

Services and Capabilities

## Transfer Pricing Services



***Our team of experts offers an unmatched combination of economic credentials, industry expertise, and testifying experience.***

The current highly dynamic and unpredictable business environment around the world presents multinational companies with significant challenges in planning and documenting their intercompany pricing policies. Transfer pricing issues have risen to the forefront of international tax concerns as cross-border trade has expanded exponentially. Following the lead of the United States and the Organisation for Economic Co-operation and Development (OECD), tax authorities worldwide have instituted regulations requiring multinational enterprises (MNEs) to document intercompany transactions and comply with the arm's length standard. NERA's transfer pricing professionals assist clients in navigating the maze of global regulations by providing independent and defensible economic analyses to substantiate transfer pricing policies.

For half a century, NERA experts have been central to client success in some of the world's highest-profile cases related to litigation, regulation, and business challenges. Our Global Transfer Pricing Practice helps clients minimize tax risks resulting from transfer prices while optimizing their global supply chains. Our transfer pricing experts utilize market-based pricing techniques including value-chain and industry structure analyses, benchmarking studies, and rigorous valuation methodologies to design intercompany pricing policies grounded in sound business strategy and well-established economic principles. The results are transfer pricing solutions that meet both business objectives and the arm's length requirements imposed by national tax administrations.

## NERA's Global Transfer Pricing Practice



NERA has developed one of the largest in-house teams of economists in the economic consulting world. Our Global Transfer Pricing Practice offers a full range of transfer pricing services, independent advice, and valuation support by world-class economists who operate in major locations around the globe and who team effectively to provide global solutions for multinational clients. Our direct, hands-on approach to transfer pricing enables us to develop more rigorous, higher quality products, and to collaborate more effectively with our clients. Because we are a firm of unbiased economic practitioners, many of the leading law firms from around the world have also engaged us to create valuable and sustainable solutions for their multinational corporate clients and as experts in litigation and arbitration. Our team of experts has substantial senior-level experience, and we work collaboratively with multinational clients and their legal and tax advisors to provide the highest level of practical hands-on advice and support, applying sophisticated economics-based techniques when necessary to tackle more difficult issues. Clients range from some of the largest and best known companies in the world to midsize companies, and they cover numerous iconic brands.

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## Areas of Focus



NERA experts' hands-on experience and deep understanding of how markets work span the range of industries and capabilities that are critical to our clients' success. We are grounded in a set of core principles that have always guided our efforts: focus, independence, defensibility, and clarity. In the field of transfer pricing economics, our areas of focus include:

### Transfer Pricing Risk Assessments

NERA economists have a broad range of hands-on transfer pricing experience in numerous industries and geographies as well as directly relevant audit experience and business profiling capabilities. We provide rapid assessments of our clients' potential exposures to transfer pricing audits and define effective solutions in the form of transfer pricing policy changes, improved documentation defenses, and better implementation processes. We also apply these techniques to assisting clients with financial disclosure obligations under FIN 48 and related tax authority disclosure requirements.

### Documentation of Arm's Length Transfer Prices

Transfer pricing guidelines require that taxpayers document arm's length prices for controlled transactions by reference to the profitability of one or more uncontrolled transactions determined to be comparable to the controlled transaction with respect to functions performed, assets employed, and risks borne. NERA prepares the associated documentation studies, typically in the form of comprehensive reports that describe the information relied upon, identify the method selected, and explain the analyses performed. These reports are often provided to tax authorities during audits.



### **Transfer Pricing System Design**

Business models of multinational enterprises change over time. With them, intercompany transaction flows take different shapes and pricing for these transactions has to keep pace. The challenge now is to accommodate the globally integrated, network-oriented business models that are commonplace. NERA has extensive experience designing transfer pricing systems that facilitate the successful implementation of new business models and satisfy the arm's length principle. This requires looking beyond simple functional profiles to how entrepreneurial responsibilities dispersed throughout the MNE are involved in the joint creation of value and intangibles.

### **Transfer Pricing System Implementation**

Designing a basic transfer pricing system that captures the dynamics of a company's business model and at the same time satisfies arm's length criteria is only the first step. The key second step is implementation. Successful implementation depends on detailed system design that provides solutions to the multitude of practical issues that must be addressed whenever a transfer pricing system is implemented. It also requires responsibility to be allocated for keeping the system aligned with future developments and how the business evolves, and in communicating with internal and external stakeholders. NERA has extensive knowledge of these aspects of implementing and managing transfer pricing systems within multinational enterprises.

### **APA, Litigation, and Controversy Support**

NERA's conflict resolution capabilities build on our staff's established reputation as expert witnesses and our ability to apply sound, creative economic theory in the resolution of tax disputes. We have substantial experience providing economic advice through partnerships with leading law, tax, and audit firms in tax planning matters, as well as litigation and controversy support. We have substantial practical experience in developing Advanced Pricing Agreement (APA) methodologies and in assisting clients in negotiating them successfully with the relevant tax authorities. We also maintain independence from law firms, and we say what is right, and not just what the law firm's clients want to hear. This standard of independent advice has enhanced our reputation with tax authorities and major clients alike.

### Cost Contribution Arrangements

Although cost-sharing arrangements have been used by multinational companies as part of tax planning strategies for years, recent regulatory developments have subjected cost-sharing arrangements to intense scrutiny. Under these new regulations, certain intercompany transfers of intangibles—broadly defined as transfers of any profit-driving assets and capabilities—may have to be valued under a framework where all of the benefits from the transferred intangibles, including the benefits from subsequent development of these intangibles, accrue to the original intangibles developer. NERA's experts assist clients in addressing the new requirements of these regulations and in adapting the valuations applied for existing arrangements and restructuring transactions to the new valuation paradigms.



### Valuation Studies

NERA assists clients in establishing fair and accurate valuations of businesses and/or intellectual property associated with business reorganizations, tax planning, or mergers and acquisitions. Our work spans business valuation, intangibles valuation, comparable transactions, profit splits, and other methods.

### Financial Transaction Pricing

In the wake of the financial crisis and recession of 2008-09, determining arm's length pricing for financial transactions has become a challenge for taxpayers and transfer pricing practitioners alike. NERA's work spans all areas of intercompany finance, including loan and guarantee pricing, structured finance and leasing, thin capitalization and treasury services, private equity, and asset and fund management. Our approaches have been accepted by tax authorities and proven successful in litigation.





## Case and Project Profiles

NERA's experts bring to bear a passion for finding the right answer. The following case profiles illustrate the breadth of our experience in the area of transfer pricing.

### **Global Manufacturer**

A global machinery industry OEM retained NERA in connection with an ongoing IRS audit of its transfer pricing between its US subsidiary and headquarters operations in Asia. The IRS audit alleged substantial deficiencies in the US subsidiary's profits in certain product lines, while the tax authority in the company's home country alleged deficiencies in the overall home country profits vis-a-vis its US operations. After conducting a thorough review of the company's value chain serving its North American business, including an examination of the functions and risks undertaken by the affiliated entities serving this business and their relative contributions of tangible and intangible property, NERA economists advised the company to adopt a residual profit split method approach to determining and testing arm's length profits in each jurisdiction. NERA assisted the company in developing processes for implementing a transfer pricing model (TPM), including adaptation of financial reporting systems to provide real-time indications of compliance with the TPM on a budget basis over the course of the fiscal year, and valuation procedures to determine the relative contributions of intellectual property and other assets and to establish arm's length intercompany royalties and pricing margins to assist with implementation.

### **Global Retailer Supply Chain Restructuring**

NERA was asked by a large, EU-headquartered MNE to design and assist in the implementation of a new worldwide transfer pricing policy for the group. NERA relied on a comprehensive supply chain analysis in order to align the new transfer pricing system with the valuation creation process of the MNE's global business. NERA produced the supporting documentation and participated in discussions with tax authorities in a series of bilateral APAs validating the new policy.

***Our Global Transfer Pricing Practice helps clients minimize tax risks resulting from transfer prices while optimizing their global supply chains.***

### Medical Products Firm Tax Audit

A major US medical products firm faced difficult transfer pricing audits in Asia. The local tax authority conducted a series of intensive TP audits and proposed substantial transfer pricing adjustments. NERA was retained to analyze the relevant local market, identify the most appropriate local benchmark comparables, and apply the selected benchmarks with appropriate adjustments. Our analysis and presentations provided the relevant tax authorities with objective facts to resolve the difficult double-taxation case. NERA also helped the firm to obtain APA protection to mitigate future risks and secure an uninterrupted business environment in which to conduct its business in the Asian countries.

### China Audit Defense and Documentation Compliance

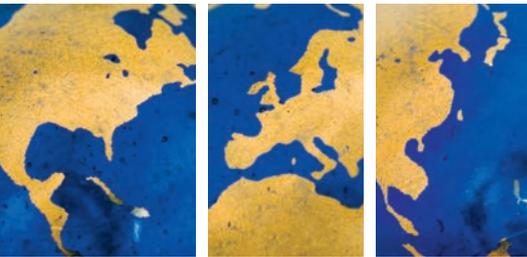
A Japanese manufacturing MNE whose Chinese subsidiaries were being scrutinized by the tax authorities for transfer pricing retained NERA to evaluate its transfer pricing policy and bring its related-party transactions into compliance with Chinese regulations. After reviewing the client's business, NERA conducted a thorough benchmarking study to determine the arm's length remuneration for various intercompany transactions. In addition, based in part on NERA's constructive relationships with local tax bureaus in different districts within China, the relevant tax bureau willingly reviewed NERA's analysis. NERA entered into these discussions on behalf of the client and achieved resolutions that were accepted by both the client and the tax bureaus. To further reduce ongoing tax risks, NERA assisted in preparing the Chinese subsidiaries' contemporaneous documentation in compliance with the applicable regulations and based on the analyses used during the negotiations.

### Global Hedge Fund Manager

A global hedge fund manager retained NERA to determine the fair market value of 100 percent of the company's equity. This valuation represented a component of the overall value for a *pari passu* participation of new shareholders. NERA's consultation included both a valuation and a transfer pricing analysis, ensuring that the equity valuation was based upon arm's length transfer prices between the investment management company and affiliated group members. NERA developed a simulation model as a closed-form option valuation approach that included basic assumptions about fund performance and volatility, the rate at which investors withdrew assets from a fund, management and performance fees, the risk-free interest rate, and the threshold at which the investment management company would liquidate the fund if the assets were to fall below a given level of the fund's high-water mark.



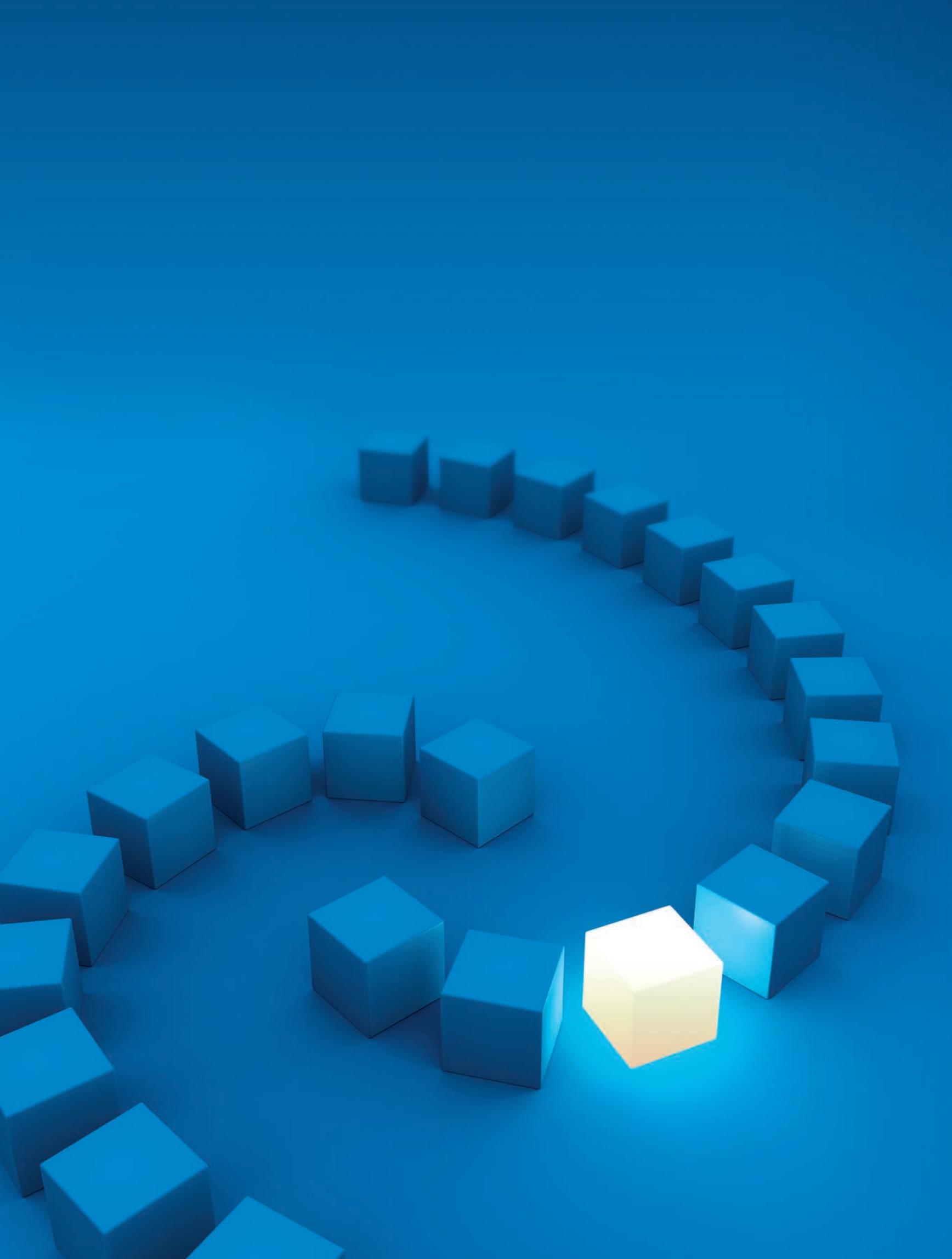
## About NERA



NERA Economic Consulting ([www.nera.com](http://www.nera.com)) is a global firm of experts dedicated to applying economic, finance, and quantitative principles to complex business and legal challenges. For over half a century, NERA's economists have been creating strategies, studies, reports, expert testimony, and policy recommendations for government authorities and the world's leading law firms and corporations. We bring academic rigor, objectivity, and real world industry experience to bear on issues arising from competition, regulation, public policy, strategy, finance, and litigation.

NERA's clients value our ability to apply and communicate state-of-the-art approaches clearly and convincingly, our commitment to deliver unbiased findings, and our reputation for quality and independence. Our clients rely on the integrity and skills of our unparalleled team of economists and other experts backed by the resources and reliability of one of the world's largest economic consultancies. With its main office in New York City, NERA serves clients from more than 25 offices across North America, Europe, and Asia Pacific.

For more information about our capabilities and services in Transfer Pricing Services, please visit [www.nera.com/transferpricing](http://www.nera.com/transferpricing).





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