'll want to start by knowing how much notice your EoR provider requires to terminate services. From there, you can create a plan to cover the full breadth of your transition from EoR, manage it well, stay compliant, and create a positive transition process. Here are key questions to help inform your plan:

- ☐ How much notice does your EoR provider need from you?
- ☐ How long will entity incorporation and subsequent registrations take?
- ☐ Do you have a project plan and timeline to cover the whole transition?
- ☐ Have you conducted an employee benefit gap analysis (and plan)?
- ☐ Do you need to set up an in-country bank account?
- ☐ Do you understand your statutory tax and bookkeeping requirements in that country?
- ☐ Is your entity equipped to handle payroll, taxes, and employer social security?
- ☐ Do you have the right experts lined up to ensure that you stay compliant and deliver what your employees expect (legal, payroll, accounting, tax, HR)?

Peace of Mind with a Trusted Global Expansion Expert

Different processes, different providers: Transitioning from EoR to a legal entity doesn't have to be as daunting as it sounds. Consider hiring a company that provides end-to-end services, from EoR to entity setup and subsequent management for associated services like payroll, accounting, legal, and HR. If managed well, the transition away from EoR will leave your company poised to leverage more growth opportunities, from the size of your workforce to generating more revenue. But you need to ensure that you're well-positioned to understand and manage all of the services (from payroll to HR) previously managed by the EoR provider.

Get Started Today

HSP Group is an end-to-end global expansion solutions provider focused on helping companies scale their operations overseas effectively and efficiently. We are the only global expansion expert to offer growing companies a full suite of end-to-end solutions designed to help them scale to any size in any country.

Our in-country experts have delivered the full spectrum of global expansion solutions—from EoR to entity set-up and management—across more than 100 countries (and counting). HSP brings full payroll, accounting, tax, legal, compliance, and HR services to corporate teams, integrating with in-house staff to both guide and execute across every domain.

Contact us today so that we can start delivering your custom solutions.