

# STATE OF THE MARKET: HONG KONG

BY ELIZABETH BEATTIE



In Hong Kong, a dim economic outlook coupled with uncertainty from the U.S.-China trade war has cast a shadow over the special administrative region, while protests – occasionally violent – have dented the city’s economy.

As Hong Kong’s Summer of Protest continues into the winter, lawyers in the city have a range of issues to chew over. But it’s not all gloomy. In stark contrast to last year, where firms fixated on fierce market competition and oversaturation, this year lawyers see ample new opportunities, if they can navigate through the challenges to seize them.

“Hong Kong has always bounced back and bounced back relatively quickly and aggressively from economic downturns. Whether it’s the Asian Economic Crisis or SARS, there has always been resilience in Hong Kong and one would hope and expect that resilience to continue,” says John M Marsden, a partner at Mayer Brown. “The support of the mainland has always been instrumental to that resilience, in particular, its willingness to encourage capital inflows and encourage domestic tourism back to Hong Kong.”

But Marsden, like many, is wary of the city’s immediate economic outlook, noting an increase in reorganisation or insolvency work is likely on the cards. “Coming out of many years of a low-interest environment, certain companies are probably continuing, not because their underlying financials are robust, but because of market conditions, in particular, a low-interest environment. As we start to see some pressure on interest rates, coupled with decreased liquidity in the market, I think we’ll see the more highly leveraged players in Hong Kong face distress and we’ll see an uptick in reorganisation or insolvency-related work,” says Marsden, who adds that he sees more companies “entering in some form of restructuring or formal insolvency procedure.”

## PRC FIRMS GROWING

Despite the slowing down of the Hong Kong economy, PRC firms continue to grow in the city, frequently snapping up ambitious lawyers from storied UK and U.S. law firms. And they are becoming a serious threat in the city.

"PRC law firms have been expanding their reach by establishing offices in Hong Kong, where they focus on listings and capital markets work. They enhance and diversify their offering through recruiting legal talent from western law firms and continue to hone their domestic presence in Shenzhen and other GBA cities to capture work from China," says Helena Huang, co-chief executive at King & Wood Mallesons Hong Kong.

Clifford Ng, a Hong Kong-based partner at PRC firm Zhong Lun, views the growing number of PRC firms, in part, as a natural reflection of China's growing economy. "The U.S. has been the largest economy in the world for some years now, and you can see how many U.S. law firms are in Hong Kong. China is now the second-largest economy in the world, but how many mainland Chinese law firms are in Hong Kong? Look at the demographics and the map and the growth opportunities are obvious," he says.

But, while PRC law firms may be on the rise, Ng says there remain perceptions that such firms "are not competitive in what they offer to clients and their lawyers versus international law firms. That is primarily a recruitment issue and not a client issue. That perception is changing, and we are seeing many more lawyers at all levels moving away from international law firms to Chinese law firms. That will accelerate."

## BAY OF PLENTY OPPORTUNITIES

In February, China released a blueprint for its Greater Bay Area initiative – a master plan for the region that promises capital raising, construction, infrastructure, innovation and technology opportunities. While the details provoked interest, firms are still grappling with practicalities.

Ng sees the opportunities available but says he will wait and watch. "These initiatives start with great fanfare but will

take time to mature; to find what works, what the competitive advantages are and what will succeed. Taking a satellite view, the GBA offers an amazing concentration of access to domestic and international capital, tech development and manufacturing. The infrastructure connecting various hubs is coming together. The connectivity between these complementary sectors will provide law firms with plenty of opportunities serving different needs in the area. Law trails business, so we will have to wait to see which practices are needed where," he says.

Meanwhile, Huang has noticed businesses, investors, and financial institutions are keen to make use of the initiative. "Law firms with on-the-ground presence, equipped with both PRC and international legal capabilities will benefit from this trend. We can expect further collaboration of the two distinct legal jurisdictions of mainland China and Hong Kong," she says.

"This GBA development is a gamechanger of our business strategy", Huang says, noting that her firm established its KWM International Center in June 2018 with the goal of connecting its offices in "key GBA cities of Hong Kong, Guangzhou, Shenzhen, and Hainan to create cross-office, cross-jurisdictional practice teams, targeting the anticipated areas of opportunity from the GBA arising from fintech and financial services to corporate compliance to cross-border disputes."

## UNCERTAINTY AHEAD

As lawyers look back over this past year, they become wary of making predictions for the year ahead. If 2019 has taught Hong Kong's businesses and professionals anything, it's to expect the unexpected.

Hayden Flinn, co-chief executive at King & Wood Mallesons in Hong Kong, tells *Asian Legal Business* that listing, debt issuance and M&A will remain a focus for the firm, but he predicts a slowdown and a period of uncertainty in the short run.

"It is still early to make predictions – there are still unpredictable factors such as the U.S. presidential election. Despite market instability and its impact

on business activity, companies still need to work on their financings and disputes. Regardless, firms with highly diversified offerings will continue to thrive as they continue to serve clients across the entire spectrum of their business interests," he says.

Flinn says new measures to "promote connectivity of the legal jurisdictions between mainland China and Hong Kong" are expected. "In 2019, we saw a number of arrangements being put in place. For example, the government of the Hong Kong SAR and the Supreme People's Court of the People's Republic of China signed an agreement that broadens the scope of judgments which may be enforced between the mainland and Hong Kong," he says.

"International arbitration will also be a key focus area. The most noticeable trend has been the ever-growing use of Hong Kong by mainland parties as a centre for both arbitration and litigation. It is also one of the objectives from the GBA outline to support cooperation among arbitration and mediation organisations and provide such capabilities in Guangdong, Hong Kong SAR, and Macao SAR," adds Flinn.

Ng of Zhong Lun says that with the trade war continuing, Hong Kong professional services firms need to be proactive. "We cannot sit around and wait until the market settles down but are keeping busy as clients adjust to the new trade and capital routes," he says, predicting that "inevitable changes to the market will be massive."

"There will be increased M&A, moving assets and production facilities around. The prospect of nationalist economic policies by developed countries will result in huge changes to the movement of capital and investments. Supranational organisations will try even harder to flex their muscles and justify their existence," Ng predicts, adding that this will provide new opportunities for "nimble" lawyers. But, he warns, Hong Kong's lawyers should take stock of the way they work. "It ain't a cookie-cutter world anymore. Are Hong Kong's cookie-cutter lawyers, who jump from job to job every 18-24 months, ready for the change?" he says. 

# STATE OF THE MARKET: SINGAPORE



Meanwhile, in Singapore, the country continues to develop its reputation as an arbitration hub and a legal tech capital of Asia.

■ In 2019, Singapore continued in its steady path, further developing its reputation as an arbitration hub and a legal tech capital in Asia. It is also laying claim to being one of the most proactive and forward-looking jurisdictions in Asia; it recently announced the biggest liberalisation of its banking sector in two decades with the introduction of digital banking licenses.

Rachel Eng, managing director of PwC network firm Eng and Co, says the mood in the legal sector has been largely “business as usual,” but she concedes there are changes ahead.

“While supporting their business units, in-house legal departments will have to look at transforming themselves and talking to them I’ve heard about how they might start planning the way they work. However, I think that this year, law firms should still do well. There have been a few big mergers in the market so that should support the revenue of a number of the major firms,” says Eng.

Yap Wai Ming, director of Morgan Lewis Stamford, agrees that the market is challenging, but notes there are advantages for those who can work across borders. “Whilst a challenging market, we have found that the global nature of our firm and our combined local and international approach in Singapore means that we continue to see complex multi-jurisdictional matters that require international experience, both from advising companies on outbound investments in addition to global corporates in their establishment in and continued expansion across Asia,” Yap says.

#### **MORE MEDIATION**

A key development this year was the Singapore Convention on Mediation, which allows the enforcement of mediated settlement agreements across countries. Opening for signatures in

August, 46 countries signed the convention, which was also notable for being the first United Nations treaty named after Singapore.

Patrick Ang, managing partner of Rajah & Tann Singapore, says the naming of the agreement after the city-state "is a testament to the Republic's standing as an international legal hub" and will "expand the arsenal of dispute resolution tools available for lawyers engaged in cross-border work."

While it may be too early to fully grasp the impact of the Singapore Convention of Mediation, Ang says the number of countries that signed at the launch – 46, the highest for any new UN treaty – indicates strong support. "Singapore's status as an international dispute resolution centre was also given a boost from the positive publicity generated," he says.

Eng meanwhile agrees it's a boon for Singapore's reputation. "It may not itself generate work, but it is important for the profile and brand of Singapore as a dispute resolution centre. What we want to create here is whenever you want to resolve any dispute or restructuring or insolvency – think of Singapore," she says.

#### FUTURE READY

The city was laser-focused on legal tech in 2019. In June, the Singapore Academy of Law launched a legal tech accelerator called Global Legal Innovation and Digital Entrepreneurship. Meanwhile, an editorial from the Law Society of Singapore noted that its programmes, including Tech Start for Law and SmartLaw Assist, had helped nudge legal tech to the forefront, with 190 of 922 law firms accessing tech-related subsidies as of 2019.

"The Singapore government is deeply committed to legal tech and the strong push for the legal industry to embrace technology has been backed by a slew of initiatives. We have seen the Singapore Academy of Law's Legal Technology Vision roadmap that was launched in 2017 to drive legal innovation and the Future Law Innovation Programme (FLIP) launched in 2018 to encourage legal tech adoption. There is also the Tech-celerate for Law scheme

that was set up to provide funding support for technology adoption. This is especially useful for the small and medium-sized practices (which forms the bulk of the legal industry) where otherwise the barriers to entry may be high in adopting technology solutions," Ang says.

Meanwhile, when it comes to disputes, Ang says there is a pilot of online disputes resolution currently being tested out. "All these programmes have been put in place to lower the barriers for firms to roll out their legal tech strategies and to help establish a vibrant ecosystem for legal innovation. We have started to see law firms employing machine learning and AI to assist with contract automation and due diligence which Rajah & Tann has implemented in recent times. The launch of the SmartLaw Guild by the Law Society of Singapore further simplifies processes for local law firms with their technology deployment," he adds.

#### HONG KONG FALLOUT

While there has been much speculation about what impact the recent Hong Kong protests may have on the city's business reputation – and how Singapore may benefit in the long run – the true impact remains to be seen. While economists and columnists may be able to see the recent developments in purely dollars and cents terms, to many in Singapore, the situation is more personal, says one prominent Singapore-based corporate lawyer.

"Most of us in Singapore are quite saddened by what is happening in Hong Kong and we are closely observing the situation. The truth is we are very invested in Hong Kong's economy as well. So, on a global level, if Hong Kong experiences negative growth, then the Western world may look at Asia as being unattractive for investment," they say, adding that Singapore has many investments in Hong Kong including DBS bank and Singapore Airline flights, and businesses may have offices to consider.

"The two cities are quite closely linked in terms of both being the financial centres and in terms of the work," the lawyer says, adding that they have not noticed any sudden rise in work.

"We hear from some private banks that people are enquiring a bit more about setting up accounts and some schools here have received more enquiries about students. In terms of whether they will move in a big way, it hasn't happened yet. I think people are still at this point of time just checking it out," they say.

#### FULL STEAM AHEAD

As 2020 dawns, Singapore's lawyers are already gearing up for another busy year of change. "Looking ahead we have seen continued moves to push Singapore forward in the international fintech scene, including green and sustainable finance. MAS recently announced a National AI Strategy to assist the economy and improve citizens' lives, which among other things includes the development of a chatbot to allow Singaporeans to report municipal issues," says Yap.

He notes that among the other developments on the horizon are AI initiatives "to the intersection of sustainability, finance, and technology make for an exciting time ahead for lawyers as we receive further details on these projects and they come to fruition."

Ang of Rajah & Tann Singapore says that the future remains unpredictable, and as a result, his firm will continue to heavily invest in technology, while also exploring new areas. "There are differing views on whether the global economic slowdown which started in 2018 is nearing an end so the business outlook is far from certain. We will calibrate our growth plans to consider the external risks and will target our business development according to where clients are focusing their efforts," he says, adding that the firm believes digital disruption "will relentlessly affect the way we work and deliver legal services to clients".

"Moving forward in 2020, we will continue to explore technologies to generate new revenue streams and to re-engineer the way we provide legal services to clients. By doing so, we are moving beyond providing legal solutions, but rather providing business solutions to our clients and in turn giving them more value for money," Ang says. 