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2018: The Year Ahead

AS A TUMULTOUS 2017 COMES TO AN END, ASIA'S GENERAL COUNSEL ARE OPTIMISTIC ABOUT THE NEW YEAR

PLUS:

DEALMAKERS
PROFILES OF M&A MOVERS AND SHAKERS

TOKYO CALLING
MAKING A CASE FOR JAPANESE ARBITRATION

TAKING UP TECH
LAW FIRMS EMBRACE THE FUTURE

The Fifteenth CIETAC CUP
International Commercial Arbitration Moot

Organizer: China International Economic and Trade Arbitration Commission
Date: November 20th -24th, 2017
Venue: 5/F,CCOIC Building, 2 Huapichang Hutong,Xicheng District, Beijing

CIETAC CUP International Commercial Arbitration Moot is a competition for law students from all China mainland universities. Organized and hosted by the China International Economic and Trade Arbitration Commission ("CIETAC"), CIETAC CUP is intended to promote arbitration legal system and foster the education of high level experts in the field of arbitration. In the year of 2017, CIETAC will hold its Fifteenth CIETAC CUP.

Since the first CIETAC CUP held in 2000 till now, it has attracted an accumulative of more than 1700 participants from over 80 universities in China. CIETAC CUP has gradually gained greater popularity and influence among universities and law schools, and has become one of the most important moot competitions for law students in China. It has played an significant role in nurturing legal talents with the knowledge and the desire to take part in international commercial dispute resolution.

CIETAC CUP is one of the pre-moots of Willem C. Vis International Commercial Arbitration Moot. The first two winning teams of CIETAC CUP will be sponsored by CIETAC to join the Vis Moot in Vienna and the Vis Moot (East) in Hong Kong.

Email: moot@cietac.org
China International Economic and Trade Arbitration Commission
www.cietac.org

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DECEMBER 2017

A Hindu devotee shows his painted back with a message stating "GST (Global Service Tax) - A new boon or a lasting burden?" ahead of the rollout of the new tax in India, during the annual Rath Yatra, or chariot procession, in Ahmedabad, India June 25, 2017. REUTERS/Amit Dave

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FROM THE EDITOR

RANAJIT DAM
Managing Editor,
Asian Legal Business
Thomson Reuters

Goodbye 2017. Hello tomorrow. What a year 2017's been. Throughout the year, the world seemed to be rocked by a number of incidents, both positive and negative, including hurricanes, terror attacks, secessionist movements and more. Two watershed events from 2016 – the election of Donald Trump as president of the U.S., and Brexit – additionally made the presence felt this year. In the Asian region, initiatives like China's One Belt, One Road, and the introduction of GST in India were just some of the developments that kept in-house counsel busy, and by extension, law firms as well.

In the region's legal industry, the developments were less dramatic, but nevertheless far-reaching. The introduction of third-party funding by both Singapore and Hong Kong looks to add a new dimension to the arbitration scene in Asia, but beyond that most of the changes were technological in nature. As our technology feature illustrates, law firms began actively embracing technology in a big way, partly to cut costs and offer better services to clients, and also because clients themselves began to demand higher standards from their external counsel. Artificial intelligence brought the spectre of robots taking away lawyers' jobs. Either way, high-quality legal advice will remain in demand, robot or no robot.

So what will 2018 bring? Certainly more uncertainty for companies across the region, as a combination of an economic squeeze and ever more complicated regulations keep in-house counsel on their toes. Law firms are facing their own challenges as well, with tightening competition and shrinking work posing a two-pronged threat. It is time they look at developing a proper strategy for the next few years, because the industry is different from what it was five years ago, and I can bet you it will look vastly different five years hence. A combination of innovation and bold risk-taking is thus needed.

ERRATA: In ALB's Asia Top 50 list, published November 2017, Rajah & Tann's figures were cited incorrectly. The correct figures are below; these place the firm at #17 on the table, instead of #45 as stated in the magazine. The online edition has been updated to reflect the correct figures. ALB sincerely apologises for this error, and regrets any inconvenience caused.

17	DOWN	RAJAH & TANN	*Singapore*	231	401	632

For the updated table, please see Page 12 of this issue.

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BRIEFS

THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

"CRITICISM IS NEVER PLEASANT, BUT A CELEBRITY HAS TO SHAKE IT OFF, EVEN IF THE CRITIQUE MAY DAMAGE HER REPUTATION"

The American Civil Liberties Union (ACLU) uses the name of a well-known Taylor Swift song as it comes to the defence of the blog PopFront. Swift and her attorney sent a takedown notice to the site over an article that discussed the American pop star and racist groups.

£1,000,000

Amount owed to Herbert Smith Freehills (HSF) by the collapsed public relations firm Bell Pottinger, whose UK business went into administration in September. HSF was commissioned for a report into the company's activities in South Africa, says PR Week.

AUTOMATION TO TAKE 67,000 LEGAL JOBS: UK LAW SOCIETY

According to the Law Society of England and Wales, automation will replace 67,000 legal services jobs within a generation, but the increase in productivity will help the sector keep expanding. The forecasts estimate that the adoption of new technologies will double the growth of law firms' productivity (output per person employed) from the current 1.2 percent per year to 2.4 percent per year within a decade. This would mean that, by 2038, total employment in the sector will be 20 percent less than it would have been if productivity growth continued at its current rate, equating to 67,000 full-time equivalent jobs.

ARE CORPORATE LEGAL DEPARTMENTS USING THEIR BUDGETS INEFFICIENTLY?

According to a global survey of n-house counsel by Acritas, the "zone of maximum efficiency" for general counsel looking to balance internal and external legal spend is allocating between 40 and 70 percent of the budget internally. However, 60 percent of respondents are spending outside that range. The data also found that internal spend by legal departments has increased 11 percent since 2012.

47% - Proportion of business managers in Asia, Europe and the U.S. who have noticed an increase in whistleblowing, up from 34 percent in 2014. This is the finding of a survey of 2,500 managers commissioned by Freshfields Bruckhaus Deringer. The share of those who said their employers discourage the practice has dropped from 40 percent to just 13 percent.

IN THE NEWS

- The UK's Keystone Law has become the third law firm to list on the Alternative Investment Market of the London Stock Exchange (LSE). The company raised about 15 million pounds ($19.9 million), valuing it at 50 million pounds. The first law firm to list on the LSE was Gateley in 2015, while full-service outfit Gordon Dadds became the second one in July this year after engineering a reverse takeover of an investing company called the Work Group.

- Dentons has entered the contract-lawyer game after launching an in-house counsel consultancy service called NextLaw In-House Solutions. The service is provided by a network of more than 50 former general counsel, who offer a variety of solutions to in-house teams including advisory services and mentoring for new GCs. The team is also available to provide interim or permanent in-house support as needed.

JAPAN IS PRODUCING FEWER LAWYERS, BUT NOT EVERYONE IS WORRIED

This article first appeared in **ALB Insights**, a weekly ad-free newsletter that is sent to subscribers. To purchase your subscription, please email **Amantha Chia** at **amantha.chia@thomsonreuters.com** or call **(65) 6870 3917**.

The Japan Federation of Bar Associations has been making a deliberate effort to decrease the number of new lawyers entering the Japanese legal market in order to increase quality. While this is expected to impact regional communities, reaction among the big Tokyo firms is decidedly mixed.

Japan can expect to see fewer newly minted lawyers this year, after 40 fewer people passed the annual bar examination compared to last year. The drop from 1,583 to 1,543, however, wasn't as steep as the decline in the number of people taking the exam, which fell from 6,899 to 5,967, according to figures from the Ministry of Justice.

This is however not a simple reflection of the shrinking of the workforce in the world's third-largest economy, which is losing more than half a million per year, according to statistics published earlier this year by the National Institute of Population and Social Security Research. Instead, the drop in new lawyers available to the Japanese legal market, which is also extremely restrictive to foreign-qualified lawyers, was a conscious effort.

The Japan Federation of Bar Associations (JFBA) explained to *Asian Legal Business* (ALB) that the drop in the number of test takers was mostly due to a decrease in the number of law school graduates, which is turn was the result of a policy to tighten the admission quota for law schools to raise the quality of legal education, as well as stricter qualification criteria for graduation so that those who do graduate are of high quality.

And at least for now, the JFBA wants the decline to continue. "Taking account of the fact that the rise in the number of legal professionals has subsided to a certain degree last year and this year, the JFBA hopes that this trend will continue so that the total number of successful test takers will be around 1,500 quite soon," it said.

Not all in the industry agree with this initiative. One of them is Nishimura & Asahi, the largest law firm in the country, which believes that a better way is to focus on attracting more people to the legal profession instead.

"It is true that there is a common and persistent view in the Japanese bar that the number of those passing the bar exam should be decreased to reflect the lack of expansion in the legal business market. However, we believe that it is more important to focus on expanding the scope of lawyers' business and increasing the attractiveness of the practice of law," the firm told *ALB*. "We strongly expect that such measures will lead to more talented people aspiring to become legal professionals."

But that view is not shared by Atsumi & Sakai. "We think that a decline in new young lawyers will not affect elite law firms such as ourselves since we only look at the best quality lawyers anyway," says Hiroo Atsumi, managing partner of the firm. "Where it is likely to have an effect is at the in-house level, as there will likely be fewer candidates available for those roles," he says.

However, he admits that smaller communities that need lawyers are likely to lose out on legal talent. "The new system of law schools and tests was designed in part to increase the number of lawyers in rural communities and I expect that these will be most affected by a decline in availability of lawyers," Atsumi explains. "Some communities may have very few ones, or maybe no lawyers, which is not desirable."

Hogan Lovells Lee&Lee

MANAGING CROSS-BORDER INTERNAL INVESTIGATIONS: SELF-REPORTING FROM A SINGAPORE PERSPECTIVE

"If you think compliance is expensive – try non-compliance" (former US Deputy Attorney General Paul McNulty)

Introduction
When multinational companies conduct cross-border internal investigations, the question of whether they self-report to local or overseas regulators should be at the forefront of their minds.

Self-reporting to regulators has a wide range of legal, commercial and reputational ramifications. The upsides of self-reporting may include mitigation of regulatory fines and long-term financial stability but the downsides may include exposure to related stakeholder litigation, a short-term loss of commercial revenue or a drastic decrease in market credibility.

Therefore the need to carefully consider a company's options and obligations in terms of self-reporting in the broader context of the internal investigation is paramount. In this article, we look at some of the key considerations for self-reporting from a Singapore perspective.

Is there a duty to self-report in Singapore?
In ASEAN, there is generally no duty to self-report to local regulators and the reporting company will not receive any official credit or penalty mitigation for doing so. For example, this is the case in Vietnam, Indonesia and Thailand.

However, Singapore – as the regional commercial hub for ASEAN – has a robust regulatory framework which actively encourages and on occasion obliges companies to self-report. Depending on the type of company ("financial institution", Singapore-incorporated company, Singapore-listed company) and the type of suspected improper activity (corruption, bribery, money laundering, fraud), the duty to self-report may or may not arise. But the key signposts for you and your Singapore counsel to look out for are as follows:

- under Singapore's Criminal Procedure Code, it is the legal duty of any person who is aware of any public officials engaging in corruption activities to report and give information to the Singapore Police.
- under Singapore's Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA), it provides that there is a legal duty of any person who is aware of suspected money laundering activities to file a report to the Commercial Affairs Division of the Singapore Police (CAD). The most relevant provision of the CDSA (section 39) is particularly widely drafted and even a cursory jurisdictional nexus to Singapore is typically sufficient for a self-reporting duty to arise.
- for companies listed on the Singapore Exchange (SGX), SGX's Listing Rules provide that a company should disclose any information it has concerning itself that is either necessary to avoid the establishment of a false market in its securities or would be likely to materially affect the price or value of its securities.
- for "financial institutions" regulated by the Monetary Authority of Singapore (MAS), there are various rules which require a report to the MAS, for example, where there has been criminal conduct or a serious breach of internal policy or codes of conduct.
- even if there is no obligation to report under relevant Singapore laws and regulations, a company may want to do so on a voluntary basis, for example:
  - in the interests of an open relationship with regulators and key stakeholders, because not filing a report may affect its reputation.
  - if there is a likelihood that any alleged improper conduct might be discovered by other means; there may be a potential whistleblower individual who is incentivised or motivated to report to the regulators before the company does.
  - if a self-report is being filed with an overseas regulator. It is rarely safe to assume that an overseas regulator such as the United States Department of Justice or Securities Exchange Commission will not contact their counterparts at the MAS, CAD or Corrupt Practices Investigation Bureau (CPIB).

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How does self-reporting in Singapore practically work?
Singapore's corruption and anti- money laundering laws (the Prevention of Corruption Act, the Penal Code and the CDSA) do not expressly provide for a formal mechanism for companies to self-report or disclose suspected improper activity. So how does the reporting mechanism in Singapore typically work in practice?

In cases involving suspected fraud or money laundering, for example, clients are generally urged by Singapore counsel to air on the side of caution and to file a Suspicious Transaction Report (STR) with the CAD. Companies have the option to passively report or actively report. By passively reporting they will meet any obligations they may have with the regulator while limiting the scope for intrusion into any ongoing internal investigations they may be carrying out. Active reporting, on the other hand, can direct the CAD to deliver specific outcomes such as freezing bank accounts and retrieving assets.

On filing an STR, Singapore counsel's experience has been that the CAD will generally take three to five days to review the report before designating an Investigating Officer to the file. These preliminary days are vital when actively reporting. They can be used by experienced practitioners to lobby the CAD into focussing its attention on certain elements of the STR that might hold a higher priority to the company than any originating infringements of Singapore law would do. In addition, Singapore counsel can effectively be a gate-keeper for the company in dealing efficiently with any requests regarding evidence disclosure or interviews that the CAD may have.

Conclusion

- Coordination: Whether or not a company decides to self-report, there should be a clear and coordinated plan as to how it will deal with local and overseas regulators respectively.
- Go local: In crafting such a plan, it is vital that a company has as part of their investigations team counsel with the requisite expertise on-the-ground in jurisdictions such as Singapore to guide the company through local laws and practicalities, and crucially how they intertwine with overseas laws and practicalities.
- If you plan to report, keep good records; if you plan not to report, keep excellent records: If a company decides not to self-report, it must ensure that the decision is appropriately considered at board level and documented. If a company decides not to self-report and the government later enquires about the issues or considers it a matter of public record, the best defence is that the company conducted a thorough investigation, remediated the issues, and had a reasonable thought process for not self-reporting.

This publication is for information only and not to be taken as legal advice

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LONDON LAWYERS JOIN BANKS IN WEIGHING UP POST-BREXIT MOVE TO DUBLIN

Brexit has prompted some London law firms to follow banks in examining a move to Ireland, the country's chief promoter told Reuters, posing a threat to one of London's biggest money spinners.

The talks with Irish officials come amid heightened nervousness about Britain's future relations with the European Union due to acrimonious divorce negotiations.

Many international contracts in finance are written in English law, but lawyers say enforcing them in the European Union will become harder after Britain leaves.

That, in turn, has led lawyers to consider Ireland as an alternative, giving a boost to Dublin, dubbed by lobbyists as 'Canary Dwarf' because of its ambitions to attract business from London's Canary Wharf.

"Other sectors ... that initially adopted a 'wait and see approach' have now awoken to Brexit and legal firms in the UK are now looking at Ireland," said Kieran O'Donoghue, head of International Financial Services at IDA Ireland, which is responsible for foreign investment into the country.

Stuart Gilhooly, president of the Law Society of Ireland, said roughly 1,200 lawyers in the United Kingdom had registered in Ireland since the Brexit vote and 230 had taken the further step of getting a certificate to practice.

Simmons & Simmons, which was set up in the City of London financial district more than a century ago, said it intended to open an office in Dublin to deal with customers including investment managers and hedge funds.

"There are other opportunities in Ireland in financial institutions," said Jeremy Hoyland, managing partner at the firm.

"That is obviously an area where Ireland has not been a focus for us but post-Brexit, there is clearly going to be more activity in Ireland."

DLA Piper said it was examining its options, referring to the prospect of setting up an office in Ireland.

Although few moves have yet taken place, such thinking highlights the danger that London's legal services sector, which lobby group CityUK estimates generated more than 25 billion pounds ($33 billion) in 2015, could splinter along with the financial industry when Britain quits the EU in March 2019.

Ireland's appeal is based chiefly on its use of a common law legal system, copying that of Britain, which lawyers said would be easier to switch to for international groups that now use London courts and lawyers.

Dublin was also given a boost by the decision of an industry group, the International Swaps and Derivatives Association (ISDA), to examine writing contracts for the multi-trillion dollar derivatives sector in Irish and French law due to Brexit.

"The ISDA thing is massive when you think of the sheer value of transactions," said Paul McGarry of Ireland's Bar Council, , adding the country's commercial court could grow rapidly to cope with new demand."

BREXIT NEVER? BRITAIN CAN STILL CHANGE ITS MIND, SAYS ARTICLE 50 AUTHOR

Prime Minister Theresa May should stop misleading voters and admit that Brexit can be avoided if Britain decides unilaterally to scrap divorce talks, the man who drafted Article 50 of the Lisbon Treaty has said.

May, who formally notified the European Union of Britain's intention to leave the EU by triggering Article 50 of the treaty on March 29, said she would not tolerate any attempt in parliament to block Brexit.

By triggering Article 50, May set the clock ticking on a two-year exit process that has so far failed to yield a divorce deal and which was interrupted by her gamble on a snap election in June which cost her party its majority in parliament.

"While the divorce talks proceed, the parties are still married. Reconciliation is still possible," John Kerr, British ambassador to the EU from 1990 to 1995, said in a speech in London.

"We can change our minds at any stage during the process," said Kerr, who added that the legalities of Article 50 had been misrepresented in Britain. "The British people have the right to know this: they shouldn't be misled."

The day May triggered Article 50, she told the British parliament that there was "no turning back" and on Friday insisted that the United Kingdom would be leaving the EU at 2300 GMT on March 29 2019.

Brexit supporters argue any attempt to halt the exit process would be anti-democratic, while opponents say the country should have a right to pass final judgment on any exit deal negotiated.

May said last month that Britain would not revoke Article 50.

But ever since the referendum, opponents of Britain's exit - from French President Emmanuel Macron and former British prime minister Tony Blair to billionaire investor George Soros - have suggested Britain could change its mind and avoid what they say will be disastrous consequences for the British economy.

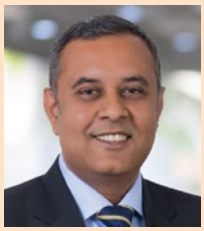
GETTING THE BEST FROM AN EXPERT

NAVIGANT

The effective use of accounting expert witnesses and expert evidence has tremendous potential to augment a party's case. A professional and unbiased expert report combined with appropriate and compelling testimony can help frame complex issues in a lucid and clear manner. If credibility and competence of an expert is established, the cognisance given by courts and tribunals to the expert report enhances the overall substantiation or rebuttal of disputed matter.

There are pitfalls that legal professionals must avoid in engaging with experts which include approaching expert evidence as a "mere formality" on one extreme and "encroaching" on the expert's independence on another. Given the importance of an expert's responsibilities, a congenial working relationship must be established; one that balances the legal team's perspective in their pleading with the expert's duty of care, independence and neutrality. It is therefore helpful if the legal team considers the following tips.

Instruct appropriately
Clear instruction to the expert from the very start of engagement is important. While some course corrections and changes are inevitable, there needs to be clarity on the expert's role and scope of work. An expert cannot act as the client's mouthpiece and his instructions must be consistent with his area of expertise. The expert cannot be used as a mere reiteration of the client's position in the dispute.



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Communicate clearly and on a timely basis
The legal teams must determine the correct and appropriate amount of information relevant to the expert's instruction and communicate these across in a timely manner. Appropriate care should also be taken so that an expert is neither inundated with documents of limited relevance nor fed scant pieces of information that provide him a myopic view of the matter. Information should also be provided as soon as possible. It becomes extremely difficult for experts (also makes the report prone to errors) if substantive new information is provided immediately prior to the due date of the report submission.

Uncomplicated analysis and opinion
To ensure that the expert properly translates complex issues in his area of expertise in a manner that aids the understanding of non-experts, legal professionals play an important part in working with the expert and providing feedback. In doing this they should specifically consider the following:

- Has the expert addressed all the issues of the case?
- Are the technical terms in the report well-defined and opinions well supported by evidence?
- As a lawyer, do you understand the expert's analysis and opinions provided?

It must be reiterated that legal teams should only provide input to the expert in a manner that does not direct or interfere with the expert's work. It is ultimately up to the expert to accept or reject suggestions in order to preserve the independence and objectivity of his or her report.

Getting the best out of an expert involves affirmative action on the part of legal teams. Managed correctly, engaging an expert represents a valuable opportunity to leverage external expertise and professional competence; a process that can be of tremendous advantage in court or arbitration proceedings.

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EX-BAKER BOTTS, ADDLESHAW PARTNERS LAUNCH HK BOUTIQUE WITH FLEX LAWYER SERVICE

Three senior Hong Kong-based lawyers have left Baker Botts and Addleshaw Goddard to launch a boutique firm called GPS Legal, which will offer a flex lawyer service to clients.

The three founding partners are Phillip Georgiou, Sonny Payne and Brett Stewien. Georgiou and Payne were arbitration partner and special counsel, respectively, at Baker Botts, while Stewien, a former corporate partner at Addleshaw Goddard, also oversaw the firm's Hong Kong branch together with office head Nigel Francis.

As part of its flex lawyer service GPS Flex, GPS plans to build a pool of lawyers around Asia who currently work with other firms, but can be utilised by the Hong Kong firm as and when required by clients. GPS currently has a number of part-time consultants on its roster, along with four junior fee-earners.

The firm also has two consultants, Dan Plane and Helen Tang, who are also directors at IP consultancy Simone Intellectual Property Services (SIPS) Asia. Through GPS Legal, Plane and Tang will be able to litigate civil IP matters before the Hong Kong courts.

According to its website, GPS Flex aims to respond to client demands for "hands-on partner support and only appropriately qualified and experienced lawyers and support services working on their matters."

"GPS Flex is at the core of our resourcing model," the website adds. "It is the reason why GPS Legal can provide clients with experienced and capable teams for complex transactions and cases but with high degrees of price certainty."

"Whilst we would be open to placing secondments into clients, this is not the key focus," the firm said in response to a request for comment. "The primary focus of the flex business would be tapping into alternative resources and expertise for our internal teams."

CLYDE ENTERS INTO FORMAL ASSOCIATION WITH KL FIRM

Clyde & Co has entered into a formal association in Malaysia with the Kuala Lumpur-headquartered Shaikh David & Co (SDC).

The five-lawyer SDC was founded by partners Shaikh Abdul Saleem and James P. David, and advises on insurance and reinsurance, banking and insolvency, shipping and offshore and general litigation legal services in Malaysia.

The deal will enable both firms refer work to each other and provide integrated service for existing clients in Malaysia and internationally.

Saleem acts for financial institutions in the recovery of loan and enforcements of security as well as in disputes against financial institutions. Meanwhile David, who worked with Clyde & Co in Singapore and London, is involved in insurance, shipping and aviation, international trade, offshore energy and in policy advise, recoveries and defence.

HFW EXPANDS INDONESIA OFFERING WITH LOCAL TIE-UP

UK law firm HFW has bolstered its Indonesia offering by formalising an alliance with Rahayu & Partners in Jakarta.

Rahayu & Partners was founded by Sri Rahayu (Ayu), who will become a partner at HFW. He will work closely with Haydn Dare, who is based in Jakarta, and and Singapore-based partner Brian Gordon.

This alliance will focus on providing services across banking, finance capital markets and more, alongside HFW's core sectors, which include aerospace, commodities and shipping.

Last year, HFW entered into a formal association with Chinese shipping firm Wintell & Co., and expanded its reach in the Middle East after forging alliances with local law firms in Saudi Arabia, Lebanon and Kuwait.

Through this association, HFW now has 104 lawyers in the Asia-Pacific region.

APPOINTMENTS

VICTOR CHEN

Leaving: Paul Hastings
Joining: Goodwin Procter
Practice: Private Equity
Location: Hong Kong

HELEN COLQUHOUN

Leaving: Withers
Joining: DLA Piper
Practice: Employment
Location: Hong Kong

DOUGLAS FREEMAN

Leaving: Paul Hastings
Joining: Goodwin Procter
Practice: Private Equity
Location: Hong Kong

THOMAS GRIFFITHS

Leaving: Spruson & Ferguson
Joining: Davies Collison Cave
Practice: IP
Location: Singapore

LAURENCE HO

Leaving: Withers
Joining: Stephenson Harwood
Practice: Private Wealth
Location: Hong Kong

ALICE HUANG

Leaving: Fangda Partners
Joining: Morgan, Lewis & Bockius
Practice: Funds
Location: Hong Kong

BREE MIECHEL

Leaving: Simmons & Simmons
Joining: Reed Smith
Practice: Energy and Natural Resources
Location: Singapore

STEPHEN PAK

Leaving: Yulchon
Joining: Squire Patton Boggs
Practice: Corporate
Location: Seoul

KENNETH SZETO

Leaving: Colin Ng & Partners
Joining: Withers KhattarWong
Practice: Finance and Real Estate
Location: Singapore

IP CONSULTANCY SIPS OPENS BEIJING OFFICE

Greater China intellectual property consultancy Simone Intellectual Property Services (SIPS) has opened an office in Beijing, which will be led by general manager Irene Liu.

The office has 13 staff, six of whom are IP practitioners, and is authorised to file applications for registration of trademarks, copyrights and customs recordals, as well as infringement actions with relevant administrative authorities in China.

"Since our establishment in 2012, the opening of a Beijing IP agency was in our business plan. But under the CEPA regime governing such agencies, we needed to wait a few years for relevant approvals to come through," Joe Simone, the Hong Kong-based founder and a director of SIPS, told ALB. "The opening of our Beijing office has helped us reduce costs and thereby facilitated a reduction in our standard filing fees."

The Chinese market remains a top priority for foreign companies, large and small alike, he said. "The hottest areas of our business right now relate to bad faith trademark registration and online enforcement against counterfeits and other IP violations."

And given the complexity of trademark disputes, SIPS has not witnessed a race to the bottom with respect to their fees, he added.

Apart from its Beijing office, SIPS also has a presence in Shanghai and Hong Kong.

EU DISCUSSES TAX HAVENS BLACKLIST AFTER 'PARADISE PAPERS' LEAKS

European Union states last month brought forward a discussion on plans for a tax havens' blacklists after newly leaked documents revealed investments by wealthy individuals and institutions around the globe.

The subject's inclusion on the monthly meeting's agenda of EU finance ministers came after media reports citing the "Paradise Papers", a trove of financial documents leaked mostly from Appleby, a prominent offshore law firm.

The documents were obtained by Germany's *Sueddeutsche Zeitung* newspaper and shared with the International Consortium of Investigative Journalists (ICIJ) and some media outlets.

The latest revelations "put renewed emphasis on the work the European Commission is doing to fight tax avoidance", the vice president of the EU's executive arm, Valdis Dombrovskis, told reporters. EU countries had planned for months to reach an agreement on a blacklist for tax havens by the end of this year.

The EU has discussed several measures to crack down on tax avoidance, including following the "Panama Papers", a release by the ICIJ last year which chronicled a shadowy world of offshore holdings and hidden wealth.

Measures proposed by the European Commission include an EU-wide list of tax havens meant to discourage the rerouting of profits made in the EU to tax-free or low-tax countries.

At the moment, each EU state has its own list of jurisdictions that are seen as less cooperative on tax matters. Criteria to define a tax haven vary greatly among EU states and some of them omit any jurisdictions in their national blacklists.

An EU-wide blacklist is believed to carry more weight. Jurisdictions included in the list could be subject to sanctions if they did not cooperate.

"It's time that we agree and publish a blacklist on tax havens," EU tax commissioner Pierre Moscovici told reporters, calling for a "credible" list and "adequate sanctions" when serious breaches are unveiled.

There are no details yet of the type of sanctions that could be imposed, although being on the blacklist in itself could discourage individuals and companies from putting money in those jurisdictions.

Moscovici added that the EU blacklist should be more ambitious than the existing list of the Organisation for Economic Cooperation and Development (OECD), a global group of mostly rich nations that has so far been leading the fight against tax avoidance.

The OECD list of non-cooperative jurisdictions on tax transparency includes to date only Trinidad and Tobago.

Two EU officials told Reuters a "dialogue" was ongoing with some jurisdictions around the world to make sure they would abide by the criteria set by the EU on tax transparency.

Last year, the European Commission identified 81 countries and jurisdictions that had a higher chance of facilitating tax avoidance and could have been included in the blacklist if they did not cooperate.

Some EU countries remain skeptical about the blacklist and are themselves under scrutiny for unfair tax competition.

Smaller EU states, like Luxembourg, Malta and Ireland, attract firms with lower corporate taxes. Some have been sanctioned for deals with multinationals that slashed their tax bills, reducing revenues in other EU states.

To win over their resistance, the proposed EU blacklist would apply only to non-EU countries. Also, states which charge no corporate taxes will not be automatically considered tax havens.

On tax matters the EU can take decisions only with the unanimous backing of its 28 member states, unless extraordinary procedures are launched - an option never tested so far.

To reduce the appeal of tax havens, Brussels has also proposed the setting up of public registries that would show the real owners of companies, which are often hidden by frontmen in shell firms in offshore jurisdictions.

It has also proposed compulsory reporting by large multinational firms of profits made and taxes paid in each state where they operate, in a bid to show how much of their revenues are booked in low-tax countries.

European Commissioner for Economic and Financial Affairs Pierre Moscovici presents the EU executive's autumn economic forecasts during a news conference at the EU Commission headquarters in Brussels, Belgium November 9, 2017. REUTERS/Yves Herman

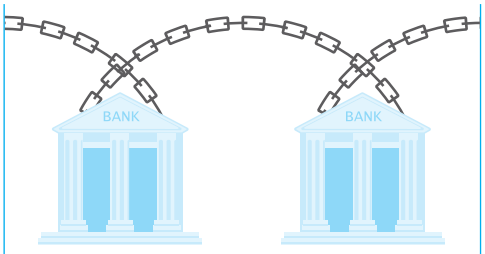
HONG KONG, SINGAPORE TO LINK UP TRADE FINANCE BLOCKCHAIN PLATFORMS

Hong Kong and Singapore's de facto central banks have unveiled plans to link trade finance platforms they are developing with blockchain technology, to reduce potential fraud and errors in the multi-trillion-dollar funding of international trade.

The Hong Kong Monetary Authority (HKMA) together with banks including HSBC Holdings and Standard Chartered tested late in 2016 the use of distributed ledger technology (DLT), also known as blockchain, to build a trade finance platform.

Singapore is also developing a platform at present.

Linking the two is part of a broader plan between HKMA and the Monetary Authority of Singapore (MAS) to collaborate



in blockchain and other financial technology (fintech) projects, the pair said in a joint statement.

"This interface is likely to be the first of its kind in the world in the application of DLT in solving the century-old problem arising from the inefficiency of the paper-based trade finance system," HKMA head Norman Chan said at a fintech conference.

The move also comes as banks including HSBC and Bank of America Merrill Lynch and government agencies such as the Infocomm Development Authority of Singapore look to use technology to make trade finance more efficient and reduce the risk of fraud in letters of credit (LOC) and other transactions.

Letters of credit are one of the most widely used ways of reducing risk between importers and exporters, helping guarantee more than $2 trillion worth of transactions, but the process creates a long paper trail and is time-consuming.

Chan said Hong Kong's project can digitize trade documents, automate processes, allow sharing of required documentation among authorized participants, and reduce human errors and the risk of fraud.

REGIONAL UPDATE: PHILIPPINES

SyCip Salazar Hernandez & Gatmaitan

HEALTH IS WEALTH

The Philippine Department of Labor and Employment (DOLE) recently issued guidelines to address safety and health issues faced by workers who, by the nature of their work, have to stand or sit for long periods. The DOLE noted that the wearing of high heeled shoes and/or standing at work for long periods or even frequent walking lead to health issues such as strain on the lower limbs, aching muscles, hazardous pressure on the hip, knee and ankle joints and sore feet. Sedentary work or sitting while working for long periods, on the other hand, bring about musculoskeletal disorders, high blood pressure, heart disease, anxiety, diabetes and obesity, among other health concerns.

Employers are therefore required to institute appropriate control measures to address the risks to the safety and health of workers. Employers whose workers spend their working time standing or frequently walking, should provide rest periods to cut the time spent standing or walking. Employers should also install appropriate flooring or mats, such as wood or rubber floorings, to mitigate the impact of frequent walking and to prevent fatigue. The DOLE likewise implemented a ban on high heels, directing employers to instead require the use of practical and comfortable footwear. The DOLE's guidelines require that the footwear should either be flat or with low heels (no higher than one inch) and wide-based or wedge type.

Sedentary workers, on the other hand, must be provided with regular five-minute breaks every two hours. Employers should also organize health promotion activities that will allow workers to do more physical activities after work, such as calisthenics, dance lessons and other similar activities. Medical surveillance should also be conducted, including raising awareness on health effects of prolonged sitting and sedentary work, especially among workers who are at risk because of their work lifestyle.

Employers may also adopt other measures, in consultation with the workers, to address the occupational safety and health concerns of their workers. Covered employers or establishments are required to notify the DOLE of their adoption of the foregoing safety and health measures.

The issuances demonstrate the DOLE's commitment to set and enforce mandatory occupational safety and health standards in all workplaces to reduce health risks and ensure safe and healthful working conditions for workers in all places of employment. Thus, businesses must not only focus on generating wealth but must also ensure that the workers who assist in, and contribute to, the generation of wealth will do so in a safe and healthy work environment.

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TOP 50 ASIAN LAW FIRMS

2017 RANK	2016 RANK	FIRM / HEADQUARTERS	PARTNERS	ASSOCIATES	TOTAL NO. OF LAWYERS
1	=	YINGKE LAW FIRM *China*	1860	3602	5462
2	=	DENTONS DACHENG *China*	1547	3360	4966
3	=	DEHENG LAW OFFICES *China*	482	1812	2446
4	=	ALLBRIGHT LAW OFFICES *China*	508	1480	1988
5	=	ZHONG LUN LAW FIRM *China*	372	1276	1658
6	UP	KING & WOOD MALLESONS *China/Australia*	326	1275	1645
7	=	GRANDALL LAW FIRM *China*	400	1200	1600
8	DOWN	ZHONG YIN LAW FIRM *China*	303	1109	1412
9	UP	BEIJING DHH LAW FIRM *China*	102	1059	1161
10	=	ZHONG LUN W&D LAW FIRM *China*	402	712	1147
11	DOWN	LONG AN LAW FIRM *China*	150	850	1100
12	DOWN	KIM & CHANG *South Korea*	130	730	860
13	UP	JUNHE *China*	182	446	686
14	UP	JINCHENG TONGDA & NEAL *China*	202	482	684
15	UP	TAHOTA LAW FIRM *China*	150	510	660
16	UP	HIWAYS LAW FIRM *China*	102	460	647
17	DOWN	RAJAH & TANN *Singapore*	231	401	632
18	DOWN	CYRIL ARMARCHAND MANGALDAS *India*	100	501	613
19	UP	LEE & KO *South Korea*	183	420	603
20	DOWN	GUANGHE LAW FIRM *China*	201	391	592
21	DOWN	BAE, KIM & LEE *South Korea*	204	377	581
22	UP	GUANTAO LAW FIRM *China*	153	406	567
23	=	NISHIMURA & ASAHI *Japan*	131	383	565
24	DOWN	BEIJING TIANTAI LAW FIRM *China*	210	338	562
25	UP	FANGDA PARTNERS *China*	92	460	552
26	DOWN	KHAITAN & CO *India*	112	426	538
27	DOWN	SICHUAN MINGJU LAW FIRM *China*	75	452	527
28	=	SHARDUL ARMARCHAND MANGALDAS & CO *India*	91	409	506
29	DOWN	ALLEN & GLEDHILL *Singapore*	181	284	467
30	UP	ETR LAW FIRM *China*	124	324	448
31	UP	MORI HAMADA & MATSUMOTO *Japan*	106	341	447
32	DOWN	JOINTIDE LAW FIRM *China*	131	303	446
33	=	YULCHON *South Korea*	150	269	420
34	NEW	DUAN & DUAN *China*	143	267	410
35	DOWN	SHIN & KIM *South Korea*	162	204	404
36	UP	ANDERSON MORI TOMOTSUNE *Japan*	122	227	397
37	UP	NAGASHIMA OHNO & TSUNEMATSU *Japan*	101	237	393
38	UP	YOON & YANG *South Korea*	123	198	390
39	DOWN	AZB & PARTNERS *India*	65	310	375
40	UP	GLOBAL LAW OFFICE *China*	84	285	369
41	DOWN	WONGPARTNERSHIP *Singapore*	122	243	367
42	=	LUTHRA & LUTHRA *India*	61	292	353
43	=	KING & CAPITAL *China*	113	229	347
44	DOWN	JUNZEJUN LAW OFFICES *China*	103	243	346
45	NEW	ZHONGWEN LAW FIRM *China*	154	173	327
46	UP	EAST & CONCORD PARTNERS *China*	96	226	322
47	DOWN	TIAN YUAN LAW FIRM *China*	106	212	318
48	UP	TMI ASSOCIATES *Japan*	90	224	314
49	DOWN	J. SAGAR ASSOCIATES *India*	89	203	297
50	DOWN	HYLANDS LAW FIRM *China*	80	164	294

SIX-LAWYER FAMILY LAW TEAM SPLITS FROM HAMPTON WINTER TO START BOUTIQUE HK FIRM

Half a dozen lawyers from Hong Kong law firm Hampton, Winter and Glynn (HWG) – led by partners Winnie Chow and Jain Ruskin Brown – have left to form boutique family law firm CRB.

Chow and Ruskin Brown are the co-founders of the new firm. The others are Louise Liu, Anne Salt, Martin Leong and Frances Cheng.

The firm offers a "holistic approach to client needs by providing collaborative practice, mediation and parenting co-ordination assistance, alongside more traditional family law expertise."

"There is an inherent need in the marketplace for a specialised family law firm and although HWG was well known for family law, it was not exclusively family law," Chow and Ruskin Brown explained to ALB. "The idea for CRB arose from the desire to provide dedicated family law advice and alternative disputes resolution assistance."

Asked how the new firm plans to compete with the other established family law firms, they replied: "In a sense CRB is already well established in that its partners have been working together for almost 20 years and they continue to lead the same team with whom they worked at HWG. CRB's unique advantage lies in its singular focus on providing specialist and expert advice only in the field of family law."

Earlier this year, HWG was ranked among family law firms in Hong Kong by Doyle's Guide thanks to Chow and Ruskin Brown, the only lawyers from the firm named in the individual category.

For the next 12 months, the co-founders said their new firm will concentrate on "establishing the cohesiveness of its team and invest in the upskilling of its solicitors for the benefit of our clients."

NORTH ASIA LEAGUE TABLES

CHINA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Clifford Chance

37,350.5 Value ($MLN)

Deals: **18** / Market Share: **6.9**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Skadden	31,350.6	20	5.8
3	Kirkland & Ellis	30,816.3	15	5.7
4	Fangda Partners	28,810.8	54	5.3
5	King & Wood Mallesons	27,154.4	45	5.0
6	Davis Polk & Wardwell	24,937.8	9	4.6
7	Morrison & Foerster	23,010.8	8	4.2
8	Machado Meyer Sendacz & Opice	19,341.8	6	3.6
9	WongPartnership LLP	18,122.4	7	3.3
10	Rajah & Tann LLP	18,073.7	4	3.3

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

HONG KONG ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Kirkland & Ellis

20,285.8 Value ($MLN)

Deals: **11** / Market Share: **12.8**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Freshfields Bruckhaus Deringer	17,135.0	8	10.8
3	Clifford Chance	13,325.4	20	8.4
4	Sullivan & Cromwell	12,637.0	9	8.0
5	Fangda Partners	12,451.1	9	7.8
6	Slaughter and May	9,086.3	7	5.7
7	Herbert Smith Freehills	9,022.0	14	5.7
8	Commerce & Finance Law Offices	8,384.8	1	5.3
9	Hengeler Mueller	6,724.5	1	4.2
10	Ropes & Gray	6,303.6	6	4.0

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

JAPAN ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Morrison & Foerster

38,790.7 Value ($MLN)

Deals: **30** / Market Share: **30.0**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Nagashima Ohno & Tsunematsu	26,581.3	68	20.6
3	Akin, Gump, Strauss, Hauer & Feld	21,235.6	2	16.4
4	Skadden	12,140.1	11	9.4
5	Simpson Thacher & Bartlett	12,114.4	5	9.4
6	Mori Hamada & Matsumoto	9,947.1	67	7.7
7	Jones Day	8,372.5	21	6.5
8	Paul, Weiss	8,349.7	6	6.5
9	Nishimura & Asahi	8,205.0	58	6.4
10	Davis Polk & Wardwell	8,161.3	5	6.3

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

SOUTH KOREA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Kim & Chang

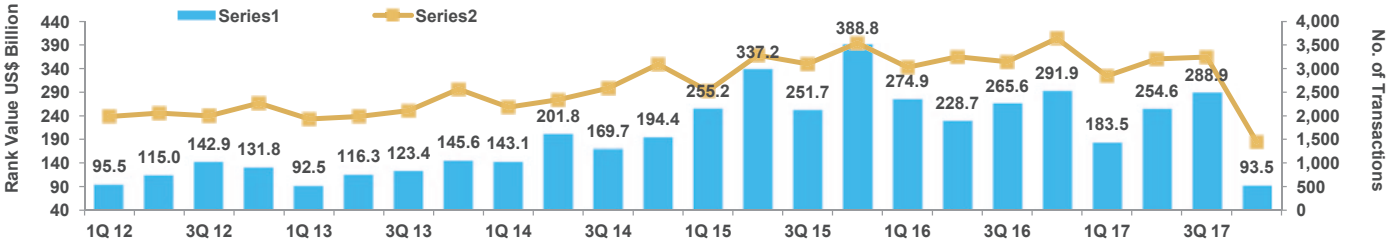
19,982.3 Value ($MLN)

Deals: **92** / Market Share: **27.8**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Lee & Ko	11,527.8	57	16.0
3	Bae Kim & Lee	7,570.9	48	10.5
4	Ropes & Gray	4,260.0	7	5.9
5	Shin & Kim	4,173.9	36	5.8
6	Yulchon LLC	2,804.1	26	3.9
7	Clifford Chance	2,703.7	1	3.8
8	Sullivan & Cromwell	2,512.7	2	3.5
9	Cleary Gottlieb Steen & Hamilton	2,433.3	1	3.4
10	Morgan Lewis & Bockius	1,353.8	2	1.9

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

ANY NORTH ASIA INVOLVEMENT ANNOUNCED M&A ACTIVITY - QUARTERLY TREND



Notes: League tables, quarterly trend, and deal list are based on the nation of either the target, acquiror, target ultimate parent, or acquiror ultimate parent at the time of the transaction. Announced M&A transactions excludes withdrawn deals. Deals with undisclosed dollar values are rank eligible but with no corresponding Rank Value. Non-US dollar denominated transactions are converted to the US dollar equivalent at the time of announcement of terms. North Asia includes China, Hong Kong, Japan, South Korea. Data accurate from 1 January to 16 November 2017.

SOUTHEAST ASIA/SOUTH ASIA LEAGUE TABLES

SINGAPORE ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Davis Polk & Wardwell

25,681.1 Value ($MLN)

Deals: **18** / Market Share: **35.9**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Allen & Gledhill	22,511.4	4	34.5
3	Clifford Chance	22,142.3	19	33.6
4	Skadden	21,421.1	9	30.2
5	WongPartnership LLP	21,014.4	4	29.6
6	Rajah & Tann LLP	18,871.5	4	29.3
7	Shook Lin & Bok LLP	17,958.4	8	28.6
8*	Kirkland & Ellis	17,958.4	2	27.4
8*	Machado Meyer Sendacz & Opice	16,497.4	4	27.4
10	Morrison & Foerster	16,421.1	2	6.0

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

MALAYSIA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Baker & McKenzie

1,926.5 Value ($MLN)

Deals: **7** / Market Share: **15.3**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2*	Shearman & Sterling LLP	1,051.5	1	6.6
2*	De Brauw Blackstone Westbroek	946.0	1	6.6
2*	AKD Prinsen Van Wijmen	946.0	1	6.6
5	Zul Rafique & Partners	562.4	1	2.9
6*	MD Tajuddin & Co	562.4	1	2.7
6*	King & Spalding	562.4	1	2.7
6*	Jones Day	557.0	2	2.7
9	JunHe LLP	557.0	2	2.6
10	Herbert Smith Freehills	315.8	2	2.5

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

INDIA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - AZB & Partners

27,450.4 Value ($MLN)

Deals: **63** / Market Share: **46.1**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	S&R Associates	14,865.7	3	35.9
3	Slaughter and May	13,591.3	2	32.7
4	Bharucha & Partners	12,241.2	2	29.7
5*	Allen & Overy	11,827.3	1	29.2
5*	Vaish Associates Advocates	11,627.3	1	29.2
7	Shardul Amarchand Mangaldas & Co	6,459.4	21	7.6
8	Latham & Watkins	3,467.0	33	6.0
9	Cyril Amarchand Mangaldas	2,736.4	27	5.0
10	Khaitan & Co	2,477.0	3	4.4

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

INDONESIA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - Lefosse Advogados

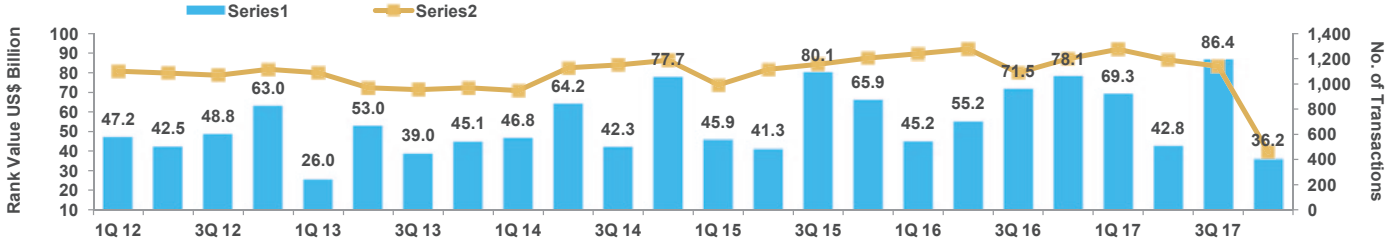
4,777.8 Value ($MLN)

Deals: **2** / Market Share: **7.6**

Rank	Legal Advisor	Value ($MLN)	Deals	Market Share
2	Stocche Forbes Advogados	4,777.8	2	5.2
3	Freshfields Bruckhaus Deringer	1,172.8	2	3.7
4	DLA Piper LLP	1,000.0	2	3.7
5	Kim & Chang	602.3	1	2.1
6	Mayer Brown LLP	489.2	1	1.5
7*	Clifford Chance	357.5	1	0.6
7*	Norton Rose Fulbright	357.5	2	0.6
9	Shearman & Sterling LLP	321.9	2	0.3
10*	Hannes Snellman	312.9	1	0.0

(*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

ANY SOUTHEAST ASIA/SOUTH ASIA INVOLVEMENT ANNOUNCED M&A ACTIVITY - QUARTERLY TREND



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DEALMAKERS OF ASIA

The M&A landscape in Asia is booming at present, and this is leading to an increased demand for high-quality transactional lawyers to offer top-notch advice on deals. *ALB* profiles a number of key M&A lawyers across various markets in the region.

INTRODUCTION BY REUTERS AND *ALB*

According to Reuters, the top global M&A trend in the last quarter has been the shift from big deals to small. The value of mergers and acquisitions globally dropped slightly in the third quarter of 2017, as big deals worth more than $10 billion were scarce given uncertainty about economic policy in the U.S. and Europe in particular, leaving dealmakers to feast on a plethora of smaller transactions.

Even as major stock markets continued to climb higher, big companies were wary of pursuing transformative deals in the quarter, as the future of U.S. President Donald Trump's agenda on taxes, healthcare and infrastructure spending remained unclear, while Britain's Brexit talks, and North Korean's nuclear ambitions also weighed on chief executives' appetite to take risks.

"Jumbo deals have subsided in part because of the continued uncertainty over tax policy and deregulation - removing that overhang would be a positive catalyst for M&A," says Matt McClure, Americas head of mergers & acquisitions at Goldman Sachs Group Inc. "Even if it becomes clearer that the status quo isn't going to change soon, you may see companies revisit larger transactions that they have put on hold."

The value of global merger and acquisitions slipped to $765 billion in the third quarter, down 5 percent year-on-year and the lowest third-quarter level since 2013, according to preliminary Thomson Reuters data.

"It's a big bet to pursue a mega-deal in this environment and boards need more time to act. For sub-$5 billion deals, instead, there are fewer hurdles and it's easier to get to the finish line," says Steven Baronoff, chairman of global M&A at Bank of America.

The biggest deal to be signed in the third quarter was the U.S. aerospace and industrial company United Technologies Corp's $30 billion cash-and-stock acquisition of U.S. avionics maker Rockwell Collins.

"After the summer break there has been no big rush to get the ball rolling on deals. This could be a sign that activity will remain flat or subdued and political uncertainty will continue holding back large transactions," says Scott Hopkins, an M&A Partner at Skadden, Arps, Slate, Meagher & Flom in London.

Third-quarter M&A volume fell to $309 billion in the United States, down 6 percent year-on year. In Europe, M&A totaled $343 billion, down 15 percent year-on-year, while in Asia, M&A was 226 billion, up 11 percent year-on-year.

"The market for deals overall has held up well, given the rich valuations and macroeconomic and geopolitical uncertainty," says Mark Shafir, co-head of global M&A at Citigroup.

However, private equity firms defied expensive valuations and took advantage of cheap debt financing terms to spend the mountains of cash they have raised from investors on acquisitions. Global private equity-backed M&A activity has reached $212 billion year-to-date 2017, a 25 percent increase compared to last year and the highest since 2007.

M&A in the energy and power sector hit a two-year high of $362 billion so far in 2017, up 7 percent over the same year-to-date period in 2016. M&A in the industrials sector totaled a record-breaking $326 billion so far during 2017, up 21 percent compared to last year at this time.

SOUTHEAST ASIA

According to data from Mergermarket, there were 290 deals in Southeast Asia in the first three quarters of this year,

worth $53.5 billion in total. In terms of deal value this was the strongest first nine months the region has seen since the same period in in 2013.

The third quarter itself saw 97 M&A deals worth $26.7 billion in Southeast Asia, an increase of 81.8 percent from the same period in 2016. In fact, the quarter saw three of of the region's top five deals this year. These were the acquisition of Global Logistic Properties, a $2-billion stake purchase in Grab and the acquisition of a 47.5 percent stake in Energy Development Corporation for $1.3 billion.

One of the key drivers behind this M&A boom was the Internet/e-commerce space. A total of 13 deals worth $5.3 billion have been inked in this sub-sector so far this year, a nearly four-fold increase in value compared to the same period of 2016, which saw seven deals worth $1.1 billion. Deals in the Internet/e-commerce space accounted for 9.9 percent of the total M&A transaction value in the first nine months of this year.

CHINA

According to Reuters, the value of Chinese overseas merger-and-acquisition (M&A) deals jumped in the third quarter after several large transactions, and dealmakers expect continued momentum as recovering economic fundamentals damp the need for restrictions on capital outflows.

Overseas deals this year by Asia-Pacific's most active buyers reached $118 billion at September-end, nearly half of which were announced in the past three months, Thomson Reuters data showed.

But the amount is 29 percent lower than the same period of 2016, a year in which a record $221 billion was spent on assets as varied as movie studios and soccer clubs. Such was the buying that China's government began placing restrictions on overseas deals to stop huge outflows of funds destabilizing the yuan.

The yuan has since stabilized, while China's foreign reserves have risen. The government has also been encouraging deals which support its Belt and Road initiative, whereby it aims to create a modern-day equivalent to the ancient Silk Road international trading network.

As such, investors are scouting for deals in anticipation of the government relaxing restrictions on overseas M&As, bankers and dealmakers told Reuters.

"Through the summer, on average, every week we have a new deal to look at. I've never seen this kind of activity before," says Fred Hu, chairman of private equity firm Primavera Capital.

GENIO ATYANTO

Partner, Nasoetion & Atyanto, Jakarta

What have been some of the important deals you have done in the past year? Can you describe your involvement in them?

The acquisition of PT Bank Windu Kentjana Tbk (Bank Windu) by China Construction Bank (CCB), which was followed by the merger of Bank Windu with PT Bank Antardaerah (Bank Anda). It took almost two years to complete such complex transactions. We were representing Bank Windu in acquiring Bank Anda, conducting the rights issue to allow CCB to acquire new shares to become the majority shareholder of Bank Windu, and merging Bank Windu with Bank Anda. Bank Windu is now known as PT Bank China Construction Bank Indonesia.

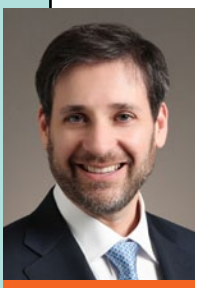
We were also involved in the recent rights issues of PT Bumi Resources Tbk, for the issuance of new shares for the amount of approximately 27 trillion rupiah ($2 billion), and for mandatory convertible bonds issuance for the amount of approximately 8.5 trillion rupiah ($0.6 billion) as the part of the implementation of the composition agreement with its creditors.

How would you describe your career till date?

I have spent most of my 18-year career as a lawyer in major firms that are affiliated with either U.S. or UK law firm. This experience allowed me to work on major cross-border capital market and M&A transactions. I not only gained experience working on major transactions, but at the same time, I also learnt how to offer a high standard of service to clients. I apply the same standard in N&A, but we always look toward to improving the standard.

What particular strengths do you feel you possess that clients particularly appreciate?

I have a very broad range of experience in capital markets and M&A, including IPO, local and global bond offerings, back-door listings, and mergers and acquisitions of both private and listed companies. Experience is one of the strengths that clients appreciate. Commercial analytical thinking, responsiveness, accessibility and always delivering the service in a timely manner are other strengths that are appreciated by clients.



ERIC PIESNER

Asia Managing Partner, Morrison & Foerster, Singapore

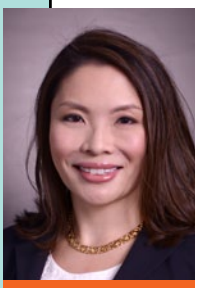
Eric Piesner, Asia managing partner of Morrison & Foerster, specializes in strategic M&A and private equity deals focused on the real estate industry. Widely considered to be a leader in his field, Piesner has worked on some of the largest and most complex deals in the real estate sector.

"My career in Asia over the past 16 years has been defined by a consistent focus on the real estate industry and a steady expansion – both by practice area and geography – of the work I do for clients in that industry," Piesner explains. "This started in 2001 from a real estate finance practice in Japan and expanded over time to a pan-Asia practice representing clients such as Global Logistic Properties (GLP) in all aspects of their business around the world. Career high points for me include the string of cutting edge transactions I did for GLP in the US, Japan, China and Brazil."

Piesner has played a pivotal role in helping to build the firm's highly rated Private Equity Practice in Asia. In 2017, the firm has advised on a number of market-leading deals throughout the region. Piesner advised on Global Logistic Properties' $11.64 billion proposed privatization, reported to be the largest-ever private equity buyout of an Asian company, and on the $1.2 billion joint venture between Indospace and Canada Pension Plan Investment Board, one of the largest deals of its kind in India.

"Being a creative problem solver, having good common sense and being strong under pressure are the main strengths that I believe clients appreciate from me," says Piesner.

He believes that there are three keys to being a good transactional lawyer. "The first is dedication and responsiveness – this means having a 24/7 focus on meeting deadlines, client service and getting the best results for the client. Second, being an effective transactional lawyer means understanding both the details of the transaction at hand and the client's business more broadly. Finally, you need common sense – which means being smart, practical and measured in managing transactions and in addressing issues as they arise."



SHIRIN TANG

Partner, Morrison & Foerster, Singapore

Shirin Tang is a New York and Singapore-qualified corporate partner at Morrison & Foerster. She specializes in private equity and M&A transactions across Southeast Asia, China and the U.S. She was named one of ALB's "40 Under 40" outstanding legal professionals in Asia for 2017.

Described by clients as a standout lawyer with incredible judgment and the ability to balance legal risk and analysis against the commercial realities of a transaction, Tang has built a strong market reputation for complex and innovative transactions. She worked on several headline-making deals in 2017. These included advising Global Logistic Properties Limited, the leading global provider of modern logistics facilities, as international counsel, on its proposed $11.64 billion privatization. This is reported to be the largest-ever private equity buyout of an Asian company.

Tang also advised IndoSpace, India's largest developer of modern industrial real estate, on its landmark $1.2 billion joint venture with Canada Pension Plan Investment Board to acquire and develop modern logistics facilities in India. Tang explains, "This was a hybrid M&A, real estate and fund formation transaction, one of the largest of its kind in India – it required careful structuring across several jurisdictions and forethought about how the business would be run."

In the last two years, Tang has led six transactions with deal values each in excess of $1 billion, most of which were consortium transactions involving multiple jurisdictions and leading global institutional investors. She believes that an excellent grasp of the key drivers and motivations of all parties concerned is critical. "Having an intuitive sense of when to push and when to give enables more value to be created for both sides," says Tang. "Being able to read between the lines, to consider all the angles and anticipate the key operational and financial consequences of any decision is very important." This philosophy, combined with a solid understanding of legal limitations, structuring alternatives, local market practices and comparable transactions, helps her to deliver consistently outstanding results for clients.

JUTHARAT ANUKTANAKUL

Partner, Chandler MHM, Bangkok

What have been some of the important deals you have done in the past year?

Personally, I feel that all deals are equally important. However, one of the more impressive deals I worked on this year involved an acquisition by a Thai-listed company in a Myanmar project, the largest solar power plant project in Southeast Asia. Myanmar has been undergoing dramatic changes at an extraordinary pace but issues remain regarding clarity, transparency, and implementation of the law. The transaction was a risky yet courageous move for my client. We needed to minimize risks by understanding and managing the uncertain and often unclear local rules and regulations while working toward closing the project. We also had to take into account laws applicable to a Thai-listed company.

How would you describe your philosophy as a transactional lawyer?

As a lawyer I place great importance on responsibility. I treat all clients with the utmost sincerity and assume that clients coming to Chandler MHM are depending on our knowledge and experience to deliver successful results. It helps to put myself in my clients' shoes, taking on their hopes and commitments for each deal.

What are the most important attributes of a successful transactional lawyer?

Exceptional analytical skills, attention to detail, capability for interaction and negotiation, and of course, responsibility and accountability. I also believe we must constantly learn new things, be adaptive and employ creative and practical solutions for each issue. For a successful deal, each lawyer must possess the ability to intimately understand the client's business objectives and the legal risks raised in pursuit of those objectives. We must be on the same page as our clients, and be responsive, efficient and sensitive to each individual.

The year 2017 was a busy one for many of the biggest companies in the Asia, keeping in-house legal teams in industries across the board busy.

Technology has forced many industries – not just traditional media and legacy tech companies, but also restaurant chains and insurance companies – to pivot, often to digital and other internet-related trends such as the cloud and the Internet of Things, and legal teams have played an active part in changing needs of the organisation.

GCs and their teams also had to be wary about one of the biggest threats this year: cyber security and data privacy. Additionally ncreased scrutiny by regulators has also given rise to the importance of in-house legal teams more than ever, having to actively – and often quickly – work with watchdogs, and we see several GCs bolster in that area for the coming year.

All these developments and trends have helped in-house legal teams break out from their silo, playing a more active role aligning priorities and strategies for the whole company.

2018: THE GC'S VIEW

With a new year approaching, general counsel at top companies across a diverse range of countries and industries share their legal teams' priorities for 2018, what's affecting them and what they'll be focusing their budgets on.

BY JOHN KANG

DARRELL CHAN

Vice-President and Regional Counsel, Head of Corporate Legal & Public Regulatory Affairs, APAC

Discovery Networks Asia-Pacific

How would you describe your priorities for your legal department for 2018?

My mandate coming into Discovery at the start of 2017 was to transform the legal team from a back-end support function to a pro-active partner to the commercial teams. Discovery is in the midst of pivoting from a traditional paid TV business into a dynamic digital organization. There was a clear vision for the legal team to play a part in actively supporting the changing needs of the organization, and Discovery's legal team has evolved to become a partner in both the strategy and execution of Discovery's business transformation.

My priorities for 2017 are developing (i) speed and accelerating the pace of contracting; (ii) agility and nimbleness to quickly course correct based on the changing nature of negotiations and regulatory landscape; (iii) a depth of understanding into the business model, operations and agenda of the commercial teams; (iv) a greater amount of collaboration between the legal and commercial teams, as well as within the legal team; and (v) a strong compliance programme for Discovery.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

Cost has been and will be a continuing pressure for the legal function. The big question for 2018 is how we do more with less. Given the increasing volume of work that comes through the legal team as Discovery expands its presence in the region organically, there is a imperative for us to identify where automation can enhance the efficiency of the lawyers. We are working with the Singapore Academy of Law and other vendors, to explore opportunities to use legal tech to augment the capabilities of the team in 2018.

We will continue to beef up our capabilities in the public regulatory affairs area to meet this need. Discovery will actively partner regulators to shape policies and laws in the areas of IP protection, data privacy, cybersecurity, tax and OTT/media.

ERICA CHAN

General Counsel and Chief Administrative Officer

Walmart Asia

How would you describe your priorities for your legal department for 2018?

Hiring the right talents and increase the bench strength of the market teams. Change on how we work to deal with company's transformation and our competition. Continue to assess risk and develop a balanced approach to risk and educate the business on it. Embrace technology and use data to help with our job. Support and enhance a culture of diversity and inclusion.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

Our legal teams need to have a good understanding of the key trends that continue to impact to us and our daily work: our ongoing transformation into an omni-channel retailer, how technology changes our businesses and industry and the increase in online cross border trade and interconnection among different businesses and markets. Our legal teams can get familiarized with these changes by visiting our stores, be a customer to the online services, try understanding what technology can facilitate and disrupt our business and continue to understand the business processes closely so they are able to give better and relevant advices around it.

How will you be managing your legal spend next year? What will you be prioritizing?

Be thoughtful in external legal spending and ensure that all members of legal department work together to ensure that we spend thoughtfully on things that really matter. Work with global legal and finance leadership to identify ways that would further allow leverage and cost efficiency through the way we work and initiate better cost saving plans.

WENDY CHAN

General Counsel and Compliance Director

McDonald's Hong Kong

How would you describe your priorities for your legal department for 2018?

Digitalization and customization are definitely the key developments of our industry. Supporting business functions to ensure legal compliance and smooth operation will be our 2018 key priorities. All team members need to be well equipped with the

necessary knowledge be it big data, cyber security, data privacy and customers' expectations etc. We therefore will reserve sufficient resources for training in that respect.

And with the transaction relating to franchising completed in August this year, McDonald's Hong Kong has a new shareholding structure, a lot of compliance and company secretarial works need to be taken care of. We will work closely with different teams of McDonald's global, McDonald's China as well as teams of our new shareholders to ensure smooth transition and legal compliance.

How will you be managing your legal spend next year? What will you be prioritizing?

Apart from the regular spending, next year we will deploy more resources on compliance and risk management in view of the increasingly complex business environment and we strongly believe that crisis should be avoided before it happens. And we are happy that we have different platforms for resources and knowledge sharing among McDonald's legal teams around the world which are really helpful and cost efficient.

AKIKO KIKUCHI

General Counsel, Head of Law, Patents & Compliance

Bayer Group Japan

How would you describe your priorities for your legal department for 2018?

Our business spans across pharmaceuticals, consumer health and crop science, generating sales of 280 billion yen ($2.48 billion) annually, according to the2016 figures. We are a small team supporting all three divisions and have plans to expand in 2018 given the increasing demands and challenges particularly in pharmaceuticals. We will also work closely with external law firms to help augment our resource needs, particularly for upcoming M&A, alliance relationships and compliance matters.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

Our external customers and internal clients will continue to look for solution-oriented advice and pro-active support. We have launched our Business Partnering Project which means that each one of our team members will utilise tools made available in the "Mindset Change", "Business Understanding" and "Innovation" work streams to help them develop the skills they need. With regard to "Innovation", this was often a foreign concept for lawyers, but we have embraced it as a conscious effort to think about doing something different that provides a value-add to our stakeholders. One example is our Compliance IT app that allows employees to access compliance quizzes on a daily basis with game features. The app is entertaining and has proven to be popular among those who disliked classic style compliance training. Our stakeholders want us to think about doing things more effectively and in a creative manner and we need to continue to think of new ways to expand the effort in 2018.

How will you be managing your legal spend next year? What will you be prioritizing?

We value our existing relationship with selected law firms who work for us on a monthly retainer basis. Meanwhile, we also continue to look for value elsewhere where we can find the expertise and quality of service we are looking for, particularly in M&A and litigation. As we will often be the bridge between external law firms and our business teams, it is important that we can help manage business expectations and keep them clearly aware of cost developments. We would be in favour of discounted hourly arrangements and/or capped agreements. We clearly end up with a stronger relationship with those law firms which offer us relationship partners with whom we can frequently and openly consult on cost issues.

ANTHONY LUNA

General Counsel

IBM Japan

How would you describe your priorities for your legal department for 2018?

My department oversees a multi-billion dollar business in Japan and supports a broad range of legacy and new cognitive businesses, in addition to M&A, litigation, compliance, and other matters that require the department's attention in a large operation. This requires the department to both support an increasing volume of work as well as to constantly keep abreast of cutting-edge offerings. In this regard, the priority is emphasising an agile work team assignment and teamwork culture that enables the department to flexibly allocate matters to the right team members – whether lawyer or non-lawyer – and resolve issues in an agile manner.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

An increasing portion of the business is shifting to cognitive businesses (for example, Watson, blockchain, cloud and IoT) that did not exist previously, which involve innovative technologies and raise novel legal issues. Accordingly, team

work, education and training is critical. We have already taken steps to handle this challenge.

How will you be managing your legal spend next year? What will you be prioritizing?

Value. With outside counsel relationships which I believe are critical partnerships for us, it will be important to ensure that we and our outside counsel are managing work in the most cost-efficient manner – setting proper budgets, managing team members, work product – and ensuring the advice is value add. I expect regulatory and privacy areas will be important for new cognitive businesses and cloud, particularly in regulated industries such as finance and healthcare.

RISTA QATRINI MANURUNG

Director of Legal, Compliance & Risk

AIA Financial Indonesia

How would you describe your priorities for your legal department for 2018?

The key priorities of the legal team in 2018 will be to ensure close alignment of our department priorities with the priorities and business strategy of the company.

As an insurance company, the company's main objectives are to grow and expand our primary distribution channels, increase our focus on protection products and enhance the customer experience through continuous process improvement. This direction is well understood by the legal team and we play a vital role in working across the business to help enable company results.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

To name a few, the increasing regulatory requirements and ongoing economic development, the increasing trend to go digital and higher competition due to new insurance entrants entering the Indonesian market will greatly impact our industry. Likewise, the legal team has to continuously respond and improve their approach to business and be more innovative and competitive in order to best serve the company. Regulatory developments will continuously be monitored.

How will you be managing your legal spend next year? What will you be prioritizing?

It is predicted that legal's current spending will not increase significantly. I am proud that my team is experienced, skilled, efficient and capable - meaning we can work autonomously without the need to engage significant external resources.

CHRISTOPHER STEPHENS

General Counsel

Asian Development Bank

How would you describe your priorities for your legal department for 2018?

The top priority – as always – is to continue to improve the efficacy and efficiency of our legal services to the bank. Too much management attention is focused on the specific role of the general counsel and his/her role and capabilities. But in a big organisation, it's at least as important to focus on the performance of the entire legal team. We have more than 80 staff in our legal group covering operations in more than 40 countries. They are dispensing hundreds of analyses, judgments and advice every day, affecting $30 billion of projects each year.

What developments in 2018 are you expecting will affect your legal team the most, and how are you planning on adapting to it?

We're in the business of providing financing for developing Asia and the Pacific where 2018 growth is expected to exceed 6 percent. Although that's encouraging, 1.4 billion people in the region still live on less than $2 a day and the region's infrastructure needs exceed $22.6 trillion through 2030 or $1.5 trillion per year in order to maintain current growth. The need for innovation, efficiency and effectiveness has never been more urgent. As advisors and participants in every component of the Bank's operations and management, the legal team will play a key role in creating new options, products and processes to help meet these challenges.

How will you be managing your legal spend next year? What will you be prioritizing?

Our business operates in more than 40 countries in developing Asia, spanning an enormous range of cultures, markets and legal systems. Operations are also becoming more complicated, and this diversity and complexity can lead to misunderstandings and disputes. If that weren't enough, laws in areas of data protection, cyberlaw, security, trade, finance, environmental protection and climate change are proliferating. We need to vigilantly monitor all these developments, cultivate expertise in the most relevant, and keep our clients updated, while mitigating associated risks. We need to manage legal spend by relying increasingly on narrow areas of particular expertise, and move away from traditional relationship-based engagements.

TAXING TIMES

December marks five months since India introduced its landmark Goods and Services Tax (GST). While Indian businesses struggled to adjust to the requirements of GST once it was launched on July 1, law firms, particularly those specialising in tax, played an important role in easing their short-term pain.

BY RAJ GUNASHEKAR

At midnight on July 1, India launched its Goods and Services Tax (GST), possibly one of the most important economic reforms undertaken by the country since its independence. The government, headed by Prime Minister Narendra Modi, promised a modern, transparent and technology-driven indirect tax system that would subsume 17 central, state and local taxes in line under the principle of "one nation, one market, one tax."

Its launch caught Indian companies off guard. Businesses slowed production ahead of the rollout of GST to minimize tax complications while shifting to the new system, which in part resulted in slowing economic growth. They also struggled to get prepared for the first two monthly tax-filing cycles, according to local media reports.

An informal survey of Indian law firms that specialise in tax found that the specific impact of GST had varied among clients depending upon their sector, size and the level of preparation. Apart from the obvious financial impact, GST also impacted many businesses in terms of their IT systems, operations, procurements, sales, and supply chain.

"Overall, the manufacturing sector in general had a more or less neutral financial impact given the policy level endeavour to keep the effective tax rate structure close to cumulative impact of the extent indirect tax levies," says Puneet Bansal, managing partner of Nitya Tax Associates. "The service sector, on the other hand was adversely impacted with effective tax rate increase on most services."

The biggest challenge was technology. GST, as a technology-driven self-policing system, ushered in a paradigm change in taxation, wherein the only interface between the authorities and the taxpayer is technology. Among the compliance requirements to be undertaken by businesses were those related to transaction-level reporting and online matching of input and output taxes.

As a result, the onset of GST brought with it a need to revamp IT processes, especially invoicing patterns and the extraction of tax reports. Due to these requirements, law firms say that various businesses including micro, small and medium enterprises (MSMEs) had to realign their accounting software and IT systems in line with the new tax requirements. As a result, cash flow seems to have been hit because of confusions around the data requirements for availing transitional credits.

REUTERS/Adnan Abidi

HELPING HAND

As the repercussions from GST affected businesses in the months following its launch, law firms played an increasingly important role in helping clients cope. To ensure a smooth transition for its clients, tax firm Vaish Associates Advocates helped them in identifying key areas of impact across the value chain of operations, suggesting alternate business solutions and models wherever required, with a view to minimise adverse effects and maximise savings.

Following implementation, many of Vaish's clients approached them with issues covering classification, taxability, documentation requirements, and export procedure.

"However, the biggest problem area for all the clients remains to be the tax filings and compliance. Companies are finding it extremely difficult to manage the compliances in-house, given the complexities and the ambiguities and are largely relying upon external consultants like us to hand-hold them at least during the initial few months," says Shammi Kapoor, a partner at Vaish.

Nitya Tax Associates imparted various training sessions and orientation workshops to make its clients aware about basic GST laws and the high-level impact thereof on their business. It also helped its clients deal with initial technological glitches and procedural issues faced in the wake of limited understanding of GST laws.

Meanwhile, Lakshmikumaran and Sridharan says that it provided input on legal and technical issues, including reviewing of the IT system results from a tax standpoint. "We also engaged in providing assistance in contract reviews, classification of goods and services, guidance on impact on business parameters due to legal regime

GST IN INDIA: A TOPSY-TURVY START TO UTOPIAN TAX ERA

Goods and Services Tax ('GST') is one of the biggest economic reforms that have taken place in the seventy years' history of independent India. Wading its way through a host of pre-implementation bottlenecks, including, lack of political consensus, constitutional constraints and over a decade of tumultuous debate, finally GST came into effect in India from July 1, 2017.

The federal structure of Indian economy has, evidently, been the root cause of the elongated process of migration of the country to this one-nation-one-tax concept. The long wait that India Inc had to go through seems worth it given the fact that GST has been able to achieve several marked improvements over the extant indirect tax laws applicable in India. The notable ones being: a) standardization of indirect tax laws across the national geography; b) removal of multiplicity of taxes and thereby their cascading impact in product / service pricing; c) uniformity in tax rates on goods throughout the country; d) uniform compliance procedures on pan-India basis; and e) better navigability of goods across various parts of the country. GST laws have also brought clarity on characterization and taxability of certain historically debated commercial transactions viz. hiring / leasing of goods, job-work / works contract transactions etc.

That said, like every massive economic reform,

Puneet Bansal
Managing Partner
puneet.bansal@nityatax.com

GST also set its initial footprints into the Indian economy with its own set of ambiguities and challenges. Understanding characterization / classification rules, new tax rate structures and taxation principles (viz valuation, place and point of taxation related principles) applicable on various goods and services; realigning the existing processes & IT systems to create a GST compliant eco-system; training & orienting internal as well as external stakeholders with the new laws; and, finally, undertaking new & scaled up compliances within the prescribed stiff timelines; have been amongst most daunting tasks for the tax payers, thus far. This lead to significant investment of senior management time in practically every big corporate house, in order to ensure business continuity amidst the switch over to this new indirect tax landscape.

Holistically speaking, the theme, structure and design of the GST is far more business friendly as compared to the erstwhile indirect tax laws of India. Give this, the move to GST regime will undoubtedly be catalyst in achieving the government's stated agenda of bringing in ease of doing business in India. In realizing this over-arching goal, the collective efforts of the central and state government are also worth applaud who working relentlessly to address tax-payers' concerns. The recent substantial simplifications announced in the GST compliances & reporting requirements and rationalization of the tax rate structures on a wide range of products & services, corroborate the pro-business mindset of the Indian polity at this juncture.

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change, and legal issues surrounding anti-profiteering provisions," says partner L. Badri Narayanan.

TOO SOON TO TELL

Most lawyers feel it is difficult to judge the impact of the GST roll out for at least another few months, adding that the government is also taking steps to remedy the initial glitches.

"On the government's front, the two most crucial components of the GST infrastructure are the GSTN (goods and services tax network) system and the tax administration. The government has spent immense effort and resources on preparation of these, however, the experience since implementation shows that GST as a tax regime is still work-in-progress," adds Kapoor.

On the taxpayers side as well, most of the outreach efforts of the government to create GST awareness have been with the bigger industry players which anyways have the resources and teams to support them. Kapoor adds, "However, the government has not adequately anticipated the problems of the small and medium businesses that do not have the required infrastructure to be GST compliant and are currently struggling with the complexity of procedures."

But things are getting better. According to a report released by research firm Crisil, barring the small- and mid-sized firms and certain investment linked sectors, most other companies are likely to see their balance sheets improve from now onwards. Further, the increased tax base should result into reduction of tax slabs and tax rates over a period of time.

By simplifying the tax system and eliminating the inefficiencies thereof, India should be able to better attract foreign investors, adds Kapoor. As projected by economic experts, the implementation of the GST is expected to increase the Indian GDP by 1 to 2 percent in the coming years.

> "Overall, the manufacturing sector in general had a more or less neutral financial impact given the policy level endeavour to keep the effective tax rate structure close to cumulative impact of the extent indirect tax levies. The service sector, on the other hand was adversely impacted with effective tax rate increase on most services."
>
> **— Puneet Bansal, Nitya Tax Associates**

YEAR OF TECH

In retrospect, 2017 might be regarded as the year in which law firms in the Asia-Pacific region began wholeheartedly embracing technology. Of course, budgets vary between firms, and some are more hesitant than others when it comes to adapting to the new landscape, but this year will probably go down as the watershed in this regard.

BY RAJ GUNASHEKAR

The time for evaluating, strategizing and preparing for the inevitable technological revolution might be over. Law firms across the Asia-Pacific region are beginning to understand that unless they jump on the tech bandwagon pretty soon, they remain at risk of being left behind.

And as a slew of technologies for lawyers emerged and then gradually became mainstream, firms across jurisdictions decided that the time was finally ripe to take the plunge. The year 2017, thus, could go down as the year law firms finally began embracing technology in a big way.

And they have a variety of options to choose from. Primarily led by artificial intelligence (AI), the legal industry is driven by advances in cloud and cognitive computing enabling the creation of digitised and customised legal solutions as clients' demands are soaring at an all time high. These technologies also enable legal professionals to work anytime, from anywhere and on any device, thus creating truly mobile lawyers.

NOTHING ARTIFICIAL ABOUT IT

Among the most exciting technologies at the moment are AI and machine learning, which, according to Baker McKenzie, could help law firms achieve business process optimisation and ensure efficiency.

"They are not a 'replacement' for human judgment but they can, when used wisely, help engender better human judgment," points Andy Leck, the managing principal of Baker McKenzie Wong & Leow, and member of Baker McKenzie's Innovation Committee.

Already AI has had a major impact in the disputes space. Currently, there are several products in place that avoid disputes, with most employed in the complaints processes in technology companies. The software is said to review the merits of a complaint on the basis of several objective data points and then decides what remedy, if any, to offer to the complainant. The use of this form of AI is seen to filter out a large number of smaller cases that are relatively clear-cut.

Latham & Watkins anticipates that AI will play an increasing role in informing arbitration funders, insurers and corporate

clients in assessing the prospects of a case before it proceeds to arbitration. "AI is well suited to conduct this sort of analysis, and its use will affect the number of disputes that end up in arbitration," says Yang Ing Loong, a partner in the firm's Hong Kong office.

Another firm that is embracing new technologies is King & Wood Mallesons, which is involving technologies like blockchain, smart contracts and distributed energy, and AI technologies including machine learning and expert systems, into its offerings to clients. The firm claims to be the first in the Australian market to deliver digital legal advisor apps which automates or semi-automates rules-based decision-making processes.

"We are leveraging artificial Intelligence to drive efficiencies in help create our work. An example is our enhanced contract review methodology which combines legal expertise with cutting-edge contract analysis technology to create an enhanced contract review process for our clients," adds King & Wood Mallesons' executive director of innovation Michelle Mahoney.

And it's not just the big boys who are getting into cutting-edge products. Singapore's Colin Ng & Partners, a mid-tier domestic firm, says it is concentrating now on using task automation technologies.

"Automating some of our file management processes will allow our lawyers to use their time on activities which deliver better client experience. We are also looking into greater use of technology in our back-office functions such as accounts and admin, and use cloud computing for some aspects of running the firm," says the firm's COO Kristie Yeong.

The firm already uses document management software for storing emails and documents along with accounting software timekeeping and billing. It is now exploring mobile and web-based solutions for both the software.

CHANGING MINDSETS

Adopting newer technologies requires an open mind set in exploring new ways of doing things. It requires everyone in the firm to adopt the perspective of solving clients' business challenges than just provide legal advice. However, training may be required to learn newer skills in certain cases.

The major challenge of adopting new technologies is that technology rapidly evolves over time. To address this, Baker McKenzie has a two-part approach to technology investments. The first approach comprises of partners across a range of practice groups and sectors where its innovation committee of global and multi-jurisdictional innovation architects bring in ideas together. Secondly, the firm has a machine learning taskforce which has a brief to understand and monitor where technology is heading in the next four years or so.

"Automating some of our file management processes will allow our lawyers to use their time on activities which deliver better client experience. We are also looking into greater use of technology in our back-office functions such as accounts and admin, and use cloud computing for some aspects of running the firm"

— Kristie Yeong, Colin Ng & Partners

Mahoney of KWM adds that the key challenge digitalisation introduces for any organisation is not the new technology in itself but rather encouraging people to change and adapt their ways. Her firm has embraced design thinking by running experiments for its lawyers to test their ideas, teaching prototyping and refining thinking. "We also run a coding course for our lawyers so they can deeply immerse themselves and get comfortable with digital," she adds.

Law firms are additionally working with clients to co-develop customised legal solutions. They are interested in adopting any technology – not just those specific to the legal industry, which can lead to a more effective legal practice.

"We try to combine both legal and non-legal aspects of our practice to create value for clients. We have recently upgraded our computer hardware, and are looking at software solutions that streamline our processes which can increase the efficiency and productivity of our support infrastructure by automating routine tasks. Our lawyers are also taking the lead in augmenting their legal expertise with technology," adds Yeong of CNP.

THE FUTURE

With the delivery of legal services, technology will continue to be a critical driver and enabler. In the near future, law firms are looking forward to take better advantage of mobile and cloud computing.

"We are looking forward to flexible, web-based solutions that offer multiple, integrated functions with convenient and secure mobile access," adds Yeong.

In the next 10 years, AI will develop to a more sophisticated level and the legal industry anticipates seeing this technology increasingly and effectively assisting lawyers with their legal tasks.

"Additionally, advances in technology will continue to influence how we engage with clients, how we create our legal work, how we provide our services and what services we offer," adds Mahoney.

Baker McKenzie sees the legaltech landscape breaking down into six buckets including legal knowledge, presentation/delivery, liquid workforce, search & find, task automation, and machine learning platforms.

"Search and find technology is most developed, with task automation and presentation/delivery tools fast improving. Real disruption will only occur, though, when machine learning is integrated into legal knowledge tools and the liquid workforce becomes a reality. We see this as still three to five years away. We also see a vertical future for machine learning in the law," says Leck.

A CASE FOR TOKYO

Japan's capital city has been an underutilised seat, especially compared to Asian peers Singapore and Hong Kong, and even Seoul and Kuala Lumpur have seen a rise in prominence. But with a new international arbitration facility in the offing, that could very well change. BY JOHN KANG

It's been another good year for international arbitration in Asia, with the leading Asian venues Singapore and Hong Kong not resting on their laurels and keeping up to date with the latest international developments, and South Korea's Seoul and Malaysia's Kuala Lumpur continuing their rapid growth.

But one Asian powerhouse has not made noticeable progress compared to its size and stature, and not just the past year but several years: Japan.

Despite being the world's third-largest economy and home to leading companies that uses international arbitration, Japan and its capital city Tokyo have been barely in the discussions about the rise of international arbitration in Asia.

There are several reasons behind the anaemic state of arbitration in Tokyo. For starters, arbitration – or any dispute resolution for that matter – is not popular in Japan as historically Japanese companies are dispute-averse.

"The Japanese actually settle out of court – they don't like the courts," says Haig Oghigian, senior counsel at Squire Patton Boggs in Tokyo, focusing on international dispute resolution. "But if they had

to choose, they would choose the Tokyo District Court over going to international arbitration hearing. So the cultural problem is not just arbitration versus court, it's just any kind of dispute – they want to try and settle any kind of dispute."

With a culture so reluctant to litigate, the country and its lawyers were never really up to speed with arbitration. "There are very few Japanese lawyers who are knowledgeable or experienced in international commercial arbitration," notes Oghigian. "And of course, most clients are even less knowledgeable. So when a client asks about a potential dispute to use court or arbitration, typically arbitration is not recommended because there's a general unfamiliarity with it."

LITTLE SUPPORT

Japan needed someone to take the lead to boost arbitration, but it didn't come from the government, which has noticeably been less active compared to other Asian venues.

"Obviously with Singapore and Hong Kong, it's very well known that they have had massive government support for arbitration; likewise there's the judiciary in both countries that are very well-versed in arbitration matters and really push to get ahead of the developments in this area," says Benjamin Jolley, a senior associate at Herbert Smith Freehills in Tokyo.

"And although we understand the Japanese government is keen to promote arbitration in Japan, historically arbitration in Japan hasn't had the same level of support that it has had in Singapore and Hong Kong."

"I think likewise, the Japan Commercial Arbitration Association (JCAA) may find it difficult to provide the same level of support in promoting arbitration in Japan as other institutions do internationally," he adds.

Jolley shares the examples of institutions like the International Chamber of Commerce (ICC), Singapore International Arbitration Centre (SIAC) and Hong Kong International Arbitration Centre (HKIAC) as having a bigger marketing budget and are more visible internationally. "We see those institutions regularly in Tokyo marketing to Japanese users," he notes. "As far as I understand, I don't think the JCAA is going out and marketing that much to users of arbitration in countries outside of Japan."

It also didn't help that there was a misconception about the perceived bias towards the Japanese party. "It's less so now, but there used to be a misconception that doing arbitration in Japan would not necessarily be an even playing field," says Oghigian. "There was a series of articles written in the U.S. about how the JCAA are pro-Japanese. That is now pretty much proved to be incorrect."

But there have been a couple of court cases that haven't been pro-arbitration by Japanese courts, he adds. The arbitration community is anticipating the ruling of the first arbitration case taken by the Supreme Court of Japan later this month or early January, which will set to have an impact.

"If it goes against the modern trends of arbitration, I think that's going to put a wet blanket on any kind of international arbitration here," he notes. "There are people that will be justifiably sceptical about whether or not Japan is the right place to do arbitration."

There are also smaller but significant factors that don't help its cause. Language barriers, for one, with English being the language of international business and the common language for international parties, the court decisions around arbitrations in Japan are published only in Japanese – a language really only used in the island country.

"Decisions are not translated freely or made available in English, and there are not as many court judgments on arbitration as there are in Hong Kong and Singapore," says David Gilmore, Herbert Smith Freehills' Tokyo managing partner and dispute resolution head in Japan.

In contrast, South Korea, whose English language skills are of a similar (low) level as its East Asian neighbour's, has done something about it. "I understand that in Korea, for instance, there's a project where the SIDRC translates all relevant arbitration decisions of the Korean courts into English precisely for these reasons, and that would be a positive step to take here as well," notes Gilmore.

Another to add to the list is the suitability and cost of arbitration facilities, which, perhaps less so for clients, are an important factor for practitioners.

"Often in Japan you had to look at the big international hotels, and until recently those hotels haven't always been interested in this sort of business or prepared to let you have facilities 24 hours a day for a week or two," says Gilmore, adding that the relative cost of booking an international hotel in Japan compared to Maxwell Chambers is easily twice as much.

There's also the lack of clarity regarding the rules for arbitration, particularly about which lawyers can represent clients.

In theory, based on what is called a bengoshi law – laws that govern the activities of Japanese lawyers –only Japanese qualified lawyers can charge professional fees for providing legal advice. But at the same time, the gaiben law – the law that governs foreign lawyers, who are most of the arbitration practitioners – says that

> "The Japanese actually settle out of court – they don't like the courts. But if they had to choose, they would choose the Tokyo District Court over going to international arbitration hearing. So the cultural problem is not just arbitration versus court, it's just any kind of dispute – they want to try and settle any kind of dispute." **– Haig Oghigian, Squire Patton Boggs**

foreign lawyers are allowed to appear as counsel in arbitration, says Oghigian.

"It doesn't say anything about appearing as arbitrators, it says appearing as counsel, while the rules of the JCAA says that anyone – you don't even have to be a lawyer – anyone can represent a party at an arbitration. So that kind of clarity is missing. There's a sort of a grey area."

"So as a practical matter – it's not a real issue – but again you have got to be clear," he adds. "You've got to use language that makes it very clear, so clients are risk adverse and if you tell them there may be an issue in Japan, they'll say then why are we talking about Japan? Why don't we just go to Singapore or Hong Kong? So there is that kind of muddiness that I think resulted in people just being risk adverse and saying – 'Why take the chance?'"

All this, from historical to practical reasons, has contributed to the anaemic state of arbitration in Japan, with even homegrown companies not using it there.

"Japanese parties have had good experiences of arbitrations seated overseas at neutral venues. What this has meant is that those sophisticated Japanese companies that are doing all of this international arbitration work and are knowledgeable in the area, they don't see home advantage as something they need to have or particularly benefit from," says Jolley.

This, he adds, has not created a virtuous circle in the sense that if Japanese companies had selected Japan as a seat for their cross-border contracts in the past, it would in effect have led to more arbitrations being seated in the country, which in turn would build up more experience for Japanese practitioners and arbitrators. This would then hopefully result in favourable experiences of arbitration in Japan to parties that then could lead to more parties selecting Japan as a seat in their arbitration agreements, and thus increase the number of arbitrations there further.

"If there's going to be a new, bespoke arbitration facility in Tokyo, that is a game changer for me in terms of removing one of the principle stumbling blocks to really having an efficient, cost effective arbitration in Tokyo."

— David Gilmore, Herbert Smith Freehills

GROUNDS FOR HOPE

There is a cultural change among Japanese companies, as they are finally becoming more aware of arbitration and using it more, albeit reluctantly.

Japanese companies, which traditionally focused their activities in Europe and United States, and very little in other countries, has realised they need to expand and move into the jurisdictions or countries that have the potential for double GDP growth, and those are also the countries that either have a very underdeveloped court system or none at all, notes SPB's Oghigian.

"So reluctantly, not by choice, they are starting to understand and embrace international arbitration because they realise that places like China, India, Southeast Asia, Latin America, former Soviet Union, Africa – you'd be crazy to go to a court, because some of these places don't even have courts," he says. "The Japanese are starting to accept and understand and appreciate why arbitration is so important."

Japan could also be seen as a viable option for those outside of the country. Its civil law background could be a better option for parties from Europe and South America, as well those from Asia that want a more familiar legal system, says HSF's Jolley.

There is also the possibility that Japan could be chosen as a neutral venue for

agreements between parties that come from countries that are further geographically from places like Singapore and Hong Kong, for instance, he adds.

"For example, disputes involving South Korean parties – where they are not successful in securing a South Korean seat for their arbitration – might look to Japan as an alternative neutral venue." Its geographic location, despite being isolated to one side of Asia, with South Korea and the Pacific Ocean as neighbours, could be a selling point.

"Japan does have quite strong trading links and historic ties with the U.S., so maybe it's an area where Japan could have an advantage as an arbitral seat with respect to U.S. companies that are investing into Southeast Asia and looking for that neutral venue and a convenient location," notes Jolley.

"Although Japan is still some distance from the U.S., and there may not be significant added convenience when compared to travelling to some venues in Southeast Asia and Hong Kong, it may be that Japan is a good fit there."

There's also one potential advantage if Japan could unlock it, adds Gilmore. This relates to the amount of international investments carried out by Japanese companies.

"If we do move to a culture where Japanese companies are more prepared to insist on home advantage in arbitration, then that will be a terrific, big prompt towards more arbitration here in Japan, but that will require a change in attitude," he says.

LOOKING FORWARD

There's a lot to look forward to for arbitrators and arbitration practitioners in Japan, like a new bespoke arbitration facility and the 2020 Olympic Games.

Tokyo currently has no top international arbitration facility, but there's now some talk of having one – something hopefully similar to Maxwell Chambers – as early as this month, which will be overseen by Japan's Foreign Ministry, Justice Ministry and Ministry of Economy, Trade and Industry.

If and when that happens, it could be a turning point for practitioners like Gilmore. "If there's going to be a new, bespoke arbitration facility in Tokyo, that is a game changer for me in terms of removing one of the principle stumbling blocks to really having an efficient, cost effective arbitration in Tokyo," he says.

> "Although we understand the Japanese government is keen to promote arbitration in Japan, historically that hasn't had the same level of support that it has had in Singapore and Hong Kong. Likewise, the Japan Commercial Arbitration Association (JCAA) may find it difficult to provide the same level of support." **— Benjamin Jolley, Herbert Smith Freehills**

And of course Tokyo continues to build its profile internationally and with the Olympics in 2020, he adds.

"That will have advantages in terms of improvements in hotel facilities and more widespread use of English – all these things will help," he says.

With a modern arbitration law together with the potential of cases from North Asia and the U.S., there's nothing preventing Tokyo from becoming an arbitration centre, says Oghigian, just that it's starting from a long way back.

"But all these little things, none of them are major, but whether it's cultural or economic or confusion about the rules, those are the things that are blocking or preventing Tokyo from emerging," he says. "It's not competing with Singapore and Hong Kong, but it could have its fair share of Japan based arbitration."

For a country like Japan, it should be aiming high, certainly challenging its neighbouring civil law country South Korea – a longtime rival in many areas. But for Oghigian, that looks unlikely, at least not in the short term.

"I think what will make Korean centres successful is that all the cultural things that I said about the Japanese about not wanting to have disputes, it's not as true for Koreans, and that's where it starts," he says.

"Unless you have a pure, neutral, no bias ability to hold yourself up as Hong Kong used to and Singapore does, I think the only other way you can generate activity is your own country's companies – when they're negotiating commercial agreements, say when we have disputes we want to do arbitration in Japan."

And it's too little too late if it wants to surpass leaders Singapore or Hong Kong, but it can become an effective arbitration centre focused on assisting Japanese companies primarily, says Oghigian.

"If the understanding, the knowledge and the experience of arbitration starts to gets through to Japanese companies, there's no reason why they won't start using Tokyo as an arbitration centre. That ultimately is how Korea started, and that's how Tokyo will start."

"I don't think it's going to become a neutral site like Switzerland is or Singapore is trying to establish itself to be," he continues, "but I think it could have a significant role to play, mostly in attracting Japanese companies to use the centres in Japan as opposed to using Hong Kong or Singapore."

"What it really needs is some dynamism," he adds. "It doesn't have that."

Oghigian shares the example of Kuala Lumpur, which does have this dynamism. "If you said you were going to do arbitration in Kuala Lumpur five years ago, certainly 10 years ago, people would have been surprised," he says. "Now they have made great strides and they're starting to catch up."

So how would Oghigian describe Tokyo's future as an arbitration centre in one word? "Can I use two words?" he asks. "Cautiously optimistic."

HARNEYS

THE FUND FINANCE MARKET IN ASIA AND THE OFFSHORE ELEMENT

Introduction

A capital call facility, also known as a subscription facility, is typically a loan facility made available to a private equity fund secured by (i) the unfunded capital commitments of the fund's limited partners (i.e. its investors), (ii) the general partner of the fund's rights to call capital, receive capital contributions and enforce the limited partners' funding obligations, and (iii) the bank account of the fund into which the limited partners' capital contributions are paid. Such facilities have proven popular as they produce a number of specific advantages for fund borrowers, including:

1. Providing funds with bridge financing for new acquisitions. Without a capital call facility, once a fund has identified an investment it has to serve a capital call notice on its investors and then wait for each individual investor to fund their commitment. This can be both administratively burdensome and time consuming, which is far from ideal for a fund that is looking to finance an acquisition in a short space of time;
2. Minimising disturbance to investors by allowing capital calls to be made periodically rather than each time an investment needs to be financed;
3. Enhancing the fund's internal rate of return by providing leverage during the life of the fund;
4. avoiding the need to return capital contributions to investors if an investment is delayed or does not occur; and
5. Providing credit support for portfolio level acquisitions.

Fund Finance in Asia

The market for capital call facilities in Asia has grown, both in terms of size and sophistication, conjointly with the private equity market in the region. Harneys' lawyers act for many of the leading private equity sponsors and financial institutions involved in fund financing and from our offices in Hong Kong, Shanghai, Singapore and Tokyo have been first-hand witnesses to the strong demand for this product across Asia, particularly from funds with their core investor base in Greater China (China, Hong Kong, Macau and Taiwan), Southeast Asia and Japan. In recent years we have seen a noticeable rise in private equity activity and the growth of global and pan-Asian funds resulting in a corresponding upswing in the uptake of capital call facilities.

Capital call facilities entered into by Asian funds need to be tailored to address the investor and lender expectations in the diverse Asian private equity markets. The tenure of capital call facilities entered into by Asian funds tends to be shorter than equivalent facilities entered into in Europe and North America, which is a reflection of the wariness some Asia based investors have with regard to indebtedness remaining outstanding for an extended period. Although fund sizes are rising across the region, they are generally smaller than in Europe and North America, meaning loan sizes are correspondingly reduced as lenders typically offer a credit facility that is around 20% of the aggregate capital commitment of investors. At present, capital call facilities in Asia are typically bilateral facilities provided by a relationship bank as part of the package of services it offers to the private equity client.

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As the Asian fund finance market grows, new players are being drawn in by the comparatively high yield for subscription facilities and historically low default rates. Western banks in particular (which suffered in recent years from the push by Chinese banks into their traditional markets), on sensing the opportunity that fund financing in Asia presents, have been expanding their capital call lending platforms significantly. Recent increases in fund sizes have resulted in a matching requirement for larger capital call facilities that can no longer be supported bilaterally, which presents an opportunity for new market entrants to participate in club and syndicated deals.

A facility with multiple lenders imposes additional complexities such as the need to appoint a security agent to hold the security interest on behalf of the finance parties. Not all jurisdictions have the practice of granting security interest to a security agent, which can be problematic. However such concerns are alleviated by the formation of the fund in established common law jurisdictions such as the Cayman Islands.

The Offshore Element

Cayman Islands exempted limited partnerships are by far the most common fund vehicle used in Asia. They are the default choice for the market due to a number of crucial factors, in particular:

1. Cayman Islands law relating to investment funds is highly developed and responsive to the needs of the funds community. In broader terms, the Cayman Islands benefits from a sophisticated and stable legal regime based on English common law, with respected and efficient courts. Of particular relevance, the 2014 revision of the Exempted Limited Partnership Law contained a clarification that the right to call capital constitutes partnership property which is held by the general partner on trust for the limited partners. Therefore, it is the exempted limited partnerships rather than the general partner in its own capacity that grants the security over the unfunded capital commitments and the rights to make capital calls. Notwithstanding this, the general partner will still typically be required to enter into the security assignment agreement in its own right to give certain representations, undertakings, covenants and a power of attorney. Investors take additional comfort from the court of final appeal being the Judicial Committee of the Privy Council, which provides legal certainty to all stakeholders; and
2. From a fundraising perspective, it is important that investors are confident that the structure they are investing into has been established in a stable jurisdiction that has been tried, tested and internationally recognised. Given there are a large number of funds chasing a limited pool of capital, it would be a brave decision for a fund to set up its capital raising vehicle in an untested jurisdiction. To do so would result in an additional consideration for investors and may require them to undertake due diligence of the proposed jurisdiction, which would be highly undesirable and detract from the message the fund wishes to deliver about its investment strategy. After years of dominating the global investment fund market, investors and funds alike are comfortable with the choice of Cayman Islands exempted limited partnerships and are familiar with the regulatory and tax treatment of these vehicles in their home jurisdictions.

The Role of the Offshore Lawyer

As offshore counsel on a fund finance transaction, our job is to address any Cayman Islands legal issues emanating from the structure, transac-

tion and partnership documentation. Our primary tasks include:

1. Due diligence – Offshore counsel will review the partnership documents of the fund and the constitutional documents of the general partner to the fund to ensure that the borrowing contemplated under the facility agreement is permitted and, in particular, that security can be granted over the right to call capital from the limited partners. The increase in the use of capital call facilities means most well-drafted partnership agreements will now include specific provisions permitting the fund to enter into capital call facilities and to grant the relevant security interests. Offshore counsel will also undertake due diligence of all side letters between the limited partners and the general partner as these may contain specific provisions that will impact the lenders' credit analysis of the limited partners' interest;
2. Review of finance documentation – The loan agreement, security documents and any ancillary agreements will each be reviewed from a Cayman Islands law perspective by offshore counsel. Assuming a standard structure and typical documentation, it is unlikely that comments from offshore counsel will be overly intrusive;
3. Preparing of security document - Offshore counsel will prepare the security agreement over the rights of the general partner to call capital from the limited partner as this should be a Cayman Islands law governed document. In order to secure the priority of the lender's security interest over capital call rights, it is necessary to notify the limited partners that those rights have been assigned as part of the security package;
4. Enforcement Memorandum – If required by the lender, offshore counsel will prepare a memorandum detailing the necessary steps required to enforce the security package; and
5. Legal Opinion – In addition to the standard Cayman Islands legal opinion covering capacity, formation and enforceability, lenders to a capital call financing will require offshore counsel to opine that a valid security interest has been created over the capital call rights and that the secured party will have recourse to those assets in priority to any third party. It is also common for lenders to require an opinion that the obligations of the fund under the transaction documents do not conflict with the terms of the side letters.

The Future for Capital Call Facilities

The Asian private equity market will continue to expand and require leveraged returns to match its US and European counterparts, and with that so will the usage of capital call facilities. Market expectation is that the fund finance market will continue to diversify in order to better meet the needs of the private equity community, with products such as net asset value facilities (which take their credit support from the assets of the fund rather than its investors) hybrid facilities (which look to both fund assets and investors for credit support), FX lines and management fee credit facilities becoming more prevalent as regional sophistication develops. To be successful funds, lenders and investors (and their lawyers) will need to be flexible to these changes.

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MAPLES

THE RISE AND RISE OF SEGREGATED PORTFOLIO COMPANIES

Globally, the investment management industry has long-prized the ability to ring-fence assets and liabilities associated with different investment strategies within a single legal entity. Many jurisdictions have introduced laws to achieve this under names such as "protected cells" or "segregated accounts". However, with the exception of Japan, where umbrella trusts are widely used, the most common single vehicle in use in Asia to facilitate the segregation of assets and liabilities is the Cayman Islands segregated portfolio company ("**SPC**").

SPCs have recently seen a massive increase in popularity. Although introduced in 1998, over 54% of all SPCs in existence have been registered since 2014 and it is estimated that, by the end of 2017, over 20% of all SPCs in existence will have been incorporated in 2017. The market appears to have woken up to various perceived advantages of using SPCs.

However, although many are holding the SPC out as the "7 Iron of legal structures" which can be used to play almost any shot, these vehicles are by no means a, "one size fits all" solution. Furthermore, although SPCs can solve a number of practical issues for asset managers, there are significant legal and operational risks with their use which can lead to results that are distinctly below par.

Teeing off - what is an SPC?

An SPC is a company with limited liability that is permitted to create one or more separate pools of assets and related liabilities ("SPs" – often referred to as "sub-funds"). Cayman Islands law recognises and gives effect to the segregation of: (a) the assets and liabilities of the SPC held on behalf of one SP from; (b) the assets and liabilities of the SPC held on behalf of any other SP; or (c) the assets and liabilities of the SPC which are not held on behalf of any SP (called the general assets of the SPC) in a manner that is enforceable by virtue of the Companies Law of the Cayman Islands ("**Cayman Statutory Segregation**"). Compare this with a typical company where assets can be accounted for as an internal matter as attributable to the holders of one or more specified classes of shares, but which

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assets are available to satisfy the claims of all creditors of the company.

Importantly, Cayman Statutory Segregation does not create any new legal entity. The SPC is and remains a single legal entity and any segregated portfolio of, or within, an SPC does not constitute a legal entity separate from the SPC itself.

Advantages of SPCs

The ability to ring-fence assets and liabilities between portfolios in a single legal entity gives rise to a number of advantages:

(a) operating one legal entity should, theoretically, result in costs that are significantly lower than operating multiple companies ("**1 Entity Benefit**");
(b) forming a single legal entity can mean that "Know Your Customer" documents and on-boarding procedures only need to be undertaken once with each service provider, rather than on separate occasions every time a new entity is formed ("**KYC Benefit**");
(c) because many institutions (including, notably, Chinese state-owned enterprises) require completion of internal approval processes and senior management sign-off to form new entities, and because setting up and registering new entities can be a time-consuming process, the ability to house various portfolios within a single company can dramatically simplify and speed up the launch of new products ("**Set up Time Benefit**").

Hazards with SPCs

Guaranteed Segregation?

The segregation of assets and liabilities between the SPs in an SPC is recognised as a matter of Cayman Islands law however it is not known whether such segregation would be respected by other jurisdictions.

The assets of an SPC may be subject to claims in other jurisdictions which may not recognise and give effect to Cayman Statutory Segregation. As such, there is a risk that, if an action were brought in a non-Cayman court, that court could make orders that do not respect Cayman Statutory Segregation and which allow assets of one SP to be applied to meet the liabilities of another SP whose assets are exhausted, in effect overriding Cayman Statutory Segregation.

SPC execution risk

SPCs also suffer from a specific form of execution risk. For all SPCs, agreements, contracts or arrangements that are intended to be binding on a particular SP must be executed in accordance with certain formalities under the Companies Law of the Cayman Islands. If these formalities are not complied with, the Companies Law sets out a compulsory notification scheme under which it is possible for the attribution of the relevant asset to the relevant SP to be challenged which may effectively nullify one of the key advantages of using an SPC in the first place.

SPC for closed-ended funds

The last 12 months has seen a dramatic rise in the number of SPCs that are being used for private equity ("**PE**"), real estate and venture capital ("**VC**") funds (in place of the more traditional exempted limited partnership ("**ELP**") and more recent limited liability company ("**LLC**") structures).

Although SPCs are not unsuitable for investments in illiquid assets, real estate or

privately held companies, there are a number of elements of traditional PE and VC funds that can create complications where SPCs are used.

For example, typical PE or VC funds are likely to provide for some or all of the following features in their constitutional documents ("**Typical PE Mechanisms**"):

(a) capital commitment and call mechanisms;
(b) carried interest waterfalls (which typically include a clawback);
(c) the ability to excuse or exclude investors from certain investments;
(d) the ability to impose penalties on defaulting investors;
(e) make interest compensation payable by subsequent closing investors;
(f) give preferred treatment to certain investors in relation to co-investments, advisory board positions, and information, for example.

It is relatively simple to provide for a commitment and call mechanism in a corporate subscription agreement. However, providing (a) a carry waterfall with a clawback; (b) a mechanism where only certain investors are excused or excluded from investments; and (c) interest compensation mechanics, will require that the articles of association of the SPC include carefully-crafted capital account and other bespoke drafting that is typical of an ELP or LLC. Such mechanisms also create complications because depending on how they operate in a particular case, they can be inconsistent with the fiduciary duty to treat all shareholders in a particular class of shares equally. Dealing with these issues adds significantly to the legal costs of formation, and will likely have a large impact on the fees paid to the fund administrator.

Given these complexities, there have been examples where attempts to introduce Typical PE Mechanisms to an SPC have ultimately been extremely costly, unsuccessful, or even incorrect with the shortcomings only being discovered long after the fund has launched.

More dangerously, excuse provisions and preferential investor treatment can leave the directors of an SPC at risk of breach of their fiduciary duty to act in the interests of the fund as a whole. This risk can be dealt with by appropriate drafting in an ELP or LLC constituent documents under specific rules relating to those vehicles in their governing statutes. However, the Cayman statutory carve-outs in respect of fiduciary duties are not available to the directors of companies, including SPCs.

Critically, the issues discussed above mean that some sophisticated PE, VC and real estate investors (particularly those in Europe and the US) have serious reservations about investing in a PE fund that is structured as an SPC. Because of this, choosing an SPC can adversely impact the success of the sponsor's fundraising.

SPC alternatives

Given the complexities outlined above, there is a question as to whether an SPC will be the best vehicle in many cases, or whether a club better suited to the manager's particular lie on the course (such as an LLC or ELP) should be chosen.

Although neither an ELP nor a LLC benefits from Cayman Statutory Segregation, it is possible to entrench contractual segregation of assets, in both LLCs and ELPs. Although such segregation is not protected by statute, particularly in the context of a PE or VC fund, adequately-drafted limited recourse provisions are regarded by many managers and lawyers as giving a comparable level of comfort as that afforded to an investor in an SPC.

Furthermore, it is significantly simpler (and therefore typically cheaper) to provide for, and implement, the Typical PE Mechanisms in an LLC or ELP.

It is also possible to form an LLC which largely achieves the 1 Entity Benefit, KYC Benefit and Set up Timing Benefit referred to above by appropriate drafting of the fund documents.

Finally, there are various examples in the market where an LLC has been deployed with multiple portfolios making it "scalable" and in effect allowing the LLC to function like an SPC, without the complications referred to above.

Using an LLC may even be cheaper than using an SPC

The Cayman Islands government fees involved in registering an SPC are approximately US$1,700 plus around US$4,600 if registered as a Mutual Fund with the Cayman Islands Monetary Authority ("**CIMA**"). CIMA also receives another US$300 for each additional SPC. A SPC with two portfolios therefore requires payment of US$6,600 in government fees. After set up, CIMA and government fees for running an SPC would be around US$7,800 per year.

By contrast, an LLC with 2 portfolios would result in government set up and CIMA fees of around US$5,900 with annual maintenance costs of around $5,300.

It should be noted that, in our experience, administrators and auditors alike will charge the same fees for their services to an SPC with 2 portfolios as they would for providing the same services to 2 separate funds.

As such, from a cost perspective, the perceived 1 Entity Benefit can be a misconception.

Concluding remarks

There are a number of advantages to using an SPC in the investment funds industry – chief among which is Cayman Statutory Segregation. Moreover, as these vehicles become more common, investor acceptance of the structure will also, undoubtedly increase.

However, there are also a number of complications with using SPCs, especially in the PE and VC space. Although these problems can largely be solved with appropriate drafting, and proper legal advice, the issues should be considered and weighed in detail, having regard to the specific characteristics of the proposed fund, as well as the advantages of possible alternative structures prior to putting pen to paper. So should managers be reaching for the SPC "7 iron", digging themselves out of a bunker with a wedge, or going long with a driver? We recommend asking a good caddy before pulling a club from the bag.

About the Author

James is a Partner in the investment funds team of Maples and Calder (Hong Kong) LLP. James has many years of experience across a broad spectrum of legal issues affecting the investment funds industry. He specialises in private equity and hedge fund formation. He also works extensively with private equity and hedge fund managers, and their onshore counsel, advising on structuring, ongoing maintenance and complex transactional issues, as well as advising fund service providers and investors.

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SYCIP TAKES BIGGEST PRIZE AT

ASIAN LEGAL BUSINESS

PHILIPPINE LAW AWARDS 2017

Sycip Salazar Hernandez & Gatmaitan was crowned as the Philippine Law Firm of the Year at the 2017 edition of the ALB Philippine Law Awards, snapping up the biggest prize of the yearly event. The firm also won in the Arbitration Law Firm of the Year, Banking and Financial Services Law Firm of the Year, and Construction and Real Estate Law Firm of the Year categories, while one of its partners, Emmanuel M. Lombos, was named as Dispute Resolution Lawyer of the Year.

Held on October 6 at the Makati Shangri-La, the PLA – now on its second year – is a tribute to outstanding private practitioners and in-house teams that have significantly contributed to the country's legal sector. The awarding ceremony was graced by Guest of Honour Perry L. Pe, the incoming president of the Inter-Pacific Bar Association (IPBA).

Angara Abello Concepcion Regala & Cruz (ACCRALAW) also picked up four awards: Labor and Employment Law Firm of the Year and Litigation Law Firm of the Year as well as Dealmaker of the Year and Managing Partner of the Year

"We always strive to deliver excellent legal services. The awards affirm our success in that goal."
- Hector M. de Leon Jr., SyCip Salazar Hernandez & Gatmaitan

PHILIPPINE LAW FIRM OF THE YEAR - Sycip Salazar Hernandez & Gatmaitan
L-R: *Vicente D. Gerochi IV, Simeon Ken R. Ferrer, Marievic G. Ramos-Añonuevo, Hector M. De Leon, Jr.; Melyjane G. Bertillo-Ancheta; Aaron Roi B. Riturban, Sycip Salazar Hernandez & Gatmaitan*

"The recognition is a pleasant surprise, given the calibre of the field. I am deeply honoured with this recognition and I share this award with my AIG Global Legal Compliance, Regulatory & Government Affairs Team."
- Geronimo Randy Recinto, AIG Shared Services (Asia)

IN-HOUSE LAWYER OF THE YEAR - AIG
L-R: *Geronimo Randy L. Recinto, AIG; Valerie Feria Amante, Jollibee Foods Corp (Presenter)*

"We are thankful for the recognition given to ACCRALAW and its partners. This should spur all of us in the firm to continue rendering the prompt and quality legal services we have committed to deliver to our clients."
- Emerico O. De Guzman, Angara Abello Concepcion Regala & Cruz

MANAGING PARTNER OF THE YEAR - Angara Abello Concepcion Regala & Cruz
L-R: *Emerico O. De Guzman, Angara Abello Concepcion Regala & Cruz; Abdiel Dan Elijah S. Fajardo, Integrated Bar of the Philippines (Presenter)*

"We are very grateful and pleased that we have been recognized as the Immigration Law Firm of the Year. This award further highlights our firm's endeavor to go the extra mile for our clients."
- Miguel Galvez, Quisumbing Torres

IMMIGRATION LAW FIRM OF THE YEAR - Quisumbing Torres
L-R: *Grace Ann Lazaro, Anna Carmi Calsado-Amoroso, Quisumbing Torres; Michael Dana Montero, Convergys Philippines Inc (Presenter)*

PHILIPPINE DEAL FIRM OF THE YEAR - Romulo Mabanta Buenaventura Sayoc & De Los Angeles
L-R: *Nastasha Dominique G. Ortiz Luis, Romulo Mabanta Buenaventura Sayoc & De Los Angeles; Marianne Malate-Guerrero, United Coconut Planters Bank (Presenter); Claudia Gabriella R. Squillantini, Romulo Mabanta Buenaventura Sayoc & De Los Angeles*

"It's a real pleasure to be able to work on cross-border deals related to this vibrant market. To win it two years in a row is testament to the great support we get from our clients and friendly local law firms in the Philippines. It's these relationships that allow us to go from strength to strength."
- Allen & Overy

INTERNATIONAL DEAL FIRM OF THE YEAR - Allen & Overy
L-R: *Eleanor Lucas Roque, Punongbayan & Araullo (Presenter); Giancarlo B. Sambalido, Maricef Valderrama, Allen & Overy*

PHILIPPINE DEAL OF THE YEAR - AboitizPower's Acquisition of Stake in GNPower Plants
L-R: *Jaime Renato B. Gatmaytan, Gatmaytan Yap Patacsil Gutierrez & Protacio; Norman Brian Yap, Doris Sharry Salazar, Aboitiz Equity Ventures; Monalisa C. Dimalanta, Puyat Jacinto & Santos; Gmeleen Tomboc, Sidley Austin; Ma. Elizabeth E. Peralta-Loriega, Puno & Puno; Roel A. Refran, Philippine Stock Exchange (Presenter)*

GUEST OF HONOUR
Perry L. Pe, President-Elect, Inter-Pacific Bar Association

"This accolade affirms the Aboitiz Group's time-honoured core values of integrity, teamwork, innovation, and responsibility, which drive us in fulfilling our brand promise of advancing business and communities."
- Aboitiz Equity Ventures

PHILIPPINE IN-HOUSE TEAM OF THE YEAR - Aboitiz Equity Ventures
L-R: *Erwin R. Orocio, Pilipinas Shell Petroleum Corp (Presenter); Doris Sharry Salazar, Norman Brian Yap, Aboitiz Equity Ventures*

for Francisco Ed. Lim and Emerico O. De Guzman, respectively.

In addition, Allen & Overy emerged as the International Deal Firm of the Year for a second year in a row.

On the in-house side, Aboitiz Equity Ventures was declared as the Philippine In-House Team of the Year while Ayala Group, Sun Life of Canada (Philippines) and Accenture were also lauded.

In the individual categories, the Young Lawyer of the Year category had two winners: Katrina V. Doble from Villaraza & Angangco and Cyril Alfred S. Castro from Lazada E-Services Philippines. Meanwhile, Regina Jacinto-Barrientos from Puyat Jacinto & Santos was hailed as the Woman Lawyer of the Year.

The full list of winners can be found at www.legalbusinessonline.com.

INDONESIA LAW FIRM OF THE YEAR - Hadiputranto, Hadinoto & Partners
L-R: *Mahardikha Sardjana, Reggy Firmansyah, Daniel Pardede, Cindy Riswantyo, Wiku Anindito, Adhika Paramartha Wiyoso, Ahmad Zakaria, Helmy Dwi Handoko, Hadiputranto, Hadinoto & Partners*

LGS, AHP, HHP BAG KEY WINS AT

ASIAN LEGAL BUSINESS INDONESIA LAW AWARDS 2017

INDONESIA DEAL OF THE YEAR - GO-JEK Fundraising Round
L-R: *Indira Yustikania, Assegaf Hamzah & Partners; Natasha Djamin, Rizaldy Tauhid, Oentung Suria & Partners; Yolanda Hutapea, Widyawan & Partners; Citta Prasidha, Becton Dickinson (Presenter); Dion Alfadya, Ginting & Reksodiputro in association with Allen & Overy; Daniel Pardede, Hadiputranto, Hadinoto & Partners*

Mohamed Idwan "Kiki" Ganie of Lubis Ganie Surowidjojo (LGS) was named as Managing Partner of the Year, and Ahmad Fikri Assegaf of Assegaf Hamzah & Partners was adjudged Dealmaker of the Year at the ALB Indonesia Law Awards 2017, where Hadiputranto, Hadinoto & Partners (HHP) picked up the key award for Indonesia Law Firm of the Year.

"All of us at LGS are thrilled, humbled and grateful that our Dr. Kiki Ganie has been named Managing Partner of the Year. Under his management we have seen tremendous growth and have become the only Indonesian law firm with international standard ISO 9001 and 14001 accreditations for quality law firm management and environmental quality management systems," said a statement from LGS.

"I was very honoured to receive the award. This is dedicated to our firm and team who have been very supportive throughout the year. Nowadays, women play an important role in boosting and growing most of the legal practice areas."
- Lia Alizia, Makarim & Taira S.

WOMAN LAWYER OF THE YEAR -
Ira A. Eddymurthy, SSEK Legal Consultants and Lia Alizia, Makarim & Taira S.
L-R: *Lia Alizia, Makarim & Taira S.; Fitriana Mahiddin (for Ira A. Eddymurthy), SSEK Legal Consultants; Maria Irma Yunita Ardhiyanti, Telkomtelstra (Presenter)*

HHP LAW FIRM CELEBRATES SUCCESS AT THE ALB INDONESIA LAW AWARDS 2017

HHP Law Firm.

Hadiputranto, Hadinoto & Partners (HHP Law Firm) showed its strength in the legal market by winning a total of 10 awards at the Asian Legal Business (ALB) Indonesia Law Awards 2017, held at Hotel Kempinski Indonesia in Jakarta, on Thursday, 26 October 2017. Out of the 10 awards, six were Firm category awards namely Indonesia Deal Firm of the Year, Intellectual Property Law Firm of the Year, Real Estate Law Firm of the Year, Projects, Energy and Infrastructure Law Firm of the Year, Technology, Media and Telecommunications Law Firm of the Year, and, for the fourth year running, the prestigious "Indonesia Law Firm of the Year" award.

In Deal categories, HHP Law Firm was recognized for its role in GOJEK Fundraising Round, as it was selected as the winner for the "M&A Deal of the Year" and "Indonesia Deal of the Year" awards. This year also marked another milestone for the firm as two of our partners have been selected as winners in Individual categories. Andi Kadir took home the Dispute Resolution Lawyer of the Year award, while Iqbal Darmawan, our Capital Market partner, was chosen as Young Lawyer of the Year.

Timur Sukirno
Managing Partner
timur.sukirno@bakernet.com

Timur Sukirno, HHP Law Firm Managing Partner, expressed his appreciation for these accolades and applauded those driving the success of the firm in setting higher standards and breaking new barriers.

"We are honored to have won these awards, especially the Indonesia Law Firm of the Year award for four consecutive years. This is truly a testament of the firm's strength and our commitment to maintaining the highest level of professionalism in everything that we do. We are extremely proud to be recognized for the outstanding work that we have done for our clients," Timur said.

Hadiputranto, Hadinoto & Partners (HHP Law Firm) was established in 1989, and now has more than 100 legal consultants - including 16 partners and four foreign legal consultants - with more than 300 employees in total. As a member of Baker & McKenzie International, HHP Law Firm frequently collaborates with the Firm's more than 70 other member firms around the world to deliver seamlessly integrated solutions across borders and practices.

Hadiputranto, Hadinoto & Partners
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F: (62) 21 2960 8999
W: www. hhp.co.id

INTERNATIONAL DEAL FIRM OF THE YEAR - Linklaters Singapore
L-R: *Nathalie Hobbs, Linklaters Singapore; Putu Dewika Angganingrum, PT Danareksa Sekuritas (Presenter)*

DISPUTE RESOLUTION BOUTIQUE LAW FIRM OF THE YEAR - Budidjaja International Lawyers
L-R: *Juni Dani, Budidjaja International Lawyers; Arif Pradana, PT Siemens Indonesia (Presenter)*

ENERGY AND RESOURCES IN-HOUSE TEAM OF THE YEAR - Toba Bara Sejahtra
L-R: *Bima Sinung, Toba Bara Sejahtra; Natasha Nababan, ExxonMobil Indonesia (Presenter)*

ARBITRATION LAW FIRM OF THE YEAR - Hiswara Bunjamin & Tandjung in association with Herbert Smith Freehills
L-R: *Narendra Adiyasa, Hiswara Bunjamin & Tandjung in association with Herbert Smith Freehills; Handa Abidin, President University (Presenter)*

The other individual winners included Lia Alizia of Makarim & Taira S. and Ira A. Eddymurthy of SSEK Legal Consultants, who shared the Woman Lawyer of the Year award; Deny Setiawan of AECOM Indonesia, who won the Lubis Ganie Surowidjojo Award In-House Lawyer of the Year, and Iqbal Darmawan of HHP, who was named as the Young Lawyer of the Year. "I was very honoured to receive the award. This is dedicated to our firm and team who have been very supportive throughout the year. Nowadays, women play an important role in boosting and growing most of the legal practice areas," said Alizia.

HHP in fact had a number of wins at ALB's annual Indonesia event, which was held on October 26 at the Hotel Indonesia

"We are delighted that the firm's commitment and hard work for providing the best legal services for domestic and international businesses has been recognized as Maritime Law Firm of the Year, Restructuring and Insolvency Law Firm of the Year, and for the Project Finance Deal of the Year. HPRP prides itself on its profile and we look forward to maintaining such a strong presence and quality of work."
- Constant M. Ponggawa, Hanafiah Ponggawa & Partners

MARITIME LAW FIRM OF THE YEAR - Hanafiah Ponggawa & Partners
L-R: *Chadri Jurnalis, Andre Rahadian, Hanafiah Ponggawa & Partners; Ranajit Dam, Thomson Reuters (Presenter)*

CONSTRUCTION AND REAL ESTATE IN-HOUSE TEAM OF THE YEAR - CFLD Indonesia
Bobby Noer Rahman, CFLD Indonesia

TECHNOLOGY, MEDIA AND TELECOMMUNICATIONS IN-HOUSE TEAM OF THE YEAR - Indosat Ooredoo
Gilang Hermawan, Indosat Ooredoo

"All of us at LGS are thrilled, humbled and grateful that our Dr. Kiki Ganie has been named Managing Partner of the Year. Under his management we have seen tremendous growth and have become the only Indonesian law firm with international standard ISO 9001 and 14001 accreditations for quality law firm management and environmental quality management systems."
- Lubis Ganie Surowidjojo

MANAGING PARTNER OF THE YEAR - Mohamed Idwan Ganie - Lubis Ganie Surowidjojo
L-R: *Yudhistira Setiawan, Indonesian Corporate Counsel Association (Presenter); Ahmad Jamal Assegaf (for Mohamed Idwan Ganie), Lubis Ganie Surowidjojo*

DEALMAKER OF THE YEAR - Ahmad Fikri Assegaf, Assegaf Hamzah & Partners
L-R: *Mohammad Renaldi Zulkarnain (for Ahmad Fikri Assegaf), Assegaf Hamzah & Partners; Uliya Ariani, PT HSBC Indonesia (Presenter)*

LUBIS GANIE SUROWIDJOJO AWARD IN-HOUSE LAWYER OF THE YEAR - Deny Setiawan - AECOM Indonesia
L-R: *Deny Setiawan, AECOM Indonesia; Abdul Haris Muhammad Rum, Lubis Ganie Surowidjojo (Presenter)*

"It is a great honor for us to receive the third ALB's Indonesia Law Awards in our 2nd year of establishment. Last year we were awarded with the Rising Firm of the Year and this year the Rising Firm of the Year still with us with an addition of the Transactional Boutique Firm of the Year. For us the awards simply show great support and appreciation from clients, friends and colleagues, and for that we feel so blessed and want to say thank you to everyone."
- David I. Siahaan, Siahaan Irdamis Andarumi & Rekan

RISING LAW FIRM OF THE YEAR - Siahaan Irdamis Andarumi & Rekan
L-R: *David Siahaan, Siahaan Irdamis Andarumi & Rekan; Kartika Ayu Sardjana, Traveloka (Presenter)*

Kempinski Jakarta. Its accolades included Intellectual Property Law Firm of the Year, Projects, Energy and Infrastructure Law Firm of the Year, and Technology, Media and Telecommunications Law Firm of the Year.

On the disputes side, Hiswara Bunjamin & Tandjung won both Arbitration Law Firm of the Year and Litigation Law Firm of the Year. Hanafiah Ponggawa & Partners was named Restructuring and Insolvency Law Firm of the Year as well as the Maritime Law Firm of the Year, while Siahaan Irdamis Andarumi & Rekan was adjudged both Rising Law Firm of the Year and Transactional Boutique Law Firm of the Year.

The full list of winners can be found at www.legalbusinessonline.com.

BDO AWARD INDONESIA IN-HOUSE TEAM OF THE YEAR - AIA Financial
L-R: *Agustinus Nicholas Tobing, Ronaldo Iskandar Putra, Rista Qatrini Manurung, AIA Financial; Yudhi Prasetyo, BDO Konsultan Indonesia (Presenter); Fitri Estiwardani, AIA Financial*

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INNOVATION IN LAW FIRMS: IT'S NOT JUST TECH

BY PATRICK DIDOMENICO

"Innovation" is a popular buzzword for all industries these days, and the legal industry is no exception. Yet with all the hype about innovation, we seem to have developed some misconceptions about it. One such misconception is that innovation is always about technology.

Ask most people to name something innovative, and they'll usually refer to some technology, such as Apple's latest iPhone, SpaceX's Hyperloop, or (inevitably) artificial intelligence. Rarely will anyone, including lawyers, mention a new legal service delivery model, let alone anything related to the legal industry. This association between technology and innovation is based on a couple of things. First, advances in technology do, by their nature, tend to be innovative. And second, people mistakenly equate the idea of innovation with things that are cool or exciting.

What is innovation really about?

Fundamentally innovation is about newness and originality. In a business context, some stress a more strategic view of innovation and see it as "the creation and capture of new value in new ways" in addition to the "successful introduction of new product, service, business model or process". So, while innovations can (and often do) involve technology, it is not a fundamental component.

It's also important to remember that innovation is a means to an end and not an end itself. Businesses, including law firms, should seek to innovate because they believe that introducing something new, or coming up with fresh ideas, methods, or processes will lead to improved business — usually in the form of growing revenues and profits. Some, in the legal field and elsewhere, suffer from "shiny object syndrome" and pursue the cool new thing without fully understanding how it will help their business and actually result in a return on investment. Just because something is innovative doesn't mean that it's right for your business.

Where does innovation come from?

Another misconception about innovation is that it only comes from a few select people who are inherently innovative. In truth, innovative ideas come from many sources; thus, it is important to embrace diversity of perspective and seek out multiple points of view when seeking to develop innovative ideas.

The most innovative companies, like Google and Amazon, for example, seek ideas from all corners of their organizations. One of the best examples is Google's famed "20% time", which encouraged employees to spend one day a week working on side projects that are outside the scope of their normal duties. Key Google products, like Gmail and AdSense grew out of this program.

Seek the voice of the client

Not surprisingly, one of the best sources of innovative ideas comes from your clients. Listening to the "voice of the client" is the best way to know and understand what they need. It may, in fact, turn out that your client needs something that your firm already provides, but that the client just wasn't aware of — no innovation required.

Seeking the voice of the client also gives your lawyers and your business development team a proactive reason to engage with them. What client wouldn't love to hear that their attorney wants to set aside some time to listen to their needs? When you meet with clients, it would be a good idea to keep a few sample questions ready that might get clients thinking about how you can innovate on their behalf:

- *What are you biggest complaints about law firms, in general, and about our firm, in particular?*
- *What are your biggest challenges or pain points when it comes to supporting your business? How can we help alleviate those pain points?*
- *What services do we not provide that we should provide?*
- *What does innovation mean to you in general, and as it relates to legal service delivery?*

The answers might focus on technology-based solutions, but more often than not, you'll likely find that any technology component is simply incidental to the underlying needs, such as improved communication, price predictability or matter management.

A version of this article first appeared on the Thomson Reuters Legal Executive Institute website www.legalexecutiveinstitute.com.

About the author: *Patrick DiDomenico is the Chief Knowledge Officer at Ogletree Deakins, and he is responsible for the firm's knowledge management infrastructure and strategic direction. In his role, DiDomenico oversees the Knowledge Management (KM) Department, which includes KM client solutions, KM firm solutions, KM Counsel (practice support lawyers), legal research services, legal project management, portfolio engagements, and other innovative functions.*

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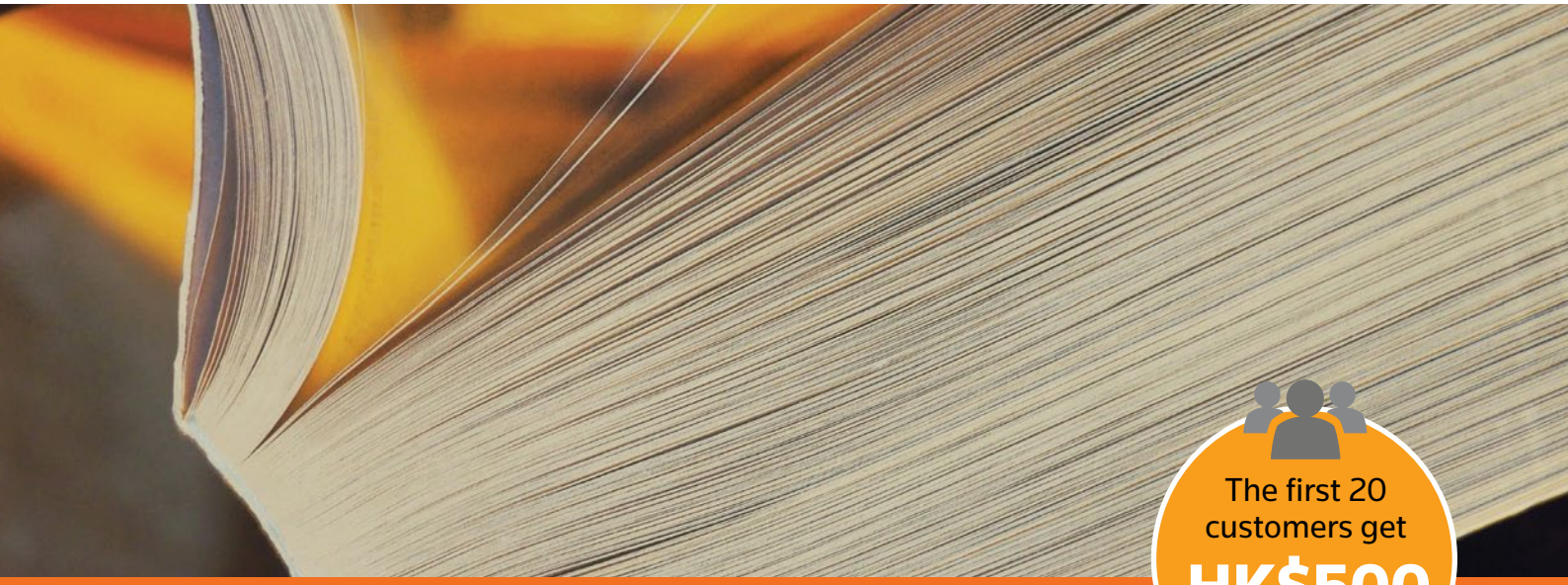

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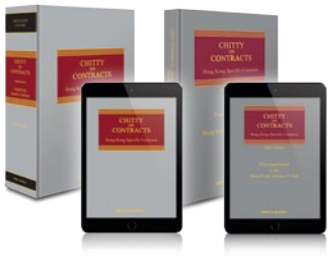

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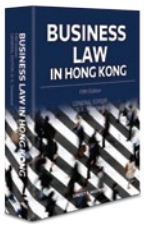

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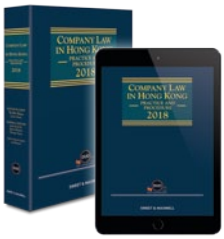

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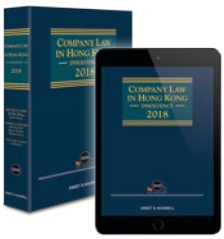

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