

**Legal distance and entrepreneurial orientation of foreign subsidiaries:
Evidence from South-East Asia**

George O. White III¹
University of Michigan-Flint
&
Asian Institute of Management
gowhite@umich.edu

Tazeeb Rajwani
University of Surrey
t.rajwani@surrey.ac.uk

Sorin Krammer
University of Exeter
S.Krammer@exeter.ac.uk

¹ Corresponding author.

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Abstract

How will variation in legal distance influence a foreign subsidiary's propensity to engage in entrepreneurially orientated initiatives within the context of an emerging market environment? We answer this question by combining elements of institutional theory to suggest that legal distance between a foreign subsidiary's parent home and host country, as well as managerial perceptions of deficiencies in the host country legal service sector, will influence EO initiatives. By analyzing 352 multinational enterprise foreign subsidiaries operating in the Philippines and Thailand our results indicate the complexity of these relationships in that there is a curvilinear (U-shaped) relationship concerning the legal distance between a foreign subsidiary's parent home and host country and its propensity to engage in EO initiatives. Our findings also suggest that this curvilinear relationship will strengthen as managerial perceptions of host country legal deficiencies increase, particularly when the parent possess an in-house legal affairs department. Following these insights, we discuss theoretical implications and future research opportunities.

Keywords: Entrepreneurial orientation; Legal distance; Deficient legal services; Legal department; Foreign subsidiary; Emerging markets.

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1. Introduction

Generally characterized as a firm-level strategic focus relating to entrepreneurial choices, practices and actions that enhance competitive advantage (Wales, Kraus, Filser, Stockmann, & Covin, 2021), entrepreneurial orientation (EO) has received significant attention from management scholars. Ireland, Covin, and Kuratko (2009: 4) have argued that in order for a firm to possess EO, “it must couple its sustained entrepreneurial behavior with a favorable managerial disposition toward engaging in uncertain, entrepreneurial activities over time....” These EO activities can pervade the strategic behavior and posture of firms as they attempt to achieve competitive advantage in the environment where they are operating (Wales, 2016; Zahra & Neubaum, 1998). With this in mind, EO has been studied as a key antecedent to corporate entrepreneurial activities (Covin & Miller, 2014; Covin & Wales, 2012) and linked to multinational enterprise foreign subsidiary initiatives (Birkinshaw, 1997; Birkinshaw & Ridderstrale, 1999).

Most recently, there has been a growing emphasis concerning how EO applies in international contexts (Covin & Miller, 2014; Purkayastha, Kumar, & Gupta 2021; Gupta, Pandey, & Sebastian, 2021), including phenomena such as the micro foundations of foreign subsidiary initiatives (O’Brien, Scott, Andersson, & Ambos, 2019), individual-level versus firm-level analyses (Covin & Miller, 2014), networks (Riviere & Romero-Martinez, 2021), cross-national variations of EO (Hansen, Deitz, Tokman, Marino, & Weaver, 2011), and international performance (Covin & Miller, 2014). Nevertheless, despite an increasing interest of EO in international contexts, recent calls in this literature emphasize the need for better understanding of how idiosyncratic host- (Wales, Gupta, Marino, & Shirokova, 2019) and home-country

characteristics of multinational enterprises (Miller, 2011; Wales, 2016; Xiao, Chen, Dong, & Gao, 2022) might influence this process. One particular area of focus relates to Wales et al.'s (2019: 101) call for investigation into how external environmental factors, such as the legal environment, might affect EO. Lee and Peterson (2000) have theoretically conceptualized that legal factors could moderate the relationship between national culture and entrepreneurial orientation. Similarly, Wales, Shirokova, Beliaeva, Micelotta, and Marino (2021) empirically found that the development of a host country's legal system strengthens the relationship between entrepreneurial orientation and firm performance. Nevertheless, with these studies in mind, international business research has largely ignored how the legal environment will specifically influence foreign subsidiary EO.

As such, this is a rather glaring deficiency in the international business literature considering the importance that variation in legal environments will play in influencing foreign subsidiary EO. From an institutional theory perspective (Xu & Shenkar, 2002), the duality of legal pressures faced by foreign subsidiaries from their parents internally (e.g., the transference of institutionalized rules that have been internally normalized) (Tan & Chintakananda, 2016) and from host country legal institutions externally (e.g., codified laws that establish the rules of the game for local operations) (White, Boddewyn, & Galang, 2015) can create often conflicting dynamics that will play a determining role in foreign subsidiary EO. These observations offer the motivations for our study in examining the duality of how variation in distance between home and host country legal environments (hereinafter legal distance) (Fainshmidt, White, & Cangioni, 2014; Landi, 2011; White, Hadjimarcou, Fainshmidt, & Posthuma, 2013) impact foreign

subsidiary EO in emerging markets.¹ We therefore ask the following research question: *how will variation in legal distance influence a foreign subsidiary's propensity to engage in EO initiatives within the context of an emerging market environment?*

Our study sets-out to answer this research question in the international business literature by applying theoretical arguments from three strands of institutional theory, namely the liability of foreignness (hereinafter LOF) (Kostova & Zaheer, 1999), organizational transference (Holburn & Zelner, 2010), and the institution-based view (IBV) (Peng, Ahlstrom, Carraher, & Shie, 2017). From a legalistic perspective, we focus on applying institutional theory in theoretically explaining how distinct dynamics of the legal environment will influence a foreign subsidiary's propensity to engage in EO initiatives. As such, we suggest that the relationship between the legal distance of a foreign subsidiary's parent home and host country and its propensity to deploy resources necessary to engage in EO initiatives will be curvilinear (U-shaped) in nature. We argue that this relationship is such that when legal distance is low, the more likely a foreign subsidiary will understand legal parameters and rules of the game effecting operational efficiencies, therefore mitigating transaction costs associated with the LOF when engaging in EO initiatives. However, we argue that as legal distance increases, a foreign subsidiary will face greater LOF resulting in a harder-to-encode legal environment, making the likelihood of engaging in EO initiatives less likely since legal norms in its host country will be less certain and more challenging to interpret and navigate (White, Hemphill, Joplin, & Marsh, 2014).

¹ Similar to Dikova, Sahib, and Van Witteloostuijn (2010), Doh, Rodrigues, Saka-Helmhout, and Makhija (2017), and van Hoorn and Maseland (2016), among others, our research study considers "distance" and "differences" as theoretically analogous constructs.

Yet, after a certain point, institutional theory advocates that a foreign subsidiary's adaptation to its host country legal environment, and the "simultaneous intra-MNE diffusion of institutionalized practices to subsidiaries by their parents", will encourage foreign subsidiaries to assign greater efforts towards EO (Anderson et al., 2009; White, Fainshmidt, & Rajwani, 2018a). We further argue that variance in managerial perceptions concerning deficiencies in the legal service sector of a host country will be complementary and moderate this curvilinear relationship. Hence, based on IBV logic (Peng et al. 2009; White et al. 2015), we suggest that managerial perceptions of the legal service sector will shape strategic decisions concerning the application of EO. We theorize that these relationships will be stronger when the parent possess an in-house legal affairs department. Hence, foreign subsidiaries with an EO posture from distant legal environments, and that perceive the legal service sector as being deficient, will be more inclined to aggressively engage in EO initiatives in order to preempt environmental ambiguities associated with legal distance and perceived deficiencies in the legal service sector of a host country. We further argue that this will be particularly the case when their parent employs an in-house legal affairs department that can offer support to decode variation in home and host country legal ambiguities and help facilitate the organizational transference of EO.

Our study contributes to the international business literature in at least three distinct ways. First, our study draws from institutional theory to explain how legal distance influences a foreign subsidiary's propensity to initiate EO in a non-linear manner. In our application of institutional theory, we explain how the interaction of host country legal environments and organizational transference of home country legal norms will affect the development of entrepreneurial competencies associated with foreign subsidiary EO (cf. Andersson et al., 2014; Birkinshaw & Ridderstrale, 1999). Second, from a contingency perspective, we heed Wales et

al.'s (2019) call for greater research on how environmental factors influence EO by considering how the curvilinear (U-shaped) relationship between legal distance and foreign subsidiary EO will be moderated by IBV induced factors relating to managerial perceptions of deficient legal services (White, Hemphill, Rajwani, & Boddewyn, 2020), particularly when both legal distance and managerial perceptions of deficient legal services are both high. With these relationships in mind, we also introduce the theoretical notion of how in-house legal affairs departments, by operating as an intermediary within a multinational enterprise across foreign subsidiary parent home and host country contexts, will play integral role in further shaping foreign subsidiary EO. Third, by theoretically investigating these interactive effects we join the growing discussion in the international business literature concerning how differences across legal contexts in emerging markets can constrain or create opportunities for entrepreneurially oriented foreign subsidiaries (Cuervo-Cazzura et al., 2020; Estrin et al., 2019; Krammer, 2019). We test our hypotheses by using a unique dataset acquired through field research in the under-explored contexts of the Philippines and Thailand.

2. Theory and hypotheses

2.1. Institutional theory

Institutional theory stipulates that corporate governance choices depend on a broad set of factors which are related to each other and that constitute the rules or norms of legitimate behaviour (North, 1990). Institutional theory also suggests that “[i]nstitutional frameworks interact with organizations by signalling which choices are acceptable and supportable . . . reduc[ing] uncertainty for organizations” (Peng, 2002: 252). These theoretical assumptions suggest that institutional structures offer restrictions as to what foreign subsidiaries cannot do and establish under what parameters they may undertake certain important decisions (Roell,

Arndt, & Kumar, 2022; Roell, Osabutey, Rodgers, Arndt, Khan, & Tarba, 2022; White et al., 2018a).

Moreover, a central tenet of institutional theory is that home country institutions of a foreign subsidiary's parent will be indicative of their behaviour adopted in host countries (Xu & Shenkar, 2002; Eden & Miller, 2004). Thus, different dimensions of distance between a home and host country play a significant role in shaping foreign subsidiary initiatives (e.g., Berry et al., 2010; Krammer, 2018; Vasudeva et al., 2013). In general, this research has established that large institutional distance between home and host countries can negatively affect multinational enterprise's likelihood of foreign entry (Holburn & Zelner, 2010; Xu & Shenkar, 2002), local isomorphism (Salomon & Wu, 2012), and performance (Gaur & Lu, 2007). This is because foreign subsidiaries operating in different institutional contexts are subject to the LOF (e.g., Rickley & Karim, 2018), which is the costs of coordination by their parents across countries. Some scholars suggest that it is the sum of extra costs a parent incurs due to their non-native status when operating outside their home market (Zaheer, 1995), including "additional costs faced by foreign investors arising from their unfamiliarity with and lack of roots in a host country [institutional] environment" (Demirbag et al., 2010: 718).

2.2. Legal distance and foreign subsidiary EO

The legal environment is a central component of a country's institutional context. Legal environments govern the behavior and extent to which economic transactions between organizations are utilized through relational mechanisms (such as the rule-of-law) (Duanmu, 2011; Li & Filer, 2007). As such, the legal environment provides a structure as to what legitimate action is in a particular country context (Oxley & Yeung, 2001). As a result, the legal environment controls foreign subsidiary behavior (Scott, 1995; Wan & Hoskisson, 2003), and

shapes perspectives of foreign subsidiaries on how best to take initiative in leveraging corporate innovation and entrepreneurial potential in a host country (Birkinshaw, 1997; White et al., 2013).

Differences between a foreign subsidiary's parent home and host country legal environment—legal distance—is a particularly salient factor in determining how EO initiatives may be determined. Legal distance is defined as “a reflection of differences in the rule of law between countries” (White et al., 2013: 557). Research generally implies that the less legal distance between a foreign subsidiary's parent home and host country, the easier it will be for a foreign subsidiary to understand the parameters and rules of the game for initiating and leveraging EO activities (Ambos et al., 2010; White et al., 2018a; Kostova & Zaheer, 1999). Therefore, in the case of foreign subsidiary EO decision-making, the more similar its host country legal environment is to its parent's home country operating environment (very little LOF), the lower the costs of doing business since the parameters and institutional framework establishing the formal rules of the game will be better understood (Landi, 2011). For instance, a foreign subsidiary operating in a similar (less distant) legal environment will be highly likely to reduce institutional ambiguity and transaction costs when configuring EO related initiatives (McKenny et al., 2015), such as reducing the costs of negotiating and enforcing contracts (Demirbag et al., 2010) (see Figure 1, Scenario 1).

As legal distance increases so will a foreign subsidiary's LOF (Campbell et al., 2012). The LOF proposes that it can be difficult for parents of foreign subsidiaries operating in dissimilar legal environments to develop robust and logical frameworks to overcome hazards associated with institutional differences (Henisz & Delios, 2001; Henisz & Zelner, 2005; Karhunen & Ledyaeve, 2012). This is because as the differences between a foreign subsidiary's parent home and host country legal environment increase, the parameters and prescribed

framework for conducting EO oriented practices can become less familiar and harder to navigate. In essence, as legal distance increases between a foreign subsidiary's parent home and host country so will its LOF in interacting within the parameters of the host country legal environment, thereby making it more difficult for the foreign subsidiary to effectively engage in EO initiatives. We therefore propose that LOF helps to explain how legal distance between a foreign subsidiary's parent home and host country will negatively influence its intentions, decreasing the likelihood of engaging in EO initiatives as a source of competitive advantage. These EO initiatives may include a foreign subsidiary's efforts in attempting to proactively capitalize on market opportunities, to cultivate sustainable innovation practices, or to take on greater risk by developing response strategies that may lead to first mover advantages (Zahra & Covin, 1995).

As such, the differences in legal environments can cause a chilling effect on foreign subsidiary EO. Specifically, the LOF suggests that foreign subsidiaries from more distant legal environments may be less likely to understand the nature of the local legal context and business constituents they are contracting with (Kostova & Zaheer, 1999; Salomon & Wu, 2012). Legal distance can essentially diminish the understanding (and thereby predictability) of institutionalized governance structures that "form the basis for economic and social interactions" (Cuervo-Cazurra & Genc, 2008: 965) relating to how contracts are enforced (Tan & Chintakananda, 2016; White et al., 2013) or how intellectual property rights are protected (Fainshmidt et al., 2014; Santangelo et al., 2016). A foreign subsidiary will therefore be faced with a "harder-to-encode" legal environment, thereby making the process of applying EO routines and practices in a host country more difficult because legal norms will be much more

challenging to interpret and navigate (Pinkham & Peng, 2016; Verbeke & Yuan, 2016; White et al., 2014).

In applying this same logic derived from institutional theory, we argue that greater legal distance will make it more difficult for a foreign subsidiary to deploy resources necessary to execute EO initiatives that are unique to a host country's operating environment. Initially, there will be greater causal ambiguity, defined as a lack of understanding as to what elements account for competitive advantage (Lippman & Rumelt, 1982; King, 2007), when legal distance is high. For example, because of parity between home and host country legal environments, foreign subsidiaries will be more likely to easily understand how local firm competencies relating to EO can lead to competitive advantage due to a better understanding of legal norms when legal distance is low. However, as legal distance increases, a foreign subsidiary is less likely to fully understand the legal norms that establish the formal rules of the game for application of EO initiatives (i.e., regulatory oversight, how laws are applied and enforced, the psychology of the courts, etc.) (Guler & Guillen, 2010; Tsang & Yip, 2007; White et al., 2015). This is because, in general, understanding legal norms and codifying environmental information are critical to reducing causal ambiguity that may influence foreign subsidiary EO related practices (cf. Kogut & Zander, 1992).

Thus, we argue that, due to the LOF, even if a foreign subsidiary can gather and learn from available information at the nexus of initiating EO related practices, the processing and interpretation of the gathered information will prove much more challenging for foreign subsidiaries less familiar with the host country legal environment. This is because increased distance can introduce ambiguity as the foreign subsidiary interprets laws and/or how legal actors may respond (i.e., courts or regulatory agencies) in governing commercial transactions

critical for effectively initiating EO practices (Santangelo et al., 2016; Tan & Chintakananda, 2016; White et al., 2015). Combined, these arguments suggest a negative relationship between legal distance and a foreign subsidiary EO (see Figure 1, Scenario 2).

Conversely, institutional theory helps to explain how foreign subsidiary EO may be influenced by the transference of organizational practices developed in the parent's home country legal environment (Ahhlvik & Bjorkman, 2015; Kostova, 1999; Makino et al., 2004). As an example, Kostova and Roth (2002) have demonstrated that foreign subsidiary parents must conform and comply to home country institutional pressures. Moreover, foreign subsidiaries do not always leverage their local external environments for critical resources, instead they rely on their parent headquarters and in doing so they attempt to employ existing business models embedded within their organizations (Kostova et al., 2008). Thus, leaders in foreign subsidiaries will attempt to decode host country legal institutions through standards developed by home country legal norms (Holburn & Zelner, 2010; Oliver, 1997; Pan, 2002; White et al., 2018a).

Hence, foreign subsidiary parents typically develop normative practices in their home country. Home country institutional context can therefore play an important role in the development of foreign subsidiary EO (Meyer et al., 2011). Foreign subsidiaries commonly borrow, via organizational transference, EO related initiatives concerning human resources, production processes and strategic priorities (Andersson, 2003; Andersson et al., 2000; Birkinshaw, 1999), thereby supporting a high degree of isomorphism internally within the parent's organizational structure across different host country institutional contexts (Farah, Chakravarty, Dau, & Beamish, 2022; Roth & Kostova, 2002). Studies such as White et al. (2018a) and Hillman and Wan (2005) have postulated that the transference of these organizational practices will compel foreign subsidiaries to align to both internal and external

institutional pressures. This duality and internal diffusion of institutionalized practices will be at least partially influenced by the parent's home country legal environment (Meyer et al. 2011).

Therefore, we suggest that organizational transference helps to explain how the diffusion of adapted practices related to home country legal norms along with the dissemination of established practices within the parent's organizational network will compel senior executives of foreign subsidiaries to assign greater efforts towards initiating EO. In other words, as the parent develops EO oriented practices tailored to home country legal norms, these practices will then be propagated throughout the parent's network of foreign subsidiaries via organizational transference (Ambos et al., 2010; White et al., 2018a; Zander & Kogut, 1995), thereby affecting the intensity with which foreign subsidiaries engage in EO initiatives in their respective host country. These transference effects will encourage the development of a more entrepreneurial oriented posture (Anderson et al., 2009). Hence, at a certain point, this form of foreign subsidiary may altogether disregard the LOF associated with greater differences between home and host country legal environments or otherwise respond to these differences by leveraging innovating operations, acting more proactively, and/or taking on greater risk in attempting to exploit opportunities in order to gain competitive advantage as legal distance increases (Andersson, 2003; Meyer et al., 2011; Zahra & Covin, 1995) (see Figure 1, Scenario 3).²

In summary, the discussion above suggests a U-shaped relationship between the extent of legal distance and a foreign subsidiary's propensity to deploy resources necessary to engage in EO initiatives. On the one hand, when legal distance is low, institutional theory suggests the more likely a foreign subsidiary will understand legal norms and environmental parameters

² Ultimately, it should be noted that any unique capabilities derived from these entrepreneurial activities may then be transferred across the MNE enhancing possible competitive advantages of foreign subsidiaries operating in other host country environments (cf. Andersson, 2003; Birkinshaw & Hood, 1998).

affecting operational efficiencies, therefore limiting costs of inefficiencies associated with LOF when engaging in EO (cf. Landi, 2011). Additionally, we argue that as legal distance increases a foreign subsidiary will be faced with greater LOF resulting in a harder-to-encode legal environment, making the likelihood of engaging in EO initiatives not as likely since the legal norms in its host country will be less certain and more challenging to interpret and navigate (White et al., 2014). This negative effect explained by LOF will apply down to a certain point. However, after a certain point, in applying organizational transference, we argue that a parent's adaptation to its home country legal environment, and the simultaneous internal diffusion of legal practices to subsidiaries, will support greater efforts towards EO initiatives by foreign subsidiaries. These organizational transference effects will encourage the development of a stronger entrepreneurial oriented posture (Anderson et al., 2009; Birkinshaw, 1997). Hence, after a certain point, certain foreign subsidiaries will view greater legal distance as an opportunity to leverage organizationally transferred practices and enhance their EO initiatives via innovation, proactiveness, and/or risk taking in order to gain competitive advantage as legal distance increases. Hence:

Hypothesis 1. *The relationship between legal distance and foreign subsidiary EO is curvilinear (U-shaped) in nature, so that EO decreases with legal distance down to an inflection point but then increases beyond this point as legal distance escalates.*

[Insert Figure 1 about here]

2.3. The moderating effect of deficient legal services

The legal service sector is a specific dimension within the overall framework of a legal environment. Court systems, arbitration tribunals, law offices, and legal consultancies are all forms of legal services that provide the structural underpinnings necessary to support the laws of a host country (Bevan et al., 2004). For instance, the understanding of real property rights and

commercial contracts is an essential function of efficient legal services (Delios & Henisz, 2003; North, 1990), mainly for supporting formalized market transactions and the operationalization of efficient commercial activities (Luo, 2007; Peng & Heath, 1996).

Emerging markets often consist of legal environments that are characterized by constant changes to structural underpinnings leading to weak legal services. Hence, deficient legal services can create significant ambiguity and added operational costs for foreign subsidiaries. The lack of properly developed court systems, arbitration institutions, and legal consultancies will enhance operating inefficiencies for foreign subsidiaries carrying-out commercial activities in these environments by not providing sufficient institutional underpinnings (Delios & Henisz, 2000; Peng & Heath, 1996). As an example, transaction costs associated with the lack of transparent and efficient government legal agencies or arbitrary judicial rulings can limit the usefulness related to the application and effectiveness of formal agreements that are arm's length in nature (White et al., 2018b). Within a host country, foreign subsidiaries can experience unavoidable delays in resolving costly commercial conflicts due to insufficient expertise for arbitration tribunals (Pinkham & Peng, 2016). Also, foreign subsidiaries can undergo increased uncertainty from these deficiencies associated with legal consultancies in complex commercial disputes (such as IP rights and trade related issues) (Casarin, 2015). Therefore, deficient legal services in a host country reduces the quality and effectiveness of legal assistance afforded to foreign subsidiaries. Hence, deficiencies in the legal services sector can negatively affect outcomes derived from strategic behavior due to exposure to and limited recourse against such factors as protection of property rights and opportunistic behavior of partners (e.g., breach of contract) in private and public sectors (White et al. 2020).

With this notion in mind, we argue that legal distance and perceived deficiencies in a host country legal service sector are, in fact, complementary in nature. The IBV suggests that a subsidiary's propensity to engage in EO initiatives are not solely driven by its capabilities or by industry conditions, but also by legal institutions that managers confront on a daily basis when operating in foreign markets (Peng, 2002; Peng et al., 2017; Luo, 2017). Further, the IBV also implies that the legal service sector signals to managers that there are certain practices that leaders can employ in order to reduce the negative effects associated with operating in such legal environments (White et al. 2015; Peng et al. 2009; Zhou, 2015).

We attempt to extend this theoretical rationale by specifying that the variety and nature of foreign subsidiaries operating in emerging markets suggests that not all will be interested in, or capable of, initiating EO practices (Birkinshaw et al., 2005). EO related initiatives may not be conducive to the needs and/or behavior of all foreign subsidiaries, since their strategies, structures, and behavior can significantly differ (Andersson et al., 2014; Wernerfelt & Karnani, 1987). In applying the IBV, we argue here that foreign subsidiaries with an EO posture from distinct legal environments, and that perceive the legal service sector as being deficient, will be more inclined to aggressively initiate EO practices. In other words, we suggest that the convergence of legal distance and perceived legal service sector deficiencies will motivate these foreign subsidiaries to enhance EO initiatives. EO initiated practices—such as proactively taking on high risk projects, acting as a first mover, or emphasizing R&D in order to produce new product lines—can be leveraged as boundary spanning activities in unique ways within legal space (e.g., unbeknownst to court oversight) for creating competitive advantage. Thus, we posit that:

Hypothesis 2. *The (U-shaped) relationship between legal distance and foreign subsidiary EO is moderated by the efficiency of the legal service sector, so that the strength of this relationship is greater when deficiencies in legal services are perceived to be high.*

2.4. The role of the legal affairs department

Multinational enterprises have become increasingly reliant on in-house legal affairs departments as “diagnosticians” that are heavily involved with the development of initiatives and practices which are critical for the effective function, growth, and viability of foreign operations (Wilkins, 2016). Hence, legal affairs departments will usually play an early role in the determination of various EO initiatives (Chayes & Chayes, 1985), including the expectation that they will be involved with the assessment of environmental threats and opportunities in ways that are legally appropriate, resourceful, and effective (Daly, 1997). These functions are often in the form of preventative legal management, such as value enhancing activities via the protection of “knowledge assets such as patents, capabilities, and business processes” (Casarin, 2015: 144) as well as proactively taking advantage of existing opportunities (e.g., favorable loopholes) in the legal environment (Bagley, 2010). In wearing these many hats, legal affairs departments offer a mix of legal (being a gatekeeper and playing the role of a cop), managerial (offering non-legal advice related to planning and value creation), and situational advice (external environment analysis and problem solving) to foreign subsidiaries (Bagley, 2008).

Given these roles within the multinational enterprise, legal affairs departments will act as an intermediary between the parent and foreign subsidiary through counsel and operational support when dealing with uncertainty derived from legal risk, as well as assessing legal opportunities. Institutional theory helps to explain this complex process of duality by determining that legal affairs departments must consider institutional pressures, at home and abroad, while balancing internal (i.e., within the multinational enterprise) and external (i.e.,

within host-country legal environments where foreign subsidiaries operate) legitimacy (Farah et al., 2022; Kostova, 1999; Kostova & Roth, 2002). From a legalistic perspective, we therefore consider two examples of extremes where legal parameters are more favorable for leveraging EO initiatives by foreign subsidiaries with support from a legal affairs department. On one hand, the IBV advocates that a legal affairs department may assist in capitalizing on familiar legal knowledge for the purpose of maximizing the potential of foreign subsidiary EO initiatives in host countries with similar legal frameworks where there is potential for less causal ambiguity to interpret (Figure 1, Scenario 1). Alternatively, a legal affairs department may offer support for foreign subsidiaries to overcome the liabilities of foreignness associated legal ambiguities when operating in distinct host country frameworks by leveraging the organizational transference of practices shaped by parent home country legal norms thereby influencing EO initiatives (Figure 1, Scenario 3).

The complexity of this intermediary process is further amplified when foreign subsidiaries undertaking EO initiatives perceive the legal service sector of a host country to be deficient. Legal affairs departments can engage foreign subsidiaries in acting as a backstop to assess legal risk, exercise informed judgement in identifying opportunities and communicating solutions for strategically exploiting “space” associated with deficiencies in the legal service sector, thereby facilitating more effective practices that coincide with the development of foreign subsidiary EO initiatives (e.g., Bagley, 2008; Bird, 2010). As a result, we argue that the employment of a legal affairs department will play a distinct role in enhancing the impact that managerial perceptions of deficiencies within a host country’s legal services sector has on influencing the relationship between legal distance and foreign subsidiary EO. Therefore, we argue:

Hypothesis 3. *The impact of the (U-shaped) interaction between legal distance and perceived deficiencies in the legal services sector on foreign subsidiary EO will be stronger when the parent employs a legal affairs department rather than when not.*

3. Methods

3.1. Sampling and data collection

In this study, we used primary and secondary sources of data. With this in mind, archival data concerning foreign subsidiary strategic behavior and operations in emerging markets is very difficult to obtain or altogether non-existent (Wright et al., 2005). We therefore administered a survey instrument in 2018 to executives of foreign subsidiaries (wholly owned and international joint ventures) in the Philippines and Thailand. The largely under researched contexts of the Philippines and Thailand provide two intriguing settings to test our hypotheses in that both countries possess relatively unique legal arenas (Gardner, 2020).³ With this observation in mind, both countries also attract considerable FDI (World Bank, 2018) and thereby host a number of multinational enterprise foreign subsidiaries (United Nations, 2018).

For this study we surveyed senior executives (i.e., key informants) that were directly in-charge of strategic decision making for the foreign subsidiary. This is common methodological practice in international business research (e.g., Li & Zhang, 2007; Luo, 2007; White et al., 2020) that allows for a more direct measurement of complex multi-item scales (Maula & Stam, 2020). Further, the questionnaire consisted of previously validated items that were pre-tested with academics and senior executives (Fowler, 1995). Also, the questionnaire was in English since this the predominant language spoken in foreign subsidiaries conducting business in the Philippines (Hinkelman, 1996) and Thailand (North & Toews, 2014).

³ The Philippines legal system is a hybrid common-civil law based set of institutions (Hinkelman, 1996) governed by a flawed democracy (White et al., 2020). On the other hand, Thailand's legal system is a hybrid statutory-code law based set of institutions (North & Toews, 2014) governed by a hybrid regime (White et al., 2020).

The initial data sample population consisted of 1500 multinational enterprise wholly owned foreign subsidiaries and international joint ventures from both the Philippines (N = 750) and Thailand (N = 750). The foreign subsidiaries were randomly selected taken from the *Multinational Companies in the Philippines Database (2018)* and *Multinational Companies in Thailand Database (2018)* compiled and published by BMI Research. In addition, we selected foreign subsidiaries which have operated in these markets for three or more years. In order to maximize response rates, email messages and phone calls were made ahead of survey distribution for requesting participation by executives. Survey instruments were then distributed and picked-up on-site. This process helped us gain better access to targeted informants and to remedy any potential misunderstanding related to questionnaire items (Lee & Miller, 1999; Li & Zhang, 2007). Thereafter, similar to Acquah (2007), a date to return and pick-up the survey questionnaire was then established, alternatively executives were given the option of emailing a pdf, faxing, or sending the questionnaire via regular mail.

With this in mind, we were very mindful of the need to try and encourage participation. Therefore, we offered a cover letter attached to the questionnaire providing information that a. answers to questions would be kept confidential, b. identities would be kept anonymous, and c. we would offer a summary of research findings at a later date (Lee & Miller, 1999; Podsakoff et al., 2003). We then followed-up field visits with emails to foreign subsidiaries that did not initially respond in order to further request participation. A total of 369 questionnaires were acquired following multiple attempts in gathering questionnaires from the sample population. Of these questionnaires, 17 were not usable due to incomplete or missing responses. This gave us a final sample size of 352 usable questionnaires from foreign subsidiaries, equaling a response rate of 24%. Out of these questionnaires, 215 originate from foreign subsidiaries with operations in

the Philippines (29% rate of response) and 137 in Thailand (18% rate of response). Overall, these foreign subsidiaries originate from 29 distinct home countries and operate in 23 industries.

[Insert Table 1 about here]

3.2. Variables and measurement

Dependent variable. Similar to O'Brien et al. (2016: 75-76), we measured foreign subsidiary entrepreneurial orientation (*foreign subsidiary EO*) by employing the commonly utilized three-factor, 9-item, EO scale originally developed by Covin and Slevin (1989) (see also Covin & Miller, 2013; Covin & Wales, 2011). This is a reflective seven-point Likert scale. For this scale, the reliability coefficient was 0.83 and communality loadings ranged from 0.84 – 0.69. Table 2 offers more detail concerning the properties and nature of these items. Further, Appendix A offers the survey instrument questionnaire items.

Predictor variable. We measured legal distance as the absolute value of the difference between a foreign subsidiary's home and host country rule of law (Fainshmidt et al., 2014; Gu & Lu, 2011; Landi, 2011; White et al., 2013) by employing the World Bank Worldwide Governance Indicators database for the years 2015-2018 (WGI, 2018).⁴ We therefore employed the "Rule of Law" indicator from the WGI database so that we could "specifically capture distance in legal norms between [a foreign subsidiary's] ... home and host country" (White et al., 2013: 558).

Moderating variables. Similar to White et al. (2020), we calculated *deficient legal service sector* by developing a multi-item construct through the adaption of measures taken from Luo (2007). Specifically, perceptions regarding the legal service were ranked from 1 (very low) to 7 (very high) on a seven point scale focusing in comparison to previous three years and asking the

⁴ These years cover the same timeframe as the reflective measures presented in the survey instrument. The measure was aggregated and then divided by three.

question “In your observation how completely has the Philippines/Thailand developed its legal service sector?” in several areas: court systems, arbitration, law offices, legal consultancies, and other legal services. To derive our variable (*deficient legal service sector*) we take the average of these responses across these areas. We then reverse coded these items. For this scale, the reliability coefficient was 0.88 and communality loadings ranged from 0.86 – 0.75 (see Table 2 and Appendix A). *Legal affairs department* was measured by a survey item asking informants to indicate whether or not their parent employed an in-house general counsel or legal affairs department. Further, informants were asked to respond either “yes” or “no” to the question of “Does the parent MNE have a general counsel’s office or legal affairs department?” These responses were then operationalized by splitting our sample into two distinct sub-group dummy variables, *Legal Affairs Department* and *No Legal Affairs Department* (coded 1 for “yes” and 0 for “no”).

Control variables. We controlled for country, industry, and foreign subsidiary level factors. To make sure that our results are unbiased we control for a variety of key informant characteristics (e.g., nationality, experience) and subsidiary characteristics (e.g., size of top management team, experience, size, and growth rate of the industry). Key informant nationality (coded 1 = Filipino/Thai, 0 = otherwise), and key informant experience (working in the host country), were both derived from the survey instrument and added to control for potential biases of survey respondents. Top management team size (number of executives active in the focal subsidiary) and Entry mode (1 = wholly owned, 0 = joint venture) were derived from the Multinational Companies in the Philippines/Thailand Databases (2018). Both foreign subsidiary experience (i.e., number of years operating in the local context) and size (number of employees) are logged variables also taken from the Multinational Companies in the Philippines/Thailand

Databases (2018). Industry growth is the aggregated sales growth between 2016 and 2018 for all firms in a given industry, and the underlying data comes from the *Philippine Statistical Yearbook (2018)* and the *Statistical Yearbook Thailand (2018)*. Industry dummies were included to account for a number of major industries in the sample, including banking/finance/insurance, IT/computers/software, manufacturing, pharmaceuticals/medical care, and professional services (Multinational Companies in the Philippines/Thailand Databases, 2018). We also added a country dummy variable (Philippines = 1) to control for potential host country location effects.

3.3. Post-hoc statistical tests confirming validity and reliability

A number of *ex ante* and *post hoc* methods were undertaken in order to address common methods bias, check for reliability, and confirm validity of the survey results. First, several procedural *ex ante* measures we undertook in order to minimize response bias including protecting respondent anonymity, reducing item ambiguity, separating scale items for the dependent variables and predictor variables, and reverse phrasing certain items in the questionnaire (Podsakoff et al., 2003).

Second, from a *post hoc* perspective, we triangulated the survey responses with semi-structured interviews via telephone with 20 randomly selected survey respondents in order to confirm the accuracy and validity of our results (Krishnan et al., 2006; Luo, 2005, 2004). These responses were then categorized using a three-point scale for parsimony and ease of interpretation (Luo, 1999). The results from this analysis displayed high consistency between telephone interview and survey answers (Spearman-Brown coefficient: .88; Guttman split-half coefficient: .87). Thirty-seven (37) survey instruments were returned by two executives of a single foreign subsidiary. We then employed these survey responses to check for single rater biases and to also confirm the reliability of our data by running a series of Cohen's kappa tests

(Podsakoff et al., 2003). We found the responses to the questionnaires significantly related (kappa statistic range: 0.87 – 0.75, $p < .001$), confirming that single respondent bias is not a serious problem in our study.

We then ran a factor analysis for all survey variables employed in our study in order to confirm construct validity. We found the item loadings to range from 0.86 to 0.69 (well above the statistical cut-off point of 0.30). These results support convergent validity of survey items (see Table 2). Cronbach's alphas ranged from .88 and .83 respectively, displaying suitable reliability (Hair et al., 1998). We then performed a Harman's one-factor test to further check and see as to whether or not common method bias was a serious problem with survey responses (Hult et al., 2007). We therefore subjected all survey items to a single factor analysis that yielded two distinct factors with eigenvalues both greater than one. Neither factor accounted for a majority variance in the analysis. An inspection of scree plots was also conducted, with plots not showing any irregularities that would often indicate the possibility of common method bias, confirming the results of Harman's one-factor test (Krishnan et al., 2006). We also conducted a chi-square test in AMOS in order to test for discriminant validity. We ran all items on a single latent variable model (entrepreneurial orientation) and a two latent variable model (entrepreneurial orientation and deficient legal service sector). We found that the chi-square significantly improved from the single latent variable model to two latent variable model at the 0.05 level (Anderson & Gerbing, 1988). Lastly, a confirmatory factor analysis was also conducted to further confirm model fit. The measurement model established satisfactory fit ($\chi^2 = 259.11$, $p = 0.00$; $\chi^2/df = 3.54$; RMSEA = 0.08; CFI = 0.92; TLI = 0.91) (Kline, 2005) (see online Appendix B).

[Insert Table 2 about here]

We employed the *Multinational Companies in the Philippines Database (2018)* and *Multinational Companies in Thailand Database (2018)* to check for non-response bias. From these data sources, we checked for differences in responding and non-responding foreign subsidiaries with regard to size (i.e., number of employees) and age (i.e., number of years operating in the Philippines/Thailand) by running an unpaired t-test. We do not find any statistically significant differences. We also ran a logistic regression analysis employing these same variables that demonstrated a similar outcome with no significant variation with non-responding or responding foreign subsidiaries (at the $p < 0.05$ level). Therefore, non-response bias does not seem to be a serious concern in our study. Lastly, a measurement invariance test was conducted to examine possible cultural bias and construct bias between foreign subsidiaries operating in the Philippines and Thailand. Hence, after having determined the reliability of our reflective measures, we checked for measurement invariance using a two-group analysis (Story, Boso, & Cadogan, 2014) by comparing configural, metric, and scalar invariances of “entrepreneurial orientation” (the DV in our study) across the samples from foreign subsidiaries in the Philippines and Thailand. Fit for this test was assessed using chi-square difference tests and several fit indices (i.e., TLI, NFI, CFI, and RMSEA). Our analysis found support for configural, metric, and scalar invariance across the Philippines and Thailand, indicating that aggregating data from both countries is appropriate (Engelen, Gupta, Strenger, & Brettel, 2015). Online Appendix B highlights these steps taken to confirm the validity and reliability of measures employed in our study.

3.4. Endogeneity

As with all studies that are retrospective and reflective in nature, our study has design elements that requires further assessment relating to endogeneity (Wooldridge, 2002). These

issues include measurement error, reverse causality, and omitted variable bias (Luo & Bu, 2017; Maula & Stam, 2020). As mentioned in the measurement section, we followed previous empirical studies in designing the methods and measurement items for variables in our study. First, satisfactory construct reliability and validity confirm that measurement error is not a significant problem in our study. Second, although this study is cross-sectional in design, we believe that reverse causality is not a problem since the primary variable of interest (legal distance between home and host country) would not be influenced or explained by a foreign subsidiary's entrepreneurial orientation in a specific host country. Third, we sought to mitigate the possible existence of uncontrolled confounders in our models. We controlled for this potential problem by employing host country (i.e., location), industry, and foreign subsidiary specific characteristics that may simultaneously influence foreign subsidiary strategic behavior. Hence, the proposed curvilinear and moderating effects remain significant after ruling out these confounding effects. We also performed a Hausman test (1978) which further confirmed that that the primary variables of interest are not subject to such simultaneity bias (Hunt, 2021).

4. Empirical analysis and results

Table 3 reports the summary statistics and correlation coefficients among all variables in this study. As demonstrated in Table 3, we did not find any correlations between variables of interest that would warrant concern (Tabachnick & Fidell, 2001).

[Insert Table 3 about here]

In order to test our hypotheses and examine the relationships between legal distance and foreign subsidiary EO, we performed an OLS regression analysis. We estimated in Hypothesis 1 that the relationship between legal distance and foreign subsidiary EO is curvilinear in nature, such that foreign subsidiary EO decreases with legal distance down to an inflection point but

then increases beyond this point as legal distance escalates. Table 4 presents the results, offering support for Hypothesis 1. As such, Model 4 demonstrates that the slope decreases but then increases after a certain point ($\beta = -.16$, $p < .01$; squared $\beta = .19$; $p < .01$). Figure 2 further illustrates this curvilinear relationship and inflection point.⁵ This evidence lends support to Hypothesis 1.

Hypothesis 2 predicted that the curvilinear relationship between legal distance and foreign subsidiary EO would be stronger when senior executives perceive legal service sector deficiencies as being high rather than low. The results support this hypothesis, as the interaction term between having a legal service sector deficiency and the squared term of legal distance is positive and significant. Figure 3 further illustrates this quadratic interaction, showing how managerial perceptions of high deficient legal services has a multiplicative effect on the relationship between legal distance and foreign subsidiary EO. More specifically, Figure 3 illustrates, when compared to the single slope in Figure 2, that there is a more pronounced multiplicative turning point shift upwards in the slope at the point of inflection (Haans et al., 2016).⁶ Furthermore, these results show that the negative relationship between legal distance and foreign subsidiary EO only holds to a point and then increases, growing significantly stronger for foreign subsidiaries that perceive the legal service sector to be deficient. This evidence lends strong empirical support to Hypothesis 2.

⁵ We further investigated this curvilinear relationship to determine if it met the three conditions outlined by Lind and Halvor (2010). First, the squared term is significant and the expected sign (see Table 4). Second, the slopes for this quadratic relationship were steep at both ends of the data range (see Figure 2). Third, we confirmed that the turning point of the curvilinear relationship was within the data range by reviewing a scatter plot of the data and then calculating a 90% Fieller interval for the curve, demonstrating a significant U-shaped relationship within the range of the data. The illustration of 95% confidence intervals (see Figures 2-4) and checks for mitigating factors relating to endogeneity further confirm this relationship (Haans et al., 2016; Lind & Mehlum, 2010).

⁶ Predictive marginal effects with 95% confidence intervals were included in all figures (Figures 2-4 and online Appendix D) (Maula & Stam, 2020).

Hypothesis 3 predicted that the impact of the quadratic interaction between legal distance and perceived deficiencies in a legal service sector on foreign subsidiary EO will be stronger when the parent employs a legal affairs department than when there is not an in-house legal affairs department. Comparable to He et al. (2020) and Hitt et al. (2004), we split our sample into two distinct sub-groups representative as to whether or not the parent employs a legal affairs department or not, running the quadratic interaction analysis on these two sub-samples separately. As shown in Models 7 and 8 (Table 4), the interaction between these variables were significant and more strongly related to foreign subsidiary entrepreneurial orientation when the parent employs a legal affairs department (Model 7, all interaction β 's significant at $p < .05$), rather than when the parent does not employ a legal affairs department (Model 8, mixed results). The t -test comparing the betas in these two models demonstrated significant differences ($t = -2.68, p < .05$). A plot of these quadratic interactive effects is presented in Figure 4. As with Figure 3, Figure 4 illustrates relatively similar slopes in that there is a pronounced multiplicative turning point shift upwards in the slope at the point of inflection (Haans et al., 2016). These results demonstrate that the quadratic interaction between legal distance and perceived deficiencies in a legal service sector on foreign subsidiary EO will be stronger when the parent employs a legal affairs department, therefore supporting Hypothesis 3.

[Insert Table 4 about here]

[Insert Figure 2 about here]

[Insert Figure 3 about here]

[Insert Figure 4 about here]

We also conducted an additional OLS regression analysis to verify that our results are robust. This was achieved by employing an alternative measure of foreign subsidiary EO

suggested by Hansen, Deitz, Tokman, Marino, and Weaver (2011). Hansen et al.'s (2011) research on the cross-national validity of the EO construct demonstrated that a three-factor, 6-item, scale is more optimal when measuring EO across countries. We therefore followed this recommended approach in creating an alternative EO variable to test the robustness of our results offered in Table 4. In following Hansen et al.'s approach we factored two items (each) representative of innovativeness, proactiveness, and risk-taking adapted from Covin and Slevin (1989) (see also Covin & Wales, 2011). These questionnaire items were adapted from what is listed in Appendix A. For innovation, we employed the items "This subsidiary places a strong emphasis on tried and trusted practices, products, and services versus a strong emphasis on R&D, technological leadership, and innovations" and "This subsidiary has marketed over the past five years no new lines of products or services versus many new lines of products or services". For proactiveness, we employed the items "This subsidiary typically responds to initiatives that competitors initiate versus initiates actions to which competitors respond" and "This subsidiary is very seldom the first business to introduce new products/services, administrative techniques, operating technologies, etc. versus is the very first business to introduce new products/services, administrative techniques, operating technologies, etc."

Finally, for risk taking, we employed the items "This subsidiary favors low-risk projects with normal rates of return versus high-risk projects with the possibility of higher returns" and "This subsidiary's top management, owing to the nature of the environment, believe that it is best to explore it gradually via cautious incremental behavior versus bold, wide-ranging acts necessary to achieve objectives" (Covin & Slevin, 1989; O'Brien et al., 2016). For this scale, the reliability coefficient was 0.85 and communality loadings ranged from 0.88 – 0.74. The results using this dependent variable, as an alternative measure of foreign subsidiary EO, are very

similar to what is reported in Table 4 (see online Appendix C). Furthermore, we are confident that the findings offered in our study are generally robust and reliable.

5. Discussion

5.1. Theoretical contributions

Our findings make several contributions to the international business literature. First, we focus on an underexplored research area, namely the influence of the legal arena on foreign subsidiary EO. By drawing from three strands of institutional theory (i.e., the LOF, organizational transference effects, and the IBV), we have developed a theoretical framework to explain the link between legal distance and foreign subsidiary EO initiatives, particularly when considering how managerial perceptions of the host country legal service sector and a parent's employment of a legal affairs department will play in motivating this important relationship. In doing so, we advance institutional theory by showcasing how tension between exogenous (i.e., legal distance) and endogenous (i.e., managerial perceptions and the presence of a legal department) legal factors play a role in determining foreign subsidiary EO in emerging markets.

Second, we contribute to the volume of work on institutional distance and its contingencies. Specifically, with few exceptions (e.g., Krammer, 2018), the consensus among studies tends to be that institutional distance has negative effects on foreign subsidiary operations and initiatives (Kostova et al., 2020). We diverge from this research by applying organizational transference in theorizing and finding that non-linear (U-shaped) effects of legal distance on foreign subsidiaries can enhance EO initiatives, which reconciles some of the contradicting findings regarding "distance" and its negative effects on multinational enterprise foreign subsidiary operations (Aguilera & Grogaard, 2019; Beugelsdijk, Ambos, & Nell, 2018). Our insights begin to address questions previously raised relating to the complexity of foreign

subsidiary organizational practices such as “[h]ow do organizational practices unique to the subsidiary emerge and how is practice adaptation affected by subsidiary managers and their characteristics?” and “[h]ow do disruptions in the institutional ... environment affect organizational practices especially those related to ... nonmarket relationships?” (Meyer, Li, & Schotter, 2020: 560).

Third, our work advances the literature on the antecedents of foreign subsidiary EO in international contexts, where our knowledge remains rather limited (Miller, 2011; Wales, 2016; Wales et al., 2019; Wales et al, 2021). We do so by taking a legalistic perspective in documenting how the curvilinear (U-shaped) relationship between legal distance and foreign subsidiary EO, and by showing that this relationship is moderated by managerial perceptions of deficient legal services within a host country legal environment, particularly when both legal distance and managerial perceptions of deficient legal services are high. By explicating these interactive relationships, we also contribute to an ongoing discussion in international business (e.g., Cuervo-Cazzura et al., 2020; White et al., 2020) regarding the role of legal institutions in emerging markets, one that can either constrain or create opportunities for entrepreneurially oriented foreign subsidiaries.

5.2. Managerial and public policy implications

Our findings also provide several important practical implications for managers and public policy makers. From a managerial perspective, our study quantitatively verifies that foreign subsidiaries will be more likely to engage in EO initiatives when legal distance is either very low or very high. This is particularly the case when a foreign subsidiary perceives deficiencies within the legal service sector (i.e., courts, arbitration tribunals, legal consultancies, among others) to be high and their parent employs an in-house legal department. Moreover, from

a policymaking perspective, government officials should be mindful as to the impact of differences between parent home and host country legal environments, and particularly how managerial perceptions of the host country legal norms may influence foreign subsidiary EO related practices within the context of their jurisdictions of authority.

5.3. Limitations and future research

Our study has a number of limitations that open up potential avenues for future research. First, we were unable to control for whether or not differences in legal systems and manager perceptions of deficient legal services were properly informed. These issues raise the question of will the presence of an in-house legal department influence perceptions of host country legal norms thereby impacting a foreign subsidiary's propensity to initiate EO practices? Nevertheless, future research can further extend EO research by employing a finer-grained analysis in investigating the antecedents and outcomes of foreign subsidiary EO initiatives within different legal jurisdictions (such as at local and federal levels), particularly when considering alternative legal constructs that may impact foreign subsidiary EO such as judicial arbitrariness (White et al., 2015) or law incompleteness (Luo, 2007). Moreover, the notion of legal jurisdiction can also link to contract theory, which considers the utility of formal and informal governance mechanisms across comparative jurisdictions (Gilson, Sabel, & Scott, 2010; Klein, 1996), to better theoretically explain how institutional constraints associated with governing host-country strategic partnerships influence foreign subsidiary EO and related outcomes (such as strategic and financial performance). Furthermore, there is ample room in the international business literature to build on the work of Wales, Shirokova, Beliaeva, Micelotta, and Marino (2021) when considering how various other theories (such as transaction cost economics or resource

dependence theory) and dimensions of the legal arena (such as laws, judicial decisions, and regulatory enforcement) play a role in foreign subsidiary EO.

Second, two control variables employed in our study, entry mode and industry growth rate, were consistently significant across all models (see generally Table 4). These are rather interesting findings in that our results suggest that wholly owned foreign subsidiaries (rather than IJVs) in faster growth rate industries are more likely to develop EO related initiatives. One way to consider this is that wholly owned modes of entry and faster/positive industry growth cycles present significant challenges that force these foreign subsidiaries to be more proactive and innovative in nature, especially since they are often faced with pressures to meet performance targets imposed by headquarters. Future research could investigate these industry growth related relationships and how they may potentially interact with various aspects of a host country's legal environment such as judicial arbitrariness, contract enforcement, or intellectual property protections (cf. White et al. 2015; White et al., 2018b).

Finally, while our theoretical arguments are generalizable to other emerging markets, the empirical context of this study focuses on two countries located in Southeast Asia. Therefore, future research that is longitudinal and across multiple country settings (the MENA, European, and/or Latin American regions) would provide greater insight into the variation between legal distance, managerial cognition of perceived legal service deficiencies, and EO initiatives. Similarly, the identification of other potential environment-related contingencies would be most helpful in offering a more holistic assessment of these causal relationships. As an example, investigation via more in-depth qualitative studies concerning how foreign subsidiaries initiate EO practices when considering variation (internally and externally) between parent home and host legal environments across a greater array of country contexts would add much needed

insight with regard to the complex relationships investigated in this study. More importantly, these efforts will provide greater insights for scholars and executives interested in the link between the legal arena and foreign subsidiary EO.

6. Conclusion

In this study we investigate how will variation in legal distance influence a foreign subsidiary's propensity to engage in EO initiatives within the context of an emerging market environment. In accordance with our theoretical arguments, we found that foreign subsidiaries with an EO posture from distant legal environments, and that perceive the legal service sector as being deficient, will be more inclined to initiate EO based practices to preempt host country environmental ambiguities associated with legal distance. We also show that the presence of a legal affairs department within a parent will play a distinct role in enhancing the impact that managerial perceptions of legal service sector deficiencies will have on the link between legal distance and foreign subsidiary EO. These insights extend international business research concerning complexities relating to the interaction of legal environments and the development of entrepreneurial competencies associated with foreign subsidiary EO initiatives (Birkinshaw & Ridderstrale, 1999; Wales et al, 2021). Overall, addressing these issues will help to provide international business scholars with novel theoretical insights relating to the complexity of foreign subsidiary EO in emerging markets.

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Table 1
Sample characteristics

<i>Country and region of origin</i>	<i>#</i>	<i>%</i>	<i>Industry^a</i>	<i>#</i>
(Americas)	(68)	(19)	Accounting/legal	12
Argentina	1		Agriculture/environmental	4
Canada	12		Aviation/defense	4
Mexico	1		Banking/finance/insurance	39
U.S.A.	54		Chemicals	10
(Asia)	(125)	(36)	Construction/engineering	30
India	7		Consumer goods/retail	16
Indonesia	3		Electronics/electrical equipment	3
Japan	49		Food and drink	19
Malaysia	7		IT/computers/software	27
Pakistan	2		Machinery and heavy equipment	1
P.R.China ^b	24		Manufacturing	27
Singapore	19		Mining/metals/steel	9
South Korea	8		Motor industry	5
Thailand	6		Oil/gas/energy	11
(Europe)	(138)	(39)	Pharmaceuticals/medical care	33
Austria	3		Printing/paper/media	2
Belgium	4		Professional services	31
Denmark	8		Real estate and property	10
Finland	4		Telecoms/telecommunications	10
France	19		Textiles	1
Germany	23		Tourism/travel/leisure	30
Ireland	2		Transportation/logistics	18
Netherlands	13			
Norway	9			
Spain	6			
Sweden	4			
Switzerland	15			
United Kingdom	28			
(Other)	(21)	(06)		
Australia	18			
New Zealand	2			
South Africa	1			
(Total)	(352)			

^aRefers to primary industry of operations. ^bIncludes Hong Kong.

Table 2Factor analysis of survey variables^{ab}

	Factor 1	Factor 2
Items	Entrepreneurial Orientation	Deficient Legal Service Sector
Entrepreneurial Orientation		
1. Emphasis on R&D, tech leadership, innovation	0.81	
2. Many new lines of products or services marketed	0.82	
3. Changes in product/service lines quite dramatic	0.70	
4. Initiates actions which competitors then respond	0.79	
5. First to introduce new products/services, etc.	0.80	
6. Adopts very competitive posture	0.84	
7. Strong proclivity for high risk projects	0.81	
8. Bold, wide-ranging, acts to achieve objectives	0.73	
9. Adopts aggressive posture to exploit opportunities	0.69	
(7-point Likert. Sources: Covin & Slevin, 1989; O'Brien et al., 2019)		
Deficient legal service sector^c		
7. Court system		0.86
8. Arbitration institutions		0.75
9. Law offices		0.84
10. Legal consultancies		0.81
11. Other legal services		0.79
(7-point Likert. Sources: Luo, 2007; White et al., 2020)		
Model fit indices		
$\chi^2 = 259.11, p = 0.00; \chi^2/df = 3.54; RMSEA = 0.08; CFI = 0.92; TLI = 0.91$		
Eigenvalue	6.46	5.44
Proportion of variance accounted for (%)	48.18	38.92
Cumulative % of variance explained	48.18	87.10
Cronbach's alpha	.83	.88

^a N = 352. Principal component analysis using varimax (orthogonal) rotation with Kaiser normalization.^b See Appendix A for additional detail concerning scale adaptation.^c Scales were reverse coded.

Table 3Descriptive statistics and correlations^{ab}

Variables	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Entrepreneurial orientation	—																
2. Legal distance ^c	-0.24	—															
3. Deficient legal service sector	0.25	0.14	—														
4. Industry growth rate	-0.19	0.18	-0.11	—													
5. Entry mode	0.08	0.09	-0.01	0.18	—												
6. Foreign subsidiary size ^d	0.02	-0.03	0.02	-0.04	0.07	—											
7. Foreign subsidiary experience ^d	-0.09	0.16	0.07	0.10	0.02	0.22	—										
8. Top management team size	-0.03	0.04	0.05	0.06	0.02	0.19	0.18	—									
9. Informant experience	-0.04	0.10	0.01	0.03	0.15	0.01	0.14	0.02	—								
10. Informant nationality	-0.02	0.07	0.02	-0.01	0.19	0.01	0.12	0.03	0.69	—							
11. Legal department	0.12	0.26	0.16	0.08	0.09	0.02	0.27	0.07	0.17	-0.03	—						
12. Banking/finance/insurance	0.10	-0.04	-0.03	0.02	0.01	0.09	-0.01	-0.05	0.05	-0.06	-0.08	—					
13. IT/computers/software	-0.05	0.05	-0.04	0.01	-0.06	-0.05	0.02	0.03	0.03	0.02	0.03	-0.10	—				
14. Manufacturing	-0.05	-0.01	-0.02	0.04	-0.08	0.03	0.05	0.07	-0.04	0.01	0.06	-0.11	-0.09	—			
15. Pharmaceuticals/medical care	-0.01	0.03	-0.05	-0.03	0.08	0.04	-0.02	-0.01	-0.04	0.06	-0.01	-0.12	-0.09	-0.10	—		
16. Professional services	-0.04	-0.07	0.04	0.02	0.07	0.02	0.03	0.07	0.02	-0.01	0.01	-0.11	-0.09	-0.09	-0.10	—	
17. Host country (Philippines)	0.13	-0.05	0.01	-0.09	0.02	0.06	-0.02	-0.05	0.02	0.02	-0.09	0.08	-0.03	-0.07	0.04	-0.01	—
Mean	4.66	0.00	4.19	9.05	0.56	2.32	1.35	5.22	15.50	0.55	0.43	0.11	0.08	0.09	0.10	0.09	0.61
S. D.	1.71	0.76	1.69	10.11	0.49	0.53	0.33	2.28	11.01	0.49	0.50	0.32	0.27	0.28	0.30	0.29	0.49
Minimum	1	0.48 ^e	1	-13.40	0	12	4	1	3	0	0	0	0	0	0	0	0
Maximum	7	65.87 ^e	7	39.60	1	6000	135	9	37	1	1	1	1	1	1	1	1

^a N = 352. Correlations in bold are significant at the .05 level or higher (two-tailed significance tests).^b Means, standard deviations, and minimum-maximum values reported are for raw scores.^c Mean-centered standardized variable (Fainshmidt et al., 2014). ^d Logged variables. ^e Raw scores.

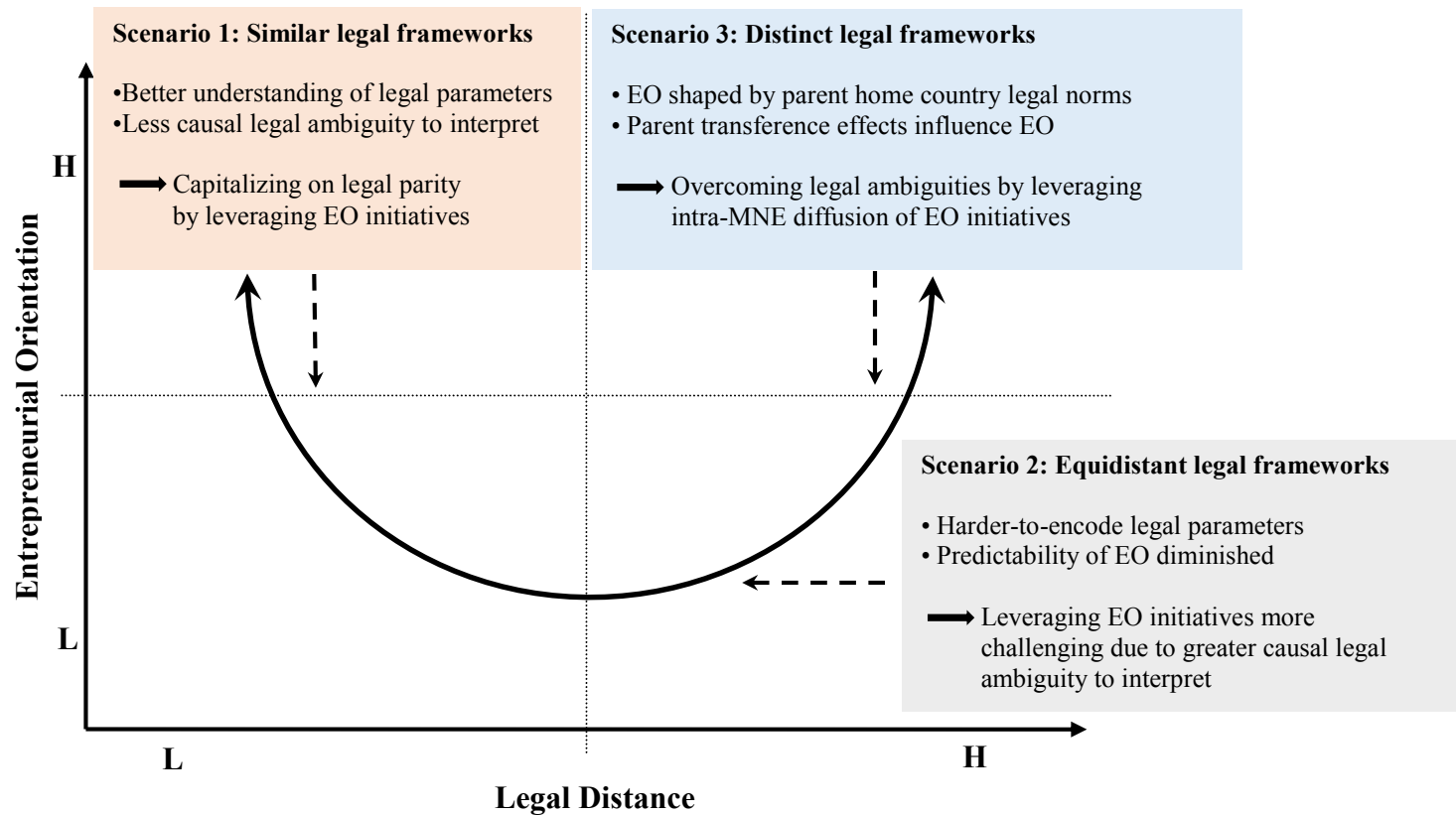
Table 4Results of OLS moderated regression analyses^{ab}

Variables	Foreign Subsidiary Entrepreneurial Orientation							
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7 LAD ^c	Model 8 NoLAD ^{cd}
<i>Controls</i>								
Country dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industry dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industry growth rate	0.19** (0.01)	0.18** (0.01)	0.11* (0.01)	0.09† (0.01)	0.09† (0.01)	0.10* (0.01)	0.04 (0.02)	0.11 (0.01)
Informant home country	-0.08 (0.29)	-0.05 (0.28)	-0.06 (0.28)	-0.04 (0.27)	-0.02 (0.27)	-0.03 (0.27)	-0.10 (0.36)	0.01 (0.35)
Informant experience	0.03 (0.02)	0.05 (0.02)	0.08 (0.02)	0.07 (0.02)	0.07 (0.02)	0.09† (0.02)	0.14† (0.03)	0.08 (0.02)
Top management team size	0.01 (0.07)	0.01 (0.07)	0.01 (0.07)	-0.02 (0.07)	-0.03 (0.07)	-0.02 (0.07)	-0.01 (0.12)	-0.03 (0.08)
Foreign subsidiary experience	-0.12* (0.01)	-0.09† (0.01)	-0.05 (0.01)	-0.04 (0.01)	-0.03 (0.01)	0.01 (0.01)	0.03 (0.01)	-0.02 (0.01)
Foreign subsidiary size	0.07 (0.01)	0.04 (0.01)	0.05 (0.01)	0.08 (0.01)	0.03 (0.01)	0.02 (0.01)	-0.01 (0.01)	0.04 (0.01)
Entry mode	0.14** (0.23)	0.13** (0.22)	0.14** (0.22)	0.14** (0.22)	0.11* (0.22)	0.12* (0.22)	0.08 (0.26)	0.15* (0.29)
<i>Moderator</i>								
Deficient legal service sector (DLS)		0.24** (0.08)	0.22** (0.08)	0.25** (0.08)	0.25** (0.08)	0.23** (0.08)	0.25** (0.13)	0.23** (0.11)
<i>Predictor</i>								
Legal distance (LD1)			-0.19** (0.27)	-0.21** (0.27)	-0.23** (0.27)	-0.21** (0.27)	-0.18* (0.36)	-0.17* (0.37)
Legal distance squared (LD2)				0.19* (0.06)	0.21** (0.06)	0.20** (0.06)	0.16* (0.11)	0.20** (0.08)
<i>Interactions</i>								
LD1 x DLS					-0.15** (0.14)	-0.16** (0.14)	-0.23* (0.33)	-0.15* (0.17)
LD2 x DLS						0.12* (0.18)	0.18* (0.23)	0.11 (0.24)
R ²	0.10	0.15	0.19	0.22	0.24	0.25	0.24	0.23
Adjusted R ²	0.07	0.12	0.15	0.18	0.20	0.21	0.16	0.16
Change in R ²		0.05**	0.03**	0.03**	0.02**	0.01*		
Change in F		21.28**	12.98**	15.61**	7.10**	4.66*		
Model df	338	337	336	335	334	333	135	183
Number of observations	352	352	352	352	352	352	151	201

Notes: Values represent standardized coefficients (βs) with coefficient standard errors shown in parentheses.

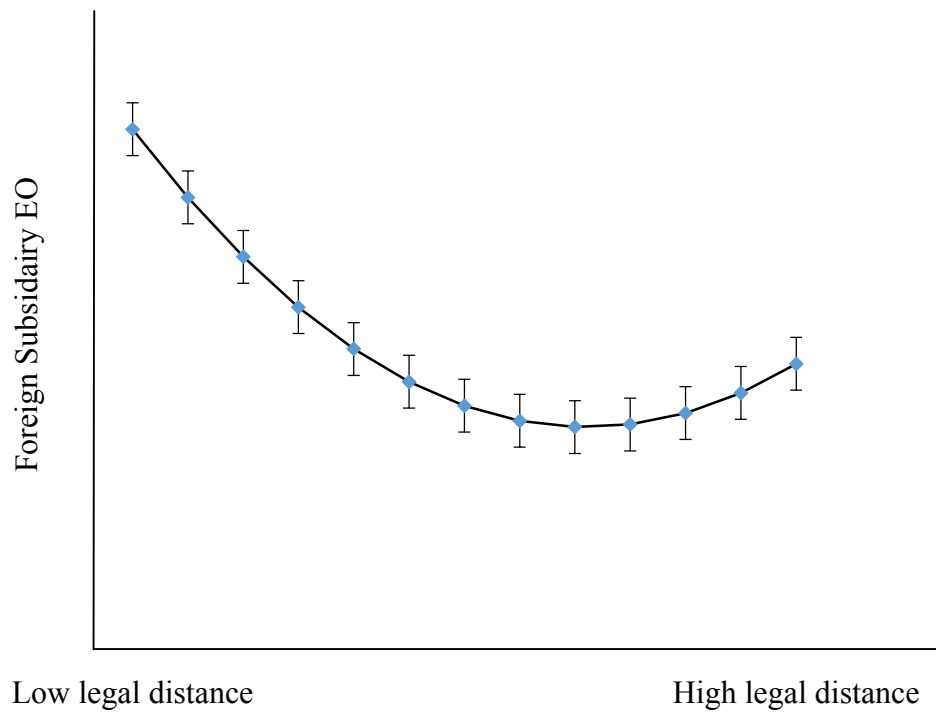
^a N = 352. †p < .10; *p < .05; **p < .01 (two-tailed significance tests).^b The highest VIF value is 2.79 (Model 6) (VIF range = 1.03 – 2.79).^c Subsample analysis comparing foreign subsidiaries with and without a legal affairs department (LAD).^d T-test comparing subgroups in Model 7 to Model 8 = -2.68*.

Fig. 1. Illustration of U-shape relationship between legal distance[†] and foreign subsidiary EO



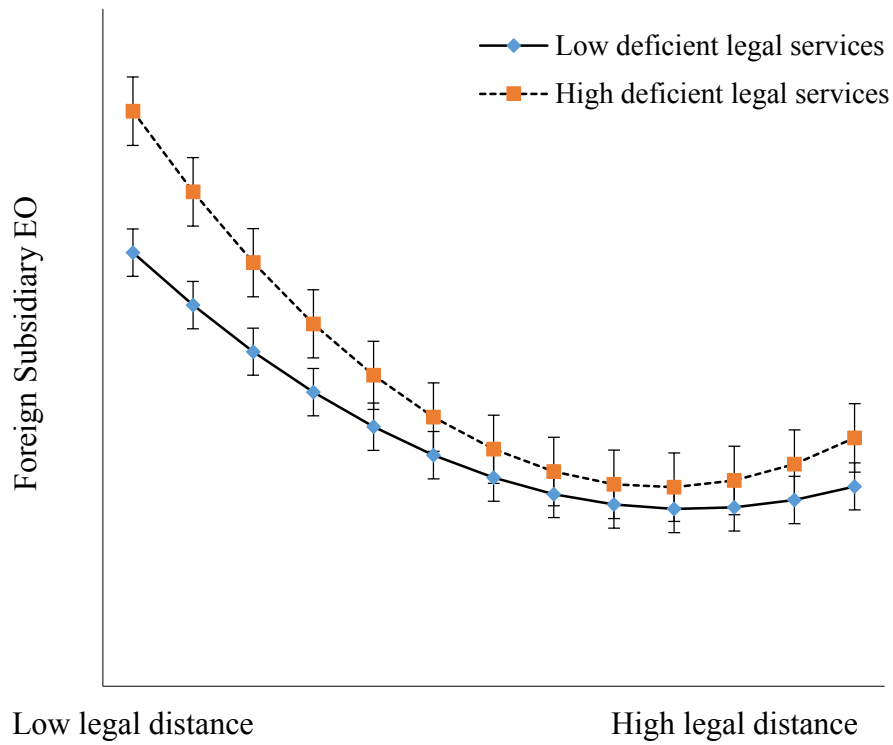
[†]Between foreign subsidiary home and host country

Fig. 2. The quadratic relationship between legal distance and foreign subsidiary EO^a



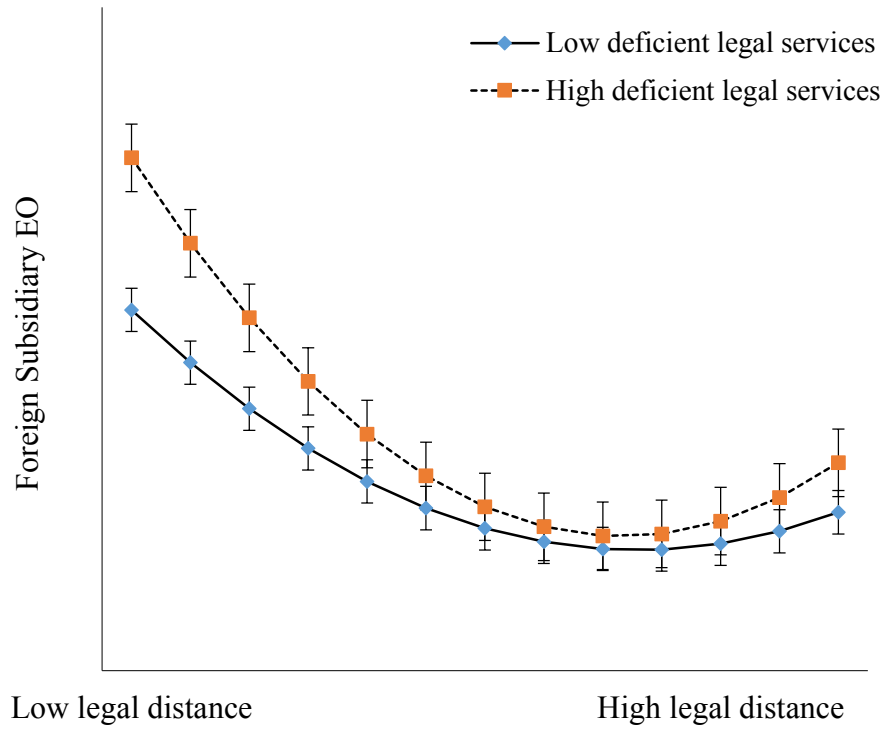
^a Predictive marginal effects with 95% confidence intervals.

Fig. 3. Deficient legal services moderates the relationship between legal distance and foreign subsidiary EO^a



^a Predictive marginal effects with 95% confidence intervals.

Fig. 4. Deficient legal services moderates the relationship between legal distance and foreign subsidiary EO (legal affairs department sub-sample)^a



^a Predictive marginal effects with 95% confidence intervals.

Appendix A

Questionnaire items

Entrepreneurial Orientation:

Using the past three years as a reference, please rate the extent to which you DISAGREE or AGREE with the following statements by circling the appropriate number in the scale beside each statement

Innovativeness

- (1) Our subsidiary has a strong emphasis on R&D, technological leadership, and innovations
- (2) Our subsidiary constantly offers many new lines of products or services
- (3) Changes in product or service lines have usually been quite dramatic

Proactiveness

- (1) Our subsidiary typically initiates actions to which companies then respond
- (2) Our subsidiary is very often the first business to introduce new products/services, administrative techniques, operating technologies, etc.
- (3) Our subsidiary typically adopts a very competitive, “undo-the-competitors” posture

Risk-taking

- (1) Our subsidiary has a strong proclivity for high-risk projects (with chances of very high returns)
- (2) Owing to the nature of the environment, bold, wide-ranging acts are necessary to achieve the subsidiary’s objectives
- (3) Our subsidiary typically adopts a bold, aggressive, posture in order to maximize the probability of exploiting potential opportunities

(7-point Likert scale. Strongly Disagree to Strongly Agree. Sources: Covin & Slevin, 1989; O’Brien et al., 2019)

In your observation how completely has the Philippines developed its legal service sector?

Deficient legal service sector:

- (1) Court system
- (2) Arbitration institutions
- (3) Law offices
- (4) Legal consultancies
- (5) Other legal services

(Reverse coded. 7-point Likert scale. Very Low to Very High. Sources: Luo, 2007; White et al., 2020)

Appendix B

Post-hoc statistical tests^a

A. <i>Chi-square test</i>. We also conducted a chi-square test in AMOS in order to test for discriminant validity. We ran all items on a single latent variable model (entrepreneurial orientation) and a two latent variable model (entrepreneurial orientation and deficient legal service sector). We found that the chi-square significantly improved from the single latent variable model to two latent variable model at the 0.05 level (Anderson & Gerbing, 1988).
B. <i>Harman's (1967) one-factor test</i>. We observed Harman's (1967) one-factor test when running the principal components factor analysis and found that neither factor explained the majority of the variance in the analysis (Podsakoff & Organ, 1986).
C. <i>Inspection of scree plots</i>. An inspection of scree plots was conducted, with plots not displaying any abnormalities that would indicate the possibility of common method bias, confirming the results of Harman's one-factor test (Krishnan, Martin, & Noorderhaven, 2006).
D. <i>Confirmatory factor analysis</i>. We conducted a confirmatory factor analysis finding the overall fit statistics for the multiple factor model, rather than single factor model, to be superior and offer acceptable fit ($X^2 = 259.11$, $p = 0.00$; $X^2/df = 3.54$; RMSEA = 0.08; CFI = 0.92; TLI = 0.91) (Kline, 2005) (see also Table 2). Hence, discriminant validity was further supported.
E. <i>Significance of interaction terms</i>. Regression analyses demonstrate significant interactions which are not likely to occur when single informant bias exists in data due to their lack of understanding concerning the underlying theory behind interaction results (Kotabe, Martin, & Domoto, 2003) (see Table 4 and Appendix C).
F. <i>Measurement invariance test</i>. After having determined the reliability of our reflective measures, we checked for measurement invariance using a two-group analysis (Story, Boso, & Cadogan, 2014) by comparing configural, metric, and scalar invariances of "perceived corruption" across the samples from the Philippines and Thailand. Fit for this test was assessed using chi-square difference tests and several fit indices (i.e., TLI, NFI, CFI, and RMSEA). Our analysis found support for configural, metric, and scalar invariance across the Philippines and Thailand, indicating that "combining data from these two countries is acceptable" (Engelen, Gupta, Strenger, & Brettel, 2015: 1081).

^a Single informant bias, common method bias, and measurement equivalence tests. See Podsakoff, MacKenzie, Lee, & Podsakoff (2003).

Appendix C

Robustness check with alternative dependent measure^{abc}

Variables	Foreign Subsidiary Entrepreneurial Orientation							
	Model 1	Model 2	Model 3	Model 4	Model 5	Model 6	Model 7 LAD ^d	Model 8 NoLAD ^{de}
<i>Controls</i>								
Country dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industry dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Industry growth rate	0.25** (0.01)	0.24** (0.01)	0.22** (0.01)	0.19** (0.01)	0.14** (0.01)	0.15** (0.01)	0.04 (0.02)	0.15* (0.29)
Informant home country	-0.08 (0.31)	-0.06 (0.31)	-0.07 (0.31)	-0.05 (0.31)	-0.02 (0.30)	-0.03 (0.30)	0.03 (0.36)	0.01 (0.35)
Informant experience	0.04 (0.02)	0.05 (0.02)	0.07 (0.02)	0.07 (0.02)	0.06 (0.02)	0.10† (0.02)	0.05 (0.03)	0.08 (0.02)
Top management team size	-0.01 (0.07)	-0.01 (0.07)	-0.01 (0.07)	-0.04 (0.07)	-0.05 (0.07)	-0.04 (0.07)	-0.04 (0.11)	-0.03 (0.08)
Foreign subsidiary experience	-0.17** (0.01)	-0.15** (0.01)	-0.12* (0.01)	-0.11* (0.01)	-0.09† (0.01)	-0.04 (0.01)	-0.03 (0.01)	-0.02 (0.01)
Foreign subsidiary size	-0.01 (0.01)	-0.03 (0.01)	-0.02 (0.01)	-0.01 (0.01)	-0.05 (0.01)	-0.07 (0.01)	-0.08 (0.01)	-0.04 (0.01)
Entry mode	0.11* (0.25)	0.11* (0.25)	0.11* (0.25)	0.12* (0.25)	0.09† (0.25)	0.11* (0.25)	0.08 (0.30)	0.15* (0.29)
<i>Moderator</i>								
Deficient legal service sector (DLS)		0.14** (0.09)	0.13** (0.09)	0.16** (0.09)	0.16** (0.09)	0.14** (0.09)	0.25** (0.12)	0.22** (0.10)
<i>Predictor</i>								
Legal distance (LD1)			-0.13** (0.31)	-0.15** (0.31)	-0.17** (0.30)	-0.14** (0.30)	-0.13* (0.37)	-0.17* (0.34)
Legal distance squared (LD2)				0.20** (0.07)	0.21** (0.07)	0.20** (0.07)	0.21** (0.11)	0.20** (0.08)
<i>Interactions</i>								
LD1 x DLS					-0.18** (0.15)	-0.19** (0.15)	-0.21* (0.33)	-0.16* (0.17)
LD2 x DLS						0.19** (0.20)	0.18* (0.26)	0.11 (0.24)
R ²	0.14	0.16	0.18	0.21	0.24	0.27	0.23	0.26
Adjusted R ²	0.10	0.12	0.14	0.17	0.20	0.23	0.15	0.19
Change in R ²		0.02**	0.02**	0.03**	0.03**	0.03**		
Change in F		7.63**	6.19**	15.67**	10.74**	13.22**		
Model df	338	337	336	335	334	333	135	182
Number of observations	352	352	352	352	352	352	151	201

Notes: Values represent standardized coefficients (β s) with coefficient standard errors shown in parentheses.

^a Dependent variable: alternative 6-item EO scale (Hansen et al., 2011).

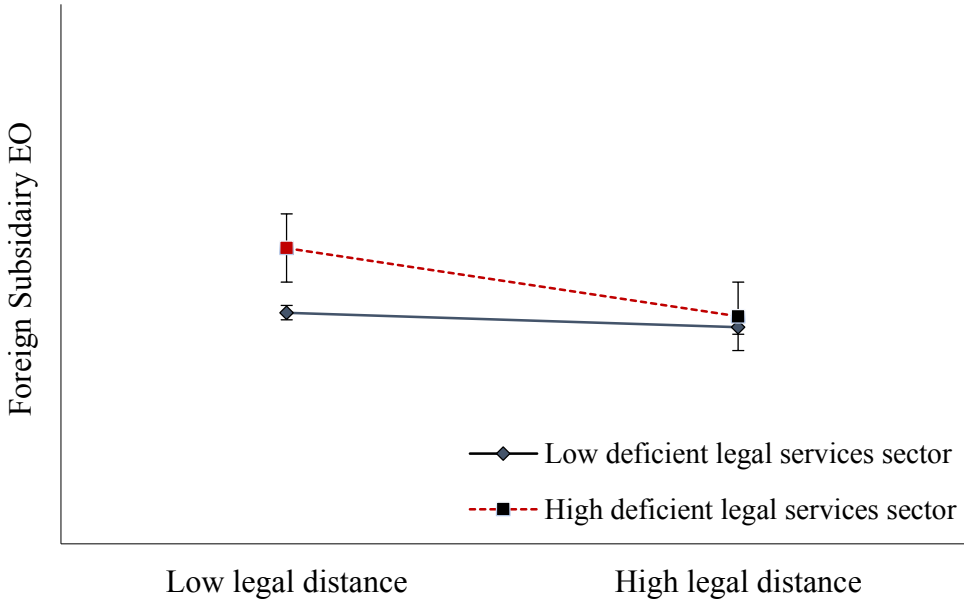
^b N = 352. †p < .10; *p < .05; **p < .01 (two-tailed significance tests).

^c The highest VIF value is 2.79 (Model 6) (VIF range = 1.03 – 2.79).

^d Legal affairs department.

^e T-test comparing subgroups in Model 7 to Model 8 = -2.68*.

Appendix D
Deficient legal services moderates the relationship between legal distance and MNE foreign subsidiary EO^a



^a Predictive marginal effects with 95% confidence intervals.