

ASIAN LEGAL BUSINESS

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F O R T Y

**CUTTING
EDGE**
Hong Kong's
arbitration
centres
battle in a
tough market

U N D E R

**BVI
UPDATE**
The latest
news on
litigation,
beneficial
ownership

**NEW
WORLD**
Can law firm
networks be
the future of
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services?

F O R T Y

**OUT
TO SEA**
More
disputes,
more work
for SE Asia's
lawyers

**WHEELING
AND DEALING**
Nissan's lean
and mean
Japan legal team

PRESENTING THE CLASS OF 2017



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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A tax officer (R) gives a number to a man queueing for tax amnesty at the country's tax headquarters in Jakarta, Indonesia September 30, 2016. REUTERS/Beawiharta

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The Class of 2017**
In its third annual list, ALB brings you 40 outstanding legal professionals in the region who are under the age of 40. These lawyers have worked on significant deals and disputes in the past year and have earned accolades from their peers, superiors and clients.

BY RAJ GUNASHEKAR

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Lawyers in Southeast Asia are increasingly turning their attention to disputes as commercial arbitration becomes more popular and governments in the region step up enforcement actions.

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FROM THE EDITOR



RANAJIT DAM
Managing Editor,
Asian Legal Business
Thomson Reuters

Look to the future. The ALB Asia 40 Under 40 has become one of our most popular annual features ever since we launched it two years ago. And this year can be described a record-setting one, as we attracted more than 250 entries. This is no average list, either: 40 Under 40 offers a glimpse into the future of Asia's legal industry and underscores the role that younger lawyers will play going forward.

This is particularly true as the legal industry moves into a future that lacks the certainties of its stable, prosperous past. With the rise of innovative thinking, courageous entrepreneurship, and fast-evolving technology, the market is being disrupted like never before. The lawyer of the future will be an internet native – far more at ease with the ins and outs of technology than previous generations ever were – and will be able to harness the forces of disruption much better than many firms are able to right now. So the gloomy cloud hovering over the industry will no doubt lift, and it is the younger lawyers who will shine the light.

What can law firms do now to future-proof themselves? For starters, they will need to acknowledge and act on the fact that the new generation is likely to think and work differently. And accordingly, the traditional ways of firms may not apply to them for much longer. As such, flexibility is paramount, and firms also need to go the extra mile to help create more inclusive, more engaging workplaces that allow lawyers to balance their family and career as well as their passions and pursuits. But most importantly, they need to encourage an environment that cultivates new ideas and fearless risk-taking, rewarding those who are able to stick their neck out for what they believe in. The future, eventually, will belong to the bold.

ASIAN LEGAL BUSINESS

HEAD OF LEGAL MEDIA BUSINESS, ASEAN AND NORTH ASIA

Amantha Chia
amantha.chia@thomsonreuters.com

MANAGING EDITOR

Ranajit Dam
ranajit.dam@thomsonreuters.com

NORTH ASIA JOURNALIST

John Kang
john.kang@thomsonreuters.com

ASSOCIATE EDITORS

Eileen Ang
eileen.ang@thomsonreuters.com

Raj Gunashekar
raj.gunashekar@thomsonreuters.com

SENIOR DESIGNER

John Agra
john.agra@thomsonreuters.com

TRAFFIC / CIRCULATION MANAGER

Rozidah Jambari
rozidah.jambari@thomsonreuters.com

SALES MANAGERS

Amy Sim
Sales Manager (Japan, Singapore, Taiwan)
(65) 6870 3348
amy.sim@thomsonreuters.com

Henry Cheng
Sales Manager (Hong Kong, Korea)
(852) 2847 2016
henry.cheng@thomsonreuters.com

Sardor Yangibayev
Sales Executive (Philippines, Singapore,
Thailand, Vietnam)
(65) 6870 3190
sardor.yangibayev@thomsonreuters.com

Shahid Mohammed-Salim
Sales Manager (Hong Kong)
(852) 2841 5844
shahid.mohammedsalim@thomsonreuters.com

Shyanne Chen
Sales Manager (India, Indonesia, Malaysia,
Singapore)
(65) 6870 3253
shyanne.chen@thomsonreuters.com

SENIOR EVENTS MANAGER

Julian Chiew
julian.chiew@thomsonreuters.com

SENIOR AWARDS AND OPERATIONS MANAGER

Tracy Li
tracy.li@thomsonreuters.com

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Thomson Reuters
18 Science Park Drive Singapore 118229 / T (65) 6775 5088 / F (65) 6333 0900
10/F, Cityplaza 3, Taikoo Shing, Hong Kong / T (852) 3762 3269
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BRIEFS UTILIS

THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

22

22% - Proportion of law firms in the U.S. and Canada law firms that plan to increase their hiring of entry-level lawyers in the next 12 months, according to recruiter Robert Half Legal. Only 7 percent were planning to hire fewer associates.

ENTER ARTIFICIAL INTELLIGENCE, EXIT PARALEGALS?

ThoughtRiver, a tech startup based in Singapore and the UK, has launched a new artificial intelligence contract review solution which it says is 60 times faster and 30 percent cheaper than a typical paralegal. The solution, which has been tested by lawyers at firms like Eversheds Sutherland and companies such as BT, claims to rapidly assess contracts and identify those that may need further review. ThoughtRiver CEO Tim Pullan declared that lawyers should not be alarmed by the technology. "By automating key parts of the contract review process, they will be in a much stronger position to provide strategic advice to their clients," he said.

DISRUPTION IS SWIFTLY CHANGING THE ROLE OF GENERAL COUNSEL

The roles and responsibilities of general counsel are changing rapidly as a result of major technological and geopolitical disruption, according to a joint study by Forbes and law firm K&L Gates. This has put more pressure on GCs to develop skills that are beyond just understanding the legal issues their companies are facing. The survey involved more than 200 general counsel and non-legal senior executives at large manufacturing companies in the UK, Germany, France, Italy, Poland, and Spain. The research found that apart from understanding legal issues, the competencies most required of GCs were international and geopolitical acumen (52 percent), understanding of business issues (43 percent) and predictive thinking and analytics (40 percent). Some 42 percent said they need to have a more international outlook, while 33 percent have to deal with higher stakes such as lawsuits.

\$1,350,000

Settlement awarded to 300 former staff of the failed European arm of King & Wood Mallesons by a tribunal in London, which ruled that the firm failed to carry out a formal redundancy consultation with affected employees.

IN THE NEWS

- Big Four accounting firm PwC has launched a law firm in Washington, D.C. ILC Legal, which will operate as a separate legal entity from PwC, will not offer advice on U.S. law, but will instead counsel American companies on international matters, feeding into the larger PwC Legal network.
- Ashurst lawyers in the UK now will be able to choose the best times and places to work as part of a new initiative for smarter working. The firm said it acknowledged that work is rarely based around set hours, with fundamental changes in working patterns driven by technology and client demand.

"We must recognise appropriate fundamental legal rights for them as our fellow global occupants and members of their own nations who want only to live their lives and be with their families."

PETA and photographer **David Slater** release a statement after the "monkey selfie" copyright case was settled





A photo illustration shows the Uber app logo displayed on a mobile phone in Seoul, South Korea, September 21, 2017. REUTERS/Kim Hong-Ji

WHAT IS AT STAKE FOR UBER IN ITS U.S. BRIBERY PROBE?

■ A U.S. bribery investigation at ride-hailing company Uber Technologies Inc will likely go on for a year or more and could lead to snowballing legal and compliance costs if lawyers find systemic problems.

Uber, which is the subject of a U.S. probe into whether it paid bribes overseas, has started a review of its Asia operations and notified U.S. authorities about payments made by staff to police officers in Indonesia, a person familiar with the matter has told Reuters.

The following explains the possible fallout for the company.

What is under investigation?

Uber said in August that it was cooperating with a preliminary investigation led by the U.S. Department of Justice into whether its managers violated a 1977 anti-bribery law, known as the Foreign Corrupt Practices Act (FCPA). The law bars U.S. companies and some other entities from paying bribes to foreign government officials to obtain business.

The bulk of the investigative work may be handled by O'Melveny & Myers [SEE SIDEBAR], which represents Uber and is conducting an internal probe. The law firm is expected to turn over its findings to the Justice Department, which would then weigh charges or a settlement with Uber.

How much money is at stake?

There is a wide range for the potential financial impact on Uber. The company will have to pay O'Melveny & Myers and any other lawyers it hires. It may need to increase its spending on compliance training for employees.

One measure of how high costs can go: Wal-Mart Stores Inc, which has faced a massive and prolonged FCPA investigation of its operations abroad, says it has spent \$865 million on FCPA- and compliance-related expenses over the past five and a half years, according to Mike Koehler, a law professor at Southern Illinois University who writes about the FCPA.

UBER HIRES OMM TO REVIEW ASIA BUSINESS AMID U.S. BRIBERY PROBE

Uber Technologies Inc, which is the subject of a U.S. federal probe into whether it broke bribery laws, has started a review of its Asia operations and notified U.S. authorities about payments made by staff to police officers in Indonesia, a person familiar with the matter told Reuters.

The review comes after Uber said in August it was cooperating with a preliminary investigation led by the U.S. Department of Justice (DOJ) into whether its managers violated U.S. laws against bribery of foreign officials, specifically the Foreign Corrupt Practices Act.


Uber has hired O'Melveny & Myers to review its Asia operations. It previously hired the firm to investigate how it obtained the medical records of an Indian woman who was raped by an Uber driver in 2014, Reuters reported in June.

Bloomberg first reported Uber's review of its Asia operations. It said O'Melveny & Myers was examining records of payments made in Asia and interviewing employees.

It quoted people with knowledge of the matter as saying that late last year, an Uber employee in Jakarta made multiple, small payments to police on the understanding that Uber would be permitted to continue operating from an office located in a non-business zone.

Uber fired the employee and placed the head of the Indonesian business who approved the expense report on a leave of absence, Bloomberg said, citing the sources. The head has since left the company, it reported.

Jakarta Police spokesman Argo Yuwono told Reuters there was no investigation into any payments. He also said jurisdiction over location permits resided with the local government, not police.

The DOJ is focusing on suspicious activity in China, India, Indonesia, Malaysia and South Korea, Bloomberg reported. Uber's law firm is also reviewing financial arrangements with Malaysia's government that may have influenced lawmakers there, it said. 

Companies often sign agreements and pay penalties to the Justice Department or the U.S. Securities and Exchange Commission to close investigations.

The settlement amounts can range from under \$1 million to the record \$800 million agreed to between Siemens AG and U.S. authorities in 2008. Various factors go into the calculations, including ability to pay and level of cooperation with the U.S. government.

How long does it take?

A company might wrap up an FCPA investigation within a year if the matter is confined to one country or is otherwise an isolated example of wrongdoing. Examples abound, though, of probes that went on for much longer. Cosmetics seller Avon Products Inc launched an investigation of its China operations in 2008; six years later, it agreed to plead guilty under the FCPA and pay the U.S. government \$135 million.

“The settlement amounts can range from under \$1 million to the record \$800 million agreed to between Siemens AG and U.S. authorities in 2008.”

What non-monetary penalties are involved?


The FCPA is a criminal statute, meaning that individuals could be charged and, if they are found guilty, sent to prison for violations. That has been rare.

In cases of significant wrongdoing, U.S. authorities generally seek the appointment of a monitor - a person from outside the company, often a lawyer, who serves as a watchdog to prevent recidivism. The monitor may be given wide

access to employees and documents and the authority to issue recommendations, which the business has to accept unless it is able to persuade the government otherwise.

How much of a distraction can it be?

This depends on the scope of the investigation, but an FCPA probe can cause turmoil within companies. Lawyers will seek interviews with employees and pore over documents such as expense reports. Memos may go out company-wide telling people to preserve records.

Companies also must assess risk differently and be more careful, knowing they will face scrutiny from U.S. authorities for any further potential wrongdoing. They may be more cautious, for example, when entering a risky local market where bribery is common - a serious consideration for a company like Uber that wants to expand aggressively abroad. 



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ALB Insights is a weekly, ad-free premium email newsletter that provides analysis and opinions related to the important news and trends in Asia's fast-growing legal markets. With a mix of features, Q&As with key figures, and profiles of some of the hottest firms and service providers, this is a must-read for anyone interested in gaining a deeper understanding of the region's legal industry.

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INSURTECH EXPLOSION PROVIDES NEW STREAM OF WORK FOR ASIA'S LAWYERS

This article first appeared in ALB Insights, a weekly, ad-free newsletter that is sent to subscribers. To subscribe, email Taran at taranjit.kaur@thomsonreuters.com or call her at (65) 6870 3909 today.

Technology has significantly disrupted the financial services industry in the past few years, and insurance is no exception. As the traditional insurance business model undergoes a shakeup in Asia, the change is creating more opportunities for lawyers based in the region, finds Raj Gunashekar.

The rapid rise of insurance technology (insurtech) globally in the last couple of years has caught insurers blindsided. According to a 2016 PwC survey, nine in 10 insurance companies fear losing part of their business to startups that use innovative technologies and platforms to provide insurance services. Insurtech players are active in the creation of usage-based insurance and other bespoke insurance products and the proliferation of online aggregators which also serve as alternative distribution channels.

Prominent insurtech companies including Zhong An, PolicyBazaar, Coverfox, TongjuBao, PoliceX, Prince Insure, GreenLife Insurance, GoBear, PolicyPal, Homage, and Active.ai are now giving their traditional counterparts sleepless nights. In response, the latter are fighting back by attempting to get into the insurtech game by setting up incubators and innovation centres.

What has been bad news for insurance companies has been good news for law firms, which find themselves advising clients and providing training related to the latest developments in laws and regulations impacting the space. "Our corporate practice is active in advising investors investing into insurtech startups Asia," says Jeremy Tan, a director at Singapore law firm Holborn Law, which operates in association



with CMS. "We are also advising insurance companies and re-insurance companies on the establishment of innovation hubs and incubators in the region."

The technology and regulatory practice at Holborn is busy advising both insurtech startups and insurance companies on issues arising from data usage in big data analytics, which is a key feature of insurtech offerings.

"Additionally," Tan adds, "we advise on compliance issues with the financial services and insurance services regulatory obligations across multiple jurisdictions, given the often regional platform of most insurtech offerings."

Meanwhile, Norton Rose Fulbright is advising clients on how newer technologies affect their legal obligations and risks. Clients include financial institutions partnering with fintech giants and startups looking to move into and disrupt this space, says Stella Cramer, co-head of the firm's technology and innovation practice for Asia.

Insurtech deals are predominantly handled by corporate as well as technology


and regulatory practices and lawyers specialising in innovation and technology. These tend to be lawyers who have a strong understanding of technology and the regulatory requirements across the region. In the past, the same lawyers would have advised on emerging technologies and related regulatory developments, privacy and cyber regulations, and technology-related commercial contracts.

These lawyers are also expected to be familiar with the workings of the insurance sector, such as the underwriting process and the distribution channels. They should be up-to-date on the regulatory requirements in the region and the attitude of regulators towards insurtech offerings.

"A thorough understanding of the relevant laws and regulations that impact insurtech as well as a commercial understanding of the drivers of insurtech businesses are needed to be able to provide relevant and commercially practical advice," says Cramer.

However, firms are not committing to setting up separate insurtech practices just yet. "Given the pervasive nature of insurtech, law firms do not need to set aside resources as it should be part of their existing financial services and technology practices," explains Tan. Similarly, Cramer points out that insurtech resources are likely to reside in existing technology, regulatory, corporate and banking legal teams.

The unique legal challenge in insurtech lies in navigating the regulatory requirements across Asia, given the lack of uniformity and harmonisation in the region. In addition, financial or insurance regulations in most Asian jurisdictions are not drafted with insurtech in mind. As such, companies in this space often find themselves having to deal with potential regulatory pitfalls that could have a significant impact on their businesses.

That concern will be complicated by an issue that has become a sticking point for a wide range of technology-focused businesses: data, particularly the personal kind. As a result, lawyers are not complaining. "There is a lot of work for law firms to do when it comes to insurtech," says Tan. 

KEN ADAMS DRAFTING CLEARER CONTRACTS 2017

1 November - Singapore / 13 November - Hong Kong

Asian Legal Business (ALB) is proud to present internationally renowned contracts expert Ken Adams for a one day hands-on seminar that explores how to draft contracts that express deal terms clearly and effectively, saving you time and money, enhancing your competitiveness, and mitigating risk. Rather than simply lecturing, Ken uses interactive exercises, encouraging participation and addressing practical considerations related to the drafting process. This seminar is valuable for both junior and senior legal professionals, with tips that apply to all contracts drafted in English, whatever the governing law.

Target audience

- Lawyers
- In-house counsel
- Paralegals and managers in law firms and corporations
- Contract managers
- Anyone who drafts, negotiates, or reviews contracts

Benefits of attending

- Practical skills from a global industry leader
- The problem with traditional contract language
- How efficient contract drafting can benefit your business

- The basics of rigorous contract language and layout
- Why revising your contract process can improve contract language

Special offer: FREE BOOK

Participants will receive a complimentary copy of Ken Adams's book, ***A Manual of Style for Contract Drafting***. The seminar explores issues addressed in detail in this one-of-a-kind book that has become a valued resource for the legal profession.

Pricing (Includes seminar, luncheon, course materials, and book)

For Hong Kong:
Standard Rate: **USD1,000**

For Singapore (includes 7% GST):
Standard Rate: **SGD1,605**

Group price: **SAVE ADDITIONAL 20%** - Register five participants from your organisation and the fifth person attends for free.

Register

Singapore: www.regonline.com/kenadams2017_SG

Hong Kong: www.regonline.com/kenadams2017_HK

For queries about **Singapore**, contact **Taranjit Kaur** at taranjit.kaur@thomsonreuters.com or call **(65) 6870 3909**

For queries about **Hong Kong**, contact **Siti Hawamah** at sitihawamah.binteabubakar@thomsonreuters.com or call **(65) 6417 4517**

8.30am

Registration

9.00am

- The state of contract drafting
- Costs and causes of deficient drafting
- Goals for the program

9.20am

The Front and Back of the Contract

- Title and introductory clause
- Function and layout of recitals
- Traditional recital of consideration
- Concluding clause
- Role of exhibits and schedules

10.10am

Categories of Contract Language

- Different categories of contract language and their function
- How to distinguish between categories
- Why does it matter?

10.30am

Refreshment Break

10.45am

Categories of Contract Language, cont.

11.45am

Layout

- How to present sections, subsections, and enumerated clauses
- Using Adams's enumeration scheme
- Issues of typography

12.05am

Using Defined Terms

- Two kinds of definitions
- Role of the definition section
- Using an index of defined terms

12.30pm

Networking Luncheon

1.30pm

Ambiguity and Vagueness

- Different kinds of ambiguity
- How to avoid them
- How to use vagueness

2.10pm

Select Usages

- Problematic words and phrases
- Clearer alternatives

3.00pm

Refreshment Break

3.15pm

Drafting as Writing

- Some general principles of good writing that apply to contract drafting

3.30pm

Bringing It All Together

- Redrafting sample provisions

3.40pm

Effecting Change

- The individual
- The organization

5.00pm

End of event



Ken Adams, Author

As the leading authority on contract language, Ken Adams has successfully coached people around the world in drafting clearer contracts. His groundbreaking book *A Manual of Style for Contract Drafting* has sold tens of thousands of copies internationally since it was first published by the American Bar Association in 2004. The Legal Writing Institute has announced that Ken is to receive the Golden Pen Award for 2014, "to recognize his exemplary work in contract drafting." As part of its "Legal Rebels" project, in 2009 the ABA Journal named Ken one of its initial group of fifty leading innovators in the legal profession. And the ABA Journal included Ken's blog in its 2013, 2012, 2010, and 2009 "Blawg 100"—its list of the hundred best law blogs. Ken is an adjunct professor at Notre Dame Law School. For more information about Ken and his activities, go to www.adamsdrafting.com.

OFFSHORE FIRM COLLAS CRILL OPENS OFFICE IN HONG KONG

Collas Crill has established a representative office in Hong Kong, which will be managed by Stephen Adams, the offshore law firm’s Singapore managing partner.

It has also appointed Simon Fraser as a consultant in the Hong Kong office, who will work with Adams to extend the firm’s reach in Asia. Fraser has more than two decades’ experience as a solicitor in England and Wales, as well as Hong Kong (currently non-practising in both jurisdictions) and over 14 years of fiduciary experience at offshore trust companies.

“A presence in Hong Kong is the next step in extending Collas Crill’s international offering across Asia, the Caribbean and the Channel Islands and we are very excited to continue on this journey,” said Adams in a statement.

Collas Crill also has offices in BVI, Cayman, Guernsey, Jersey, London and Singapore. ^{ALB}

SG’S ECYT LAW, DRAGON LAW TEAM UP TO EXPAND IN ASIA, U.S.

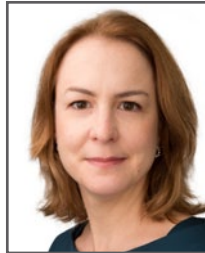
Singapore-based commercial law firm ECYT Law has partnered with cloud-based legal software provider Dragon Law to offer customised legal services to SMEs in Asia and the U.S.

This collaboration aims to help individuals and entities seeking to do business in Asia and the U.S. with legal documentation that meets national and international compliance standards as well as those seeking to enter into transactions with partners and conduct business with investors and employees.

Among the online legal tools covered by this partnership are customised document building, document sharing, and electronic signing, powered by Dragon Law’s technology.

Through Dragon Law’s live-chat function, ECYT Law will provide advice and guidance on drafting essential legal documents as well as reviewing or amending such documents. ^{ALB}

APPOINTMENTS



ETELKA BOGARDI

Leaving: Hong Kong Monetary Authority
Joining: Norton Rose Fulbright
Practice: Corporate
Location: Hong Kong



SHOBNA CHANDRAN

Leaving: Clifford Chance Asia
Joining: Dentons Rodyk & Davidson
Practice: Litigation
Location: Singapore



ALAN LINNING

Leaving: Sidley Austin
Joining: Mayer Brown JSM
Practice: Litigation and Dispute Resolution
Location: Hong Kong



GAVIN MARGETSON

Leaving: Herbert Smith Freehills
Joining: Berwin Leighton Paisner
Practice: Dispute Resolution
Location: Singapore



DOUG MURNING

Leaving: Kirkland & Ellis
Joining: DLA Piper
Practice: Finance and Projects
Location: Hong Kong



LYNN PEREIRA

Leaving: S&R Associates
Joining: DMD Advocates
Practice: Litigation
Location: Delhi, Mumbai



SUNDARAM SUBRAMANIAM

Leaving: Bogaars & Din
Joining: RHTLaw Taylor Wessing
Practice: Litigation and Dispute Resolution
Location: Singapore



JOE TAM

Leaving: Mayer Brown JSM
Joining: Zhong Lun
Practice: Banking
Location: Hong Kong



RAYMOND WONG

Leaving: King & Wood Mallesons
Joining: Seyfarth Shaw
Practice: International Corporate
Location: Hong Kong



Melli Darsa & Co.
Advocates & Legal Consultants

'CLIENTS CAN EXPECT ONE-STOP SERVICE BEYOND LEGAL'

Melli Darsa & Co. ("MDC") recently became a member of the PwC global network. What immediate benefits is this expected to bring clients of MDC and PwC?

One of the immediate benefits of MDC becoming a member of PwC global network is that clients will have the ability to obtain forward looking practical and efficient multi-disciplinary solutions through a single point of contact.

One stop service beyond legal to including financial advisory, business consultancy and tax is an added value service. Our work will no longer be limited by pre-transaction legal analytical and transactional work, but will be able to cover post transaction concerns that clients may have in implementing their business plans and strategies as well as corporate actions.

A higher level of integrity is effectively delivered to client due to the fact as part of PwC, MDC is subject to higher risk management procedures, including higher conflicts avoidance and independence test.

Clients will also be able to benefit from the strong global strengths of PwC worldwide. In this respect, MDC joining the PwC network sets a new bar in corporate legal and financial/business advisory service in Indonesia that allows us to better support clients in achieving their competitive advantage through a broader multidisciplinary and more integrated approach through a wide range of professional services within the PwC global network.

What were some of the goals that MDC and PwC had in mind when the decision was taken for MDC to become a member of the network? What goals have been achieved, and how are you working to achieve the rest?

The development of law as one of the lines of service of PwC is part of PwC purpose as a global network. In which PwC aims to build trust in society and solve important problems.

In the perspective of PwC Indonesia, business and legal issues today are more intertwined than ever before and challenges facing the world can no longer be solved without including a legal solution and this is why there has to be increasing focus on developing legal practice of PwC Indonesia in a meaningful way.

On MDC's perspective, to grow and sustain amidst challenges of the future, MDC must be



Melli Darsa
Founder and Senior Partner
melli.darsa@id.pwc.com

part of a global network which provides the infrastructure that MDC needs to grow in a sustainable way. With PwC Global Network, there is also hoped to be clearer career paths, which will enable MDC to grow in a sustainable way and be a positive step from growing Indonesian quality lawyers with good business acumen.

How will the structure work from a client's perspective? While MDC will be a separate firm inside the PwC network, in what ways will the two works together in terms of services and personnel?

Subject to auditors' independence rules, clients continue to enjoy the same services it had in securities, finance, M&A, general corporate, employment as well as litigation. Generally MDC takes the opportunity to synergize with the other member firm entities of PwC all around the world but especially in Indonesia. We will work seamlessly with all the other lines of business of PwC subject to independence rules which apply to us as well as an affiliate of an audit firm. In terms of best friends' relationship with global law firms, we hope to continue to work with other foreign lawyers or law firms, outside the PwC network, to the extent it is in the best interest of the client.

In Indonesia prior to MDC becoming a member firm of PwC global network, the line of business of PwC Indonesia were audit/assurance, consulting, advisory and tax. No merger with PwC Indonesia occurred, as the other entities of PwC Indonesia are not Indonesian law firms. Neither was it an acquisition, as MDC cannot be owned by non-lawyers. It remains an independent law firm after qualifying as a member firm of PwC global network and all its equity

currently still owned by me. Notwithstanding, one of the effects of the membership into the global network feels very much like a "merger". Currently MDC is still in the same location, but next year we plan to join all the other Indonesian PwC entities in the new office location, subject to observing the regulatory restrictions which apply to the physical premises of a law firm.

Can we expect to see more integration between legal and professional services firms in Indonesia in the near future? Why or why not?

The traditional model is changing and thus I do believe we will see alternative business structures for law firms, including those which integrate legal and other professional services in the future. So long as the law firm complies with laws and regulations which apply to advocates and legal consultants, then there is no reason not to expect more integration between legal and non-legal professional firms.

This multidisciplinary approach will also bring greater benefit to the development of our team of legal professionals, especially in this era of an ever-changing and ever-connected global business environment. As such, our joining the PwC global network not only affords our Indonesian qualified lawyers with greater reach, but also maintains our independence and autonomy as part of the PwC network of separate and independent firms

What do the next year or two holds for MDC, as well as PwC's legal offerings in Indonesia?

At the moment we focus on enhancing the quality of our existing offering to broader range of clients which include those of PwC, as well as our human capital, while we gradually align adjacently with the strengths and core competencies of PwC.

It is hoped and expected in 5-7 years, MDC will likely be focusing on new areas besides those it currently is doing and become bigger and stronger than currently.

PwC | Melli Darsa & Co.,
Advocates & Legal Consultants
Menara Standard Chartered, 19th Floor
Jl. Prof. Dr. Satrio No. 164
Jakarta 12930, Indonesia
T: (62) 21 2553 2019
F: (62) 21 2553 2020
W: www.pwc.com/id/MelliDarsaCo

INDONESIA TO TRACE AND TAX ASSETS KEPT HIDDEN DURING AMNESTY

Indonesia's government has issued new regulations aimed at tracing and taxing the wealth of taxpayers who were not pardoned in the nine-month tax amnesty that ended in March.

Around 972,000 taxpayers joined the amnesty program and declared assets worth a total of 4,881 trillion rupiah (\$368.07 billion). About 24 percent of that was held offshore, mostly in Singapore, and only a small percentage of it was pledged to be brought back home.

President Joko Widodo vowed last year to implement a "tax law enforcement"

program in 2017 following the amnesty. His finance minister, Sri Mulyani Indrawati, warned tax dodgers that if they did not join the amnesty, they would face "hell".

But the government later acknowledged that tax amnesty declarations and the pledged repatriation of offshore assets back to Indonesia did not correspond to data it had on taxpayers' foreign holdings.

In a guide to the new regulations, the government said it had also detected onshore assets that were not reported under the amnesty and had not been obtained with taxed income.

"Given that condition, after the tax amnesty program ended it must be followed by law enforcement in the taxation field," it said.

The regulation calls for all assets that were not reported or were misreported in the amnesty program, and which were obtained between Jan. 1, 1985 and Dec. 31, 2015, to be treated as untaxed income.


The estimated value of the undeclared assets has not been made public.

If the assets are found by authorities before July 1, 2019, they will be subject to a final income tax of 30 percent for individuals, 25 percent for companies, and 12.5 percent for special cases.

That compares with personal income tax rates of 5-30 percent and corporate income tax rate of 20-25 percent.

Earlier this year, Indonesia's government granted tax authorities wider access to information on customer accounts at banks and other financial institutions.

Starting next year, the tax office will also get data on Indonesian taxpayers assets kept in jurisdictions that are signatories to the OECD's Automatic Exchange of Financial Account Information in Tax Matters.

Indrawati has previously said Indonesia's tax-to-GDP ratio of below 11 percent was "hard to swallow." 

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JAKARTA 12190, INDONESIA | +6221 2965 1258 | INFO@LAWGHP.COM

ASIA DEALS

\$3.05 BLN

Commonwealth Bank of Australia's sale of its life insurance arm to AIA Group
Deal Type: M&A
Firms: Debevoise & Plimpton; Ashurst; Bell Gully
Jurisdictions: Hong Kong, Australia, New Zealand

\$2.5 BLN

Star India-BCCI deal for IPL's global media rights
Deal Type: Licensing
Firms: Cyril Amarchand Mangaldas
Jurisdictions: India

\$1.9 BLN

GIC Group's purchase of DLF's stake in DLF Cyber City Developers
Deal Type: M&A
Firms: Shardul Amarchand Mangaldas & Co; Ernst & Young; AZB & Partners; Wadia Ghandy & Co
Jurisdictions: India, Singapore

\$1.5 BLN

ZhongAn's planned IPO in HK
Deal Type: IPO
Firms: Skadden, Arps, Slate, Meagher & Flom; Grandall Law Firm; Cleary Gottlieb Steen & Hamilton; Han Kun Law Offices
Jurisdictions: Hong Kong, China

\$1.42 BLN

NTPC's 6.6% stake sale
Deal Type: M&A
Firms: Squire Patton Boggs; AZB & Partners; Luthra & Luthra Law Offices; Herbert Smith Freehills
Jurisdictions: India, U.S.

\$1.1 BLN

Google's acquisition of HTC's Pixel unit
Deal Type: M&A
Firms: Cleary Gottlieb Steen & Hamilton; Gibson, Dunn & Crutcher
Jurisdictions: Taiwan, U.S.

\$450 MLN

Best Inc's NYSE trade debut
Deal Type: IPO
Firms: Simpson Thacher & Bartlett; Latham & Watkins; Maples & Calder
Jurisdictions: Hong Kong, U.S., Cayman Islands

\$400 MLN

AYC Finance's fixed-for-life senior perpetual notes guaranteed by Ayala Corp
Deal Type: DCM
Firms: Milbank, Tweed, Hadley & McCloy; Maples and Calder
Jurisdiction: Singapore, Philippines

#Akset7th Anniversary

Reflecting on our growth over the past year, and in the seven years since we began our journey, we never would have made it this far without our valued clients and beloved friends.

Thank you for your efforts and support, you help made the difference in every way!

We look forward to fostering our friendship in the years to come.

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REGIONAL UPDATE: PHILIPPINES



ARBITRATION UNDER THE CONSTRUCTION INDUSTRY ARBITRATION COMMISSION OF THE PHILIPPINES



The Construction Industry Arbitration Commission of the Philippines ("CIAC") has original and exclusive jurisdiction over disputes arising from, or connected with, contracts entered into by parties involved in construction in the Philippines. Construction disputes may range from contractual money claims to disputes over the execution of the construction work. Construction disputes may involve government or private contracts.

CIAC arbitration is generally faster and more cost efficient than court litigation. The CIAC's Revised Rules of Procedure mandates that an award should be rendered within 30 days from the time a case is submitted for resolution, but not more than six months from the signing of the Terms of Reference. CIAC-appointed arbitrators also charge lower fees compared to arbitrators under other arbitration institutions and centers.

Unlike in commercial arbitration, where parties are given the right to appoint arbitrators, in a CIAC arbitration, it is the CIAC which appoints the arbitrators from a list of CIAC-accredited arbitrators nominated by the parties. The appointment of an arbitrator may be challenged, but the decision of the CIAC to retain or replace an arbitrator is final. Also, unlike commercial arbitration awards which are not subject to court review, CIAC awards may be questioned through an appeal to the Philippine Court of Appeals on grounds not only involving errors of law, but also errors of fact.

The Philippine Supreme Court has categorized the CIAC as an administrative agency performing quasi-judicial functions, even though the CIAC merely administers the arbitration under its rules, and adjudication is done by CIAC-appointed arbitrators.

One of the current issues concerning arbitration under the CIAC is with regard to the enforcement of CIAC awards. Recent issuances of the Supreme Court provide that court sheriffs cannot enforce writs of execution issued by quasi-judicial bodies, including the CIAC. This poses a problem since the CIAC, which does not have its own sheriffs, has historically relied on court sheriffs to execute its awards. A recent decision of the Court of Appeals upheld the power of the CIAC to order a sheriff of the National Labor Relations Commission, a quasi-judicial agency which adjudicates labor disputes, to implement a CIAC award. Given that only Supreme Court decisions become precedents, however, it is uncertain whether sheriffs from the National Labor Relations Commission, or any other quasi-judicial body, will continue to be allowed to enforce CIAC awards.

Ronald Mark C. Llano
Partner
rmcllano@syCIPLAW.COM

SyCipLaw Center
105 Paseo de Roxas, Makati City, Metro Manila, Philippines 1226
T: (632) 982 3500 / F: (632) 817 3896
www.syciplaw.com



REUTERS/Kim Hong-Ji

SAMSUNG'S JAY Y. LEE BEGINS APPEAL

Samsung Electronics Vice Chairman Jay Y. Lee last month began an appeal of his five-year jail term for corruption, in a case highlighting South Korea's issues with the family-run conglomerates that dominate the economy.

A lower court in August convicted the 49-year-old Lee, heir to the Samsung Group and one of Asia's largest technology companies, of bribing former president Park Geun-hye to help strengthen Lee's control of the crown jewel in the conglomerate, Samsung Electronics. Park is also under trial over allegations of abuse of power and bribery.

At the first appeal hearing, on Sept. 28, the Seoul High Court set the order of witnesses and evidence for the appeal trial, which begins in mid-October.

Since Lee filed for appeal late in August, the appellate court is likely to try to rule by next January, as under Korean law, he can only be kept in detention a maximum of four months while the court considers his appeal.

Four other Samsung executives were also convicted in the lower court in the bribery case.

Lee's legal team has added new lawyers for the appeal, including former Seoul Central District Court chief and new lead counsel Lee In-jae.

The defense was expected to question the lower court's logic that Lee expected Park's help in "succession operations," which the court defined as all actions Samsung affiliates took "to strengthen Lee's control of Samsung Electronics."

Lee's defense has argued there was no such thing as "succession operations" and actions such as a 2015 merger of two Samsung affiliates was taken for the companies' own perceived profit.

The lower court ruled that while Lee never asked for Park's help directly, the fact that the merger did help cement Lee's control over Samsung Electronics "implied" he was asking for the president's help.

Another defense argument turns on whether there was in fact a bribe as defined under South Korean law, which says only civil servants come under the statute.

Lee was found guilty of providing financial support for former president Park's close friend and confidante, who was not a civil servant. ALB

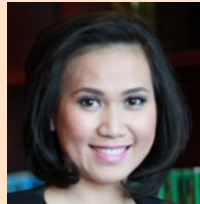
SECURITIZATION OF MORTGAGE LOAN IN INDONESIA



Securitization was promised to be one long term financing alternative for financial industry although adoption has been very slow. The first securitization regulation was issued on 1997, but to date there is only few securitization product issued. Indonesia recognizes two main structures for securitization, namely, Asset Backed Securities Collective Investment Contract (“**KIK-EBA**”) and Asset Backed Securities in the form of Participation Certificates (“**EBA-SP**”). Both structures have similar nature in securitizing pools of financial assets and bundling those assets in the form of Asset Backed Securities (*Efek Beragun Aset/EBA*).

EBA-SP is limited to securitization of mortgage loan by a special purpose vehicle entity (“**SPV**”), while KIK-EBA can securitize various financial assets (mortgage loan, credit card receivables, future receivables, debt securities, etc.) by establishing collective investment contract between local investment manager and custodian bank.

Unlike KIK-EBA which requires a local investment manager to manage the fund (KIK-EBA) and represent KIK-EBA in acquiring particular financial assets as the fund’s portfolio; in EBA-SP, SPV will purchase pools of receivables (mortgage loan) from an originator using either (i) SPV’s own proceeds and afterward selling them to investors through the issuance of EBA-SP, or (ii) proceeds raised from



Marion Elisabeth
Partner
marion@aymp.law



Edwin G. Santoso
Associate
edwin@aymp.law

EBA-SP issuance. Following EBA-SP issuance, the investors will obtain participation certificates as proof of EBA-SP ownership. The SPV must solely run business in secondary mortgage financing, and have minimum paid-up capital of IDR 1 trillion (for SPV using its own proceeds) or IDR 250 billion (for SPV using EBA-SP issuance proceeds). The originator is usually bank or financial institution who has mortgage loans against its customer.

EBA-SP is specifically regulated under Financial Services Authority Regulation (POJK) No.23/POJK.04/2014 concerning Guidelines on Issuing and Reporting Asset Backed Securities in the Form of Participation Certificates for the Purpose

of Secondary Mortgage Financing, and recently amended by POJK No.20/POJK.04/2017. The amended provision is mainly related with threshold applicable for SPV acting as stand-by buyer of EBA-SP in its initial offering. This POJK expressly requires true sale transaction between the originator and SPV, likewise, between the SPV and investors.

As of the above POJK’s enactment, there have been 4 securitizations under EBA-SP structure which financial assets are only mortgage loans of Bank BTN and Bank Mandiri¹. Although EBA-SP currently can only be used to securitize mortgage loan, OJK may widen the scope of industries which may use EBA-SP by issuing new regulations on EBA-SP with financial assets other than mortgage, in order to support projects/industries requiring large amounts of funds and attractive for investors.

¹ www.ksei.co.id/services/registered-securities/asset-backed-securities?setLocale=en-US

Armand Yapsunto Muharamsyah & Partners
Permata Kuningan, Penthouse Floor Jalan Kuningan Mulia, Kav.9C Jakarta, 12980
T: (62) 21 8370 7777
F: (62) 21 8370 7771
W: www.aymp.law

THAILAND APPROVES LAW TO SPEED UP \$45-BILLION DEVELOPMENT PLAN

Thailand’s cabinet last month approved a measure to accelerate a \$45-billion plan to develop the industrial east and attract foreign investors, as the ruling junta seeks to boost long-term economic growth, a government official said. Growth in Southeast Asia’s second largest economy has lagged regional peers since the army took power in 2014. Planned big-ticket infrastructure projects have been slow to get off the ground.

The junta hopes the Eastern Economic Corridor (EEC) development plan, worth 1.5 trillion baht (\$45.36 billion), will lift growth to about 5 percent a year by 2020, from a projected figure of 3.5 percent to 4.0 percent this year. “The law will be the



Tourists visit the Grand Palace in Bangkok. REUTERS/Erik De Castro

foundation for Thailand’s eastern development... and will boost investors’ confidence,” Kobsak Pootrakul, a vice minister in the Prime Minister’s Office, told reporters.

The law, expected to take effect in four or five months, would offer investors in the EEC benefits such as tax breaks and the right to rent property for up to 99 years.

Investors will not have to comply with currency exchange control rules and can use foreign currencies in trade settlements in the region.

In the first five months after the EEC plan took effect, from March to July, it has attracted 160 projects worth 23.4 billion baht, Kobsak said.

AFTER ROADS AND RAILWAYS, CHINA'S SILK ROAD DEALMAKERS EYE FINANCIAL FIRMS

After ports and industrial parks, the dealmakers leading China's trillion-dollar push to build a modern Silk Road are turning to the financial sector, targeting Europe's banks, insurers and asset managers to tap funds and expertise. Recently, sources familiar with the matter said two of China's most acquisitive conglomerates, HNA Group and Anbang Insurance Group, had separately considered bidding for the German insurer Allianz SE.

Neither of the two made an offer, but the talks marked a new level of ambition for China: Allianz is a German stalwart, a pillar for local pensions and a global powerhouse with 1.9 trillion euros (\$2.3 trillion) of assets under management.

HNA already owns a stake of just under 10 percent in Deutsche Bank.

Bankers, lawyers and company executives say more financial deals will come, led by state behemoths such as China Life and China Everbright, as well as private firms including Legend Holdings and China Minsheng Financial.

"The message from the regulators is clear - they want these companies to go out and get access to large amount of funds and expertise," said a financial M&A adviser at a global bank, who works with Chinese regulators and companies.

"They would look very favorably at transactions that have some links to the Belt and Road program, because the country needs to boost its financial muscle," the banker said. But Beijing "will ensure the excesses of the past couple of years do not happen again."

The banker, who declined to be named as he was not allowed to speak to the media, said his firm was currently working on several "mid-sized to large" foreign financial takeover deals.

After a deal spree that saw Chinese conglomerates spend billions on everything from landmark property to soccer clubs in a debt-fuelled M&A drive over the past two years, Beijing has sought to rein in some of the excesses.

But Belt and Road deals have been an exception in the crackdown this year - including, most recently, financial deals. China's outbound M&A volume targeting financials has reached nearly \$9 billion as of last week this year, not far from \$12 billion in all of 2016, according to Thomson Reuters data. If exceeded, it would be the second best year for such deals since at least the global financial crisis in 2008.

The share of financial transactions in overall outbound deal volume has also risen to 8.2 percent this year, higher than

5.7 percent in the same period last year, while industrial deals, typically the biggest sector for outbound M&A, fell by a third.

Last month, Legend - the top shareholder in the computer maker Lenovo - agreed to buy a 90 percent stake in Banque Internationale a Luxembourg (BIL) for \$1.8 billion.

The deal, Legend said, was linked to the Belt and Road initiative, President Xi Jinping's policy of building a modern Silk Road to expand global trade and influence.

"Our overseas investments will continue to focus on the opportunities that are provided by the Belt and Road national policy," the company said, in a statement to Reuters, adding it would "actively invest" in other areas of financial services, including insurance, securities and financial technology.

It gave no details, but bankers said Legend has been eyeing banks and insurers in Southeast Asia, Europe and Hong Kong, using its healthy balance sheet and the halo effect of Belt and Road-linked initiatives.

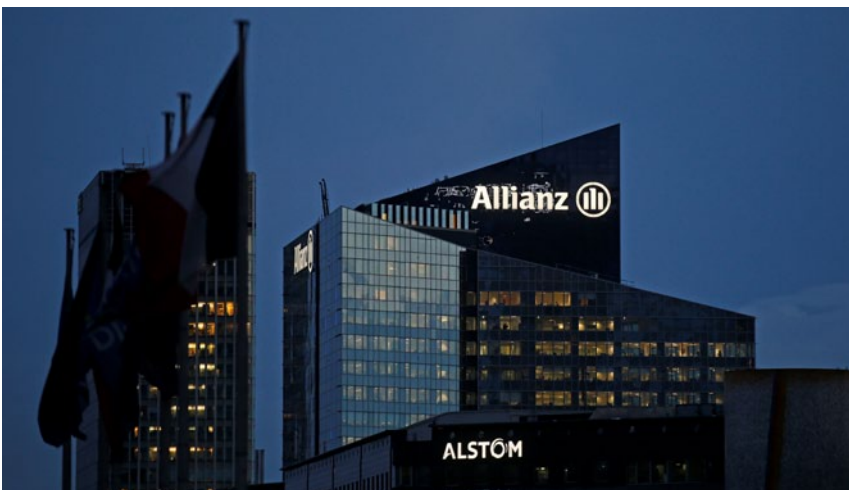
Better financial expertise and depth will help China secure contract guarantees, financing and better insurance.

"We need those overseas financing institutions - buying them can expand our bank assets and boost foreign firms' participation in our projects abroad," said Huo Jianguo, vice-chairman of the China Society for WTO Studies, under the Ministry of Commerce.

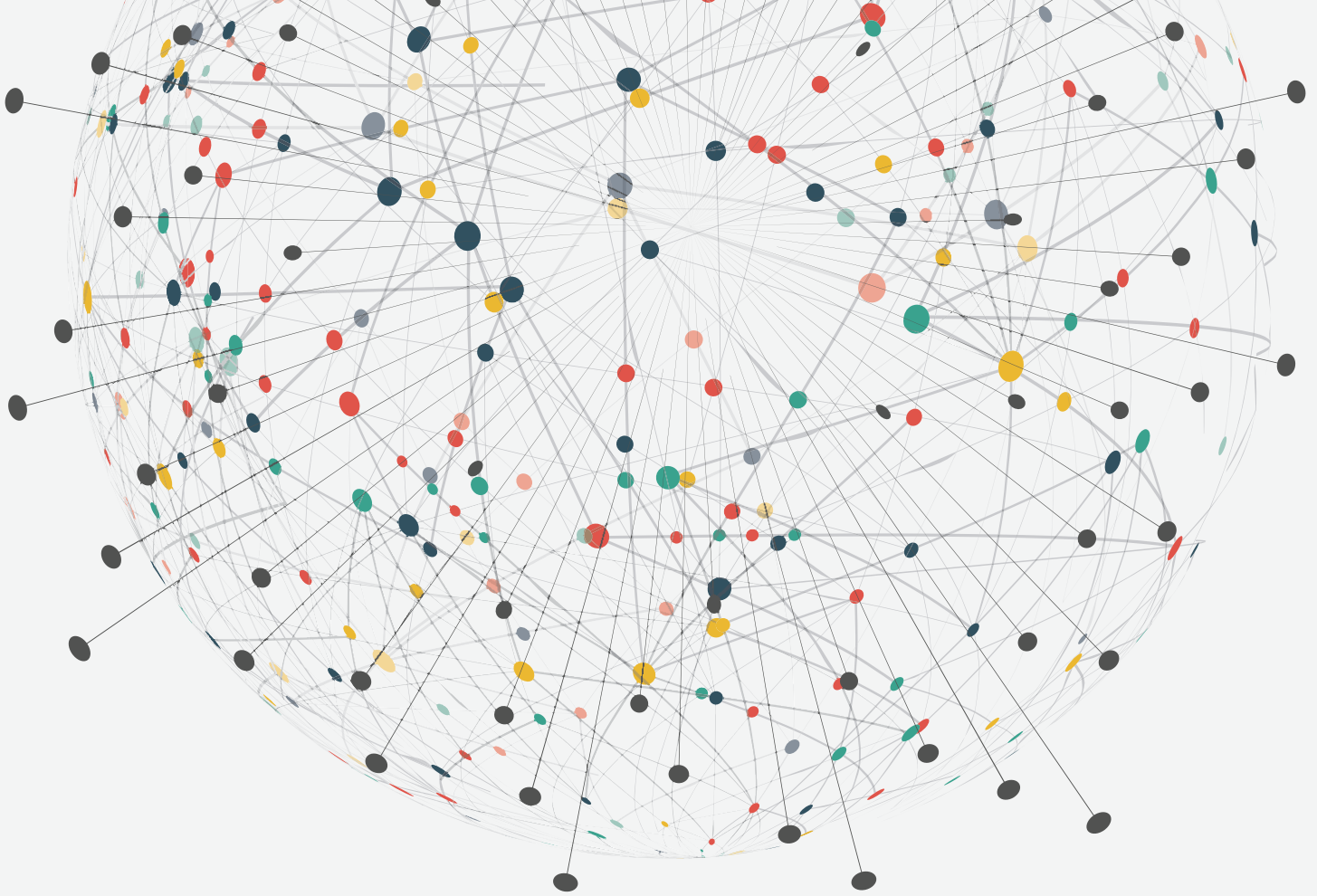
"China is having a hard time attracting international institutions to get involved" in Belt and Road projects, Huo said. "If that persists it will become a one-man show, which is not sustainable."

Besides Legend, others eyeing the sector include the insurer China Life, China Minsheng Financial, China Everbright Ltd, part of the state-owned China Everbright Group, and Haitong International Securities.

They are mainly scouting for investment and acquisition targets in Europe and Asia, said bankers and lawyers. ALB



The logo of Europe's biggest insurer Allianz SE is seen on the company tower at La Defense business and financial district in Courbevoie near Paris, France. REUTERS/Jacky Naegelen



COMING IN NOVEMBER

BLOCKCHAIN: A LEGAL GUIDE

The emergence of blockchain and distributed ledger technology has been a gamechanger. These offer significant and scalable processing power, high accuracy rates, and apparently unbreakable security at a significantly reduced cost compared to the traditional systems the technology could replace. However, at the same time, it is also complicating the legal landscape in many emerging areas.

The *ALB* supplement Blockchain: A Legal Guide discusses some of these areas as well as some of the legal impediments that may need to be overcome prior to wide-scale implementation. It will feature contributions from regulators, law firms and other entities.

If you are a subject matter expert who wishes to contribute content to the guide by purchasing a chapter, contact **Amantha Chia** at amantha.chia@thomsonreuters.com or **+65 6870 3917**.

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NORTH ASIA LEAGUE TABLES

CHINA ANNOUNCED M&A LEGAL RANKINGS

No. 1 - **Clifford Chance**

35,565.2 Value (\$MLN)

Deals: **16** / Market Share: **8.7**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Kirkland & Ellis	30,659.2	16	7.4
3	Skadden	27,310.6	15	6.6
4	King & Wood Mallesons	26,337.5	5	5.7
5	Fangda Partners	25,682.4	40	5.2
6	Davis Polk & Wardwell	24,401.4	6	4.9
7	Morrison & Foerster	23,010.8	4	4.4
8	WongPartnership LLP	17,908.3	3	4.4
9	Rajah & Tann LLP	17,859.7	29	4.3
10	Shook Lin & Bok LLP	17,744.4	13	4.1

(*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**

19,411.4 Value (\$MLN)

Deals: **10** / Market Share: **13.7**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Freshfields Bruckhaus Deringer	17,135.0	8	9.7
3	Sullivan & Cromwell	12,637.0	17	8.2
4	Fangda Partners	12,451.1	1	6.4
5	Clifford Chance	10,667.6	2	5.3
6	Slaughter and May	9,086.3	7	4.5
7	Commerce & Finance Law Offices	8,384.8	6	4.0
8	Hengeler Mueller	6,724.5	5	3.7
9	Ropes & Gray	5,429.3	3	3.4
10*	Latham & Watkins	5,052.2	2	3.3

(*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**

16,680.8 Value (\$MLN)

Deals: **17** / Market Share: **19.5**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Simpson Thacher & Bartlett	11,886.4	5	14.4
3	Skadden	10,042.6	8	12.0
4	Paul, Weiss	8,349.7	6	10.1
5	Mori Hamada & Matsumoto	8,223.6	5	9.9
6	Davis Polk & Wardwell	8,161.3	51	9.7
7	Nagashima Ohno & Tsunematsu	7,085.3	48	8.5
8	Nishimura & Asahi	7,023.8	50	7.9
9	Freshfields Bruckhaus Deringer	6,906.5	3	7.1
10	Jones Day	5,931.1	1	6.7

(*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**

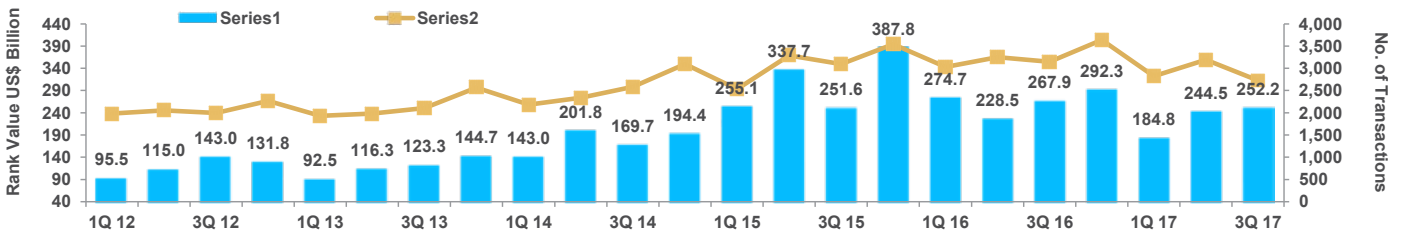
16,456.5 Value (\$MLN)

Deals: **55** / Market Share: **27.8**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Lee & Ko	11,960.5	38	19.9
3	Bae Kim & Lee	4,780.6	28	7.2
4	Shin & Kim	4,154.1	29	5.8
5	Sullivan & Cromwell	2,512.7	2	5.0
6	Cleary Gottlieb Steen & Hamilton	2,433.3	1	4.8
7	Yulchon LLC	2,282.7	16	4.0
8	Morgan Lewis & Bockius	1,353.8	2	2.7
9	Ropes & Gray	1,176.5	1	1.7
10*	AZB & Partners	945.0	1	1.6

(*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, acquirer, target ultimate parent, or acquirer 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 25 September 2017.

SOUTHEAST ASIA/SOUTH ASIA LEAGUE TABLES

SINGAPORE ANNOUNCED M&A LEGAL RANKINGS

No. 1 - **Allen & Gledhill**

21,769.8 Value (\$MLN)

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

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	WongPartnership LLP	20,800.3	4	34.5
3	Davis Polk & Wardwell	20,681.1	19	33.6
4	Rajah & Tann LLP	18,591.5	9	30.2
5	Shook Lin & Bok LLP	17,744.4	4	29.6
6	Kirkland & Ellis	17,744.4	4	29.3
7	Clifford Chance	17,142.3	8	28.6
8*	Machado Meyer Sendacz & Opice	16,421.1	2	27.4
8*	Skadden	16,421.1	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**

1,315.3 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*	Herbert Smith Freehills	315.8	2	2.7
9	Kim & Chang	243.5	2	2.6
10*	ENSafrica	226.9	2	2.5
10*	King & Wood Mallesons	226.9	1	2.3

(*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**

21,868.5 Value (\$MLN)

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

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	S&R Associates	14,274.8	3	35.9
3	Slaughter and May	13,000.4	2	32.7
4	Allen & Overy	11,827.3	2	29.7
5*	Bharucha & Partners	11,627.3	1	29.2
5*	Vaish Associates Advocates	11,627.3	1	29.2
7	Shardul Amarchand Mangaldas & Co	5,379.9	21	7.6
8	Latham & Watkins	3,467.0	33	6.0
9	Khaitan & Co	2,474.7	27	5.0
10*	Wilson Sonsini Goodrich & Rosati	2,027.6	3	4.4
10*	Baker & McKenzie	2,027.6	2	4.8

(*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 - **Clifford Chance**

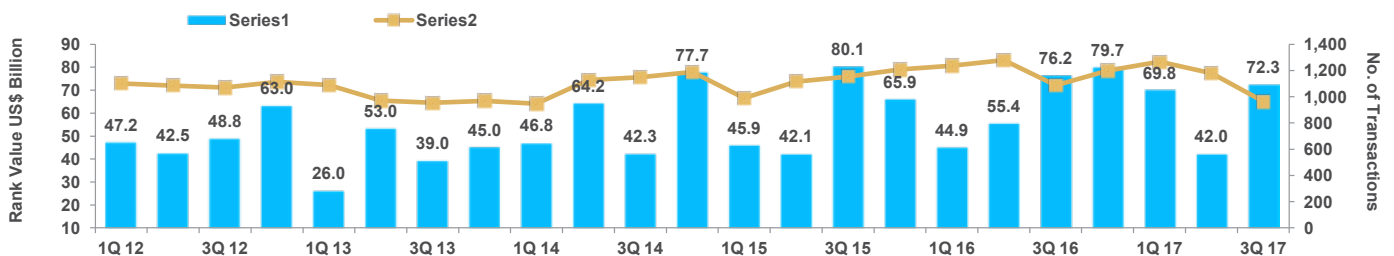
357.5 Value (\$MLN)

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

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Mayer Brown LLP	243.8	2	5.2
3	Gibson Dunn & Crutcher	174.8	2	3.7
4	Freshfields Bruckhaus Deringer	172.8	2	3.7
5	Baker & McKenzie	100.0	1	2.1
6	Gilbert + Tobin	69.1	1	1.5
7*	Allen & Overy	27.7	1	0.6
7*	Mori Hamada & Matsumoto	27.7	2	0.6
9	WongPartnership LLP	15.5	2	0.3
10*	Nagashima Ohno & Tsunematsu	0.0	1	0.0
10*	Addleshaw Goddard	0.0	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



Notes: League tables, quarterly trend, and deal list are based on the nation of either the target, acquirer, target ultimate parent, or acquirer 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. SOUTHEAST ASIA: Singapore, Malaysia, Indonesia; SOUTH ASIA: India. Data accurate from 1 January to 25 September 2017.

DISPUTES ON THE RISE

The growth of commercial arbitration as well as government enforcement actions in Southeast Asia means that disputes lawyers in the region are being kept very busy indeed. BY JOHN KANG

There's no dispute that the key growth area in the commercial dispute resolution space in Asia is arbitration, especially in Southeast Asia where the method has continued to pick up pace as the preferred way to resolve cross-border disputes in the eclectic region.

The leading institution in Southeast Asia for arbitration cases is the Singapore International Arbitration Centre (SIAC), where the number – and value – of the cases that it administers continues to rise. Last year, the centre handled 343 cases, a 25 percent jump from the year before, which is more than the London Court of International Arbitration.

Despite the rise, arbitral institutions have not rested on their laurels and have continued working to meet their users' needs, observes Kelvin Tan, director of dispute

resolution at Drew & Napier. Tan gives the example of the SIAC's latest rules, which he explains "introduce the power for tribunals to dismiss manifestly unmeritorious claims and defences, and refine the procedures for expedited and emergency arbitration."

"These bring some of the features of court proceedings into arbitral procedure, and enhance the attractiveness of arbitration as an alternative to court proceedings," he adds. "They may draw some of the claimants who previously preferred the summary judgment procedure in court to consider arbitration."

Another major trend to look out for involves one of Asia's biggest projects – China's ambitious \$1 trillion Belt and Road initiative, which aims to connect infrastructures and economies across Asia, Europe, the Middle East, and Africa.

More than 60 mostly emerging economies are hoping to benefit from roads, ports, energy and other major projects, including several in the Southeast Asia region, such as Vietnam, Malaysia and Indonesia.

Though Singapore, by far the most developed economy in Southeast Asia, won't see many projects actually built in the city, the Asian financial centre will play a major part in financing those projects and, more importantly for disputes lawyers, resolve disputes when problems inevitably arise.

"As China rolls out its Belt and Road initiative in Southeast Asia, the region may see an uptick in disputes from the projects, the corollary financing and other businesses that will support the projects," says Tan. "The arbitration eco-system and the Singapore International Commercial Court are well suited to play a role in the resolution of such disputes."

REGULATORY PUSH

The rise of commercial disputes in connection with regulatory and white-collar crime compliance issues is another trend Maurice Burke, head of Hogan Lovells' regional dispute resolution practice, and Anton Seilern, a senior associate of the practice group, have started to see emerge and expect to grow going forward.

Since the global financial crisis, there has been a rapidly increasing focus by governments across the globe on regulatory and white-collar crime enforcement. Areas such as bribery and corruption, money laundering, fraud and anti-trust



are what government enforcement actions have been targeted against corporations as much as individuals, with heavy fines, often in the hundreds of millions, being imposed.

"This has been driven both at global level – particularly by U.S. and UK governments enforcing extra-territorial laws – as well as by domestic enforcement agencies in Southeast Asia, who are now placing an increased focus on the prosecution of corporations, often in cooperation with their international counterparts," they note.

"Importantly, corporations can be liable for regulatory breaches and white-collar offences committed by their agents and business representatives," they add. "On a commercial level, this has given rise to multinationals operating in Southeast Asia now routinely seeking compliance-focused contractual protections in their commercial agreements with business partners."

These provisions can take a number of different forms, ranging from compliance warranties and indemnities to rights of audit – all designed to mitigate the principal corporations' exposure to potential liability arising from compliance breaches by their business partners.

As government enforcement actions continue to rise, Burke and Seilern are also starting to see an increase in corporations relying on these clauses to terminate contractual arrangements and, in certain cases, make a call on any applicable indemnities in cases where there has been a breach – or potential breach – by the business partner.

"Given the size of government fines, the sums involved in such indemnity calls can be substantial, thus presenting an incentive to litigate if this may lead to a passing on of the cost of the fine to the business partner," they say.

A further factor giving rise to enhanced litigation risk in this space is the fact that the relevant contractual provisions are often vaguely drafted and/or may not adequately address the underlying compliance risks.

They add, "In many cases this results from the fact that these clauses are heavily negotiated and often result in compromises being reached on the basis of uncertain wording."

MITIGATING RISK

To avoid disputes arising from inadequately drafted contractual provisions,

"In a cross-border deal, a poorly-considered dispute resolution clause may result in a party being brought to a forum that is in an inconvenient or undesirable jurisdiction or venue, under unfamiliar substantive law and procedures and possibly in a foreign language. There may be restrictions on the choice of representation and concerns over the tribunal."

– Kelvin Tan, Drew & Napier

Burke and Seilern advise two key measures that should be taken.

First, the risk can be significantly reduced by careful business partner selection and the conduct of appropriate compliance due diligence. "This will usually involve, amongst other things, independent background checks, as well as a review of the business partner's existing compliance framework and relevant internal controls," they note.

Second, they say, it is critical that the relevant contractual protections adequately address the compliance risk for the particular business relationship being entered into and be carefully drafted to avoid any areas of uncertainty.

To manage risks in cross-border transactions, Drew & Napier's Tan says companies can start even before the transaction is entered into.

"'Deal fever' is caused by a confluence of numerous factors such as the personal pressure to get the deal done, business incentives or the satisfaction of completing a deal," he says. "Unfavourable terms can get overlooked and dispute resolution clauses, in particular, may receive little attention."

"In a cross-border deal, a poorly-considered dispute resolution clause may result in a party being brought to a forum that is in an inconvenient or undesirable jurisdiction or venue, under unfamiliar substantive law and procedures and possibly in a foreign language," he adds.

"There may be restrictions on the choice of representation and concerns over the tribunal."

Parties also need to consider their tolerance for the different types of dispute resolution mechanisms, jurisdictions, substantive and procedural governing laws, and even the language of the proceedings.

Tan explains, "Parties that regularly enter into cross-border transactions should try to maintain the consistency of the company's contracts so as to avoid inconsistent dispute resolution clauses in related contracts or, at least, decide on primary and back-up choices."


CONSIDER MEDIATION

But when a dispute does arise, apart from commencing legal proceedings, parties need to carefully weigh options such as negotiating with the other party or mediation to resolve their dispute, advises Tan.

"There are formal institutions that can facilitate mediation, such as the Singapore International Mediation Centre. Parties can submit disputes to the SIAC for resolution under an Arb-Med-Arb agreement," he says. "The KLRCA also offers mediation under its own Mediation Rules."

Beyond the process, Tan emphasizes the importance of recognising that the culture of the parties can have an impact on the negotiations and mediation. "Parties should not to assume that the other party shares similar views and expectations in the negotiation or mediation process," he says. "In many Southeast Asian countries, 'face' is an important aspect of a commercial relationship.

"A direct and confrontational style of negotiation may be seen as an attempt to make the other party 'lose face' and may be counterproductive," he adds. "Importantly, the loss of face is often not spoken about, and one needs to try and read non-verbal cues."

Relationships are also critical. "Parties from Southeast Asian countries generally prefer to enter into transactions with people that they are familiar with or through a recommendation," he says. 

COMPETITIVE CENTRES

Hong Kong is today home to about half a dozen arbitration institutions that fiercely compete for disputes work. To stay competitive, centres need to stay abreast of developments and client needs.

BY
JOHN KANG

■ The number of arbitration cases being adjudicated in Hong Kong – one of the world’s most popular and improved arbitral seats – is on the rise, but so is the number of arbitration institutions. There are some half a dozen arbitration centres in the city, and the competition for cases is only set to intensify.

With the likes of the Hong Kong International Arbitration Centre (HKIAC), China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center (CIETAC), Hong Kong Institute of Arbitrators (HKIAB), Chartered Institute of Arbitrators (CI Arb) and International Chamber of Commerce (ICC) all vying for cases, centres cannot afford to not stay abreast of client requirements as well as new trends.

The key area in the battle is the arbitration rules, which is why centres need to ensure they stay updated with the latest developments in that space.

“It is important for arbitration institutions to stay abreast of these developments and to continue to come up with innovative solutions for the parties that will enable institutions to remain attractive and to bring in more cases,” says Alfred Wu, a dispute resolution partner at Norton Rose Fulbright. “Rules of arbitration of an institution are probably the most important factors for parties to decide whether to choose the institution.”

Arbitration institutions know how important this is, with several recently releasing new and improved rules. Even the HKIAC, which is already the most preferred

“Rules of arbitration of an institution are probably the most important factors for parties to decide whether to choose the institution.”

— Alfred Wu, Norton Rose Fulbright

arbitral institution in Asia and third in the world, according to the Queen Mary University of London and White & Case’s 2015 International Arbitration Survey, has not taken its top spot for granted.

“A key driving principle underlying the attractiveness of HKIAC to users is our time and cost-effective process under the 2013 Administered Arbitration Rules while maintaining a ‘light-touch’ approach,” says Sarah Grimmer, the secretary-general of HKIAC.

The centre recently proposed a set of amendments to its 2013 rules for administered arbitrations. The proposed new rules include catering for third-party funding in arbitrations – allowing third-party funders to finance arbitration costs in return for a percentage of the award – which Hong Kong just passed in June and takes effect later this year.

“In an effort to continue providing users with a set of innovative rules that can effectively and efficiently resolve disputes, HKIAC has initiated a revision process to consider ways of enhancing the market-leading 2013 Rules,” explains Grimmer. “Proposed revisions include, among others, establishing an online database for the submission and service of written communications, introducing a set of default procedures on the conduct of arbitral proceedings in two or more languages, and incorporating a provision to allow multiple proceedings to be heard concurrently.”

The public consultation process for the revision of the 2013 Rules commenced on 29 August and will conclude on 2 October.


FINGER ON THE PULSE

Another area where arbitration institutions can differentiate themselves on is fees, which centers have structured differently.

“Corresponding to market demand, fees charged by arbitration institutions are already quite competitive,” says Wu. “Arbitration institutions should constantly maintain a high level of awareness of the market that they operate in and structure their fees to suit the demands of users of their services.”

“Arbitration institutions should further maintain a fine balance in the level of fees charged by arbitrators on their panels,” he adds. “A low fee level for arbitrators will unlikely attract quality arbitrators, and too high a fee level will deter parties from using the institutions.”

And finally, arbitration institutions need to constantly keep a finger on the pulse of the desires of the users when it comes to value-added services to avoid lagging behind, says Wu.

He explains: “These demands are wide ranging and will range from a demand for greater transparency in the institution’s administration of arbitrations, the conduct and performance of arbitrators on its panel, the vetting of awards by the institution to enhance effectiveness in enforcement, to the provision of better facilities at the arbitration centers in support of the holding of arbitration hearings.” 



RESERVE BANK OF INDIA CAN NOT STOP ENFORCEMENT OF A FOREIGN ARBITRATION AWARD

In India Reserve Bank of India is the Central Bank, which regulates the Foreign exchange Policy and also acts as the regulator in matters relating to transactions involving Foreign Currency. By a recent Judgment High Court of Delhi rejected objection filed by Reserve Bank of India (Central Bank of India) resisting enforcement of International Arbitration award, on the ground of violation of statutory provisions, passed by an Arbitral tribunal appointed under the Rules of London Court of International Arbitration (LCIA), seated in London between NTT Docomo from Japan & Tata sons Limited from India. The said Judgment in NTT Docomo Vs Tata Sons SCC Online Delhi 8078, passed by a Single Judge of the High Court, Justice Mr Muralidhar has proved the fact that India respects finality of International awards and is a Foreign investment friendly country.

Facts of the case: In India telecom is one of the areas where a lot of foreign investments are made by Foreign investors. Docomo from Japan entered into a joint venture agreement with Tata for the purpose of offering telecom services to public in India. In that process NTT Docomo, Tata Tele services and Tata Sons entered into a share holders Agreement (SHL) in which there were certain Key performance indicators were specified by parties. If the 2nd key performance indicator is not achieved by Tata Tele services on 30th March 2014, Tata should find a buyer for selling the shares purchased by NTT Docomo at the sale price which should be more than 50% of the price at which Docomo purchased its shares. Since Tata could not fulfil the 2nd performance indicator by the given date, on 7th July 2014 Docomo issued a Sale notice to Tata and TTSL to find buyers as promised in the SHA. The market price went down less than 50% of the share purchase value, hence no buyer came forward to buy the shares. Hence disputes could not be resolved by the parties' disputes went for arbitration initiated by Docomo. The Arbitration clause provided a for an international arbitration



S Ravi Shankar¹
Managing Partner
 ravi@lawsenate.com

seated in London under London Court of International Arbitration (LCIA), in case of disputes between the parties arising out of or relating to the above said share holders agreement.

As per the said clause the arbitration tribunal was formed as per LCIA rules and the arbitration proceedings was conducted in London. The laws applicable to the Arbitration were English laws. The Arbitration decided various disputes including the issue of payment of the share purchase value which is about 1.1 billion USD. The tribunal directed Docomo to return the shares and the above said amount was granted by way of damages to Docomo, since Tata could not fulfil the obligations specified in the contract. Docomo filed an application for recognition and enforcement of the award in Delhi. Parties found out a settlement to pay the award amount. The said award holder Docomo filed an application in Delhi High Court seeking to enforce the above said award. India being a signatory to New York Convention on recognition and Enforcement of Foreign awards and since Arbitration and Conciliation Act,1996 expressly recognizes the enforcement of an award passed in a New York Convention seat, there is no difficulty in enforcing the

said award in India. More over India recognizes London/UK seat under New York Convention on reciprocity basis. Hence it was only a procedural requirement to seek enforcement through the court. But Reserve Bank of India filed an intervention application in the said enforcement application filed by Docomo. In the intervention application, it was contended that paying a foreign party a price for a share which is more than the market price is not permissible under the foreign Exchange regulations of Reserve Bank of India. It further contended that a foreign exchange regulation enacted by the Reserve Bank of India is the law of India. Hence the award is violative of Indian Law and consequentially violative of the "Public Policy" of India. Since Public policy of India is one of the permissible grounds to resist enforcement under the above said 1996, Reserve Bank prayed the court to not to allow enforcement of the said award.

Decision: The High Court of Delhi recognized and directed the award to be enforced. The court held that the intervention by Reserve Bank of India is not permissible as per the provisions of Arbitration and Conciliation Act,1996 since the parties to the award only can challenge an award. More over since the tribunal has granted the said amount by way of damages, there is nothing illegal in making payment. This judgment surely enhances the image of India among the International Arbitration community and the foreign investors..

¹ The author is an international arbitration lawyer and Senior Partner of Law Senate Law Firm having its offices in New Delhi and Mumbai.

Law Senate

B3/73, Safdarjung Enclave, LGF, New Delhi 110029 India
 403, Tardeo AC Market, Tardeo Road, Mumbai 400034 India
 T: (91) 11 2610 2873
 E: info@lawsenate.com
 W: www.lawsenate.com



MAXWELL CHAMBERS EXPANDS TO BOOST SINGAPORE'S STATUS AS DISPUTE RESOLUTION HUB



1) The original expansion plan of Maxwell Chambers was slated to be an additional 120,000 sq ft in the Red Dot Traffic Building, but MinLaw recently announced it will add 3,500 sq ft of space on top of that. What is driving this increased need for office space?

Demand for dispute resolution in Asia has risen over the years, and Singapore is becoming an increasingly popular destination for international corporate arbitration in the region.

With our stellar reputation as a one-stop establishment that provides world-class facilities and houses top global ADR institutes under one roof, Maxwell Chambers has seen steady growth in the number of arbitration cases held on its premises in recent years.

Furthermore, we have received a significant increase in the number of enquiries on tenancy opportunities at Maxwell Chambers. As such, we are pleased to announce that a new second annexe block will be constructed at Maxwell Chambers Suites to meet this strong demand for hearing rooms and office space.

2) As of the end of June, it was announced that 65 per cent of the new office space had already been taken up even before



Philip Jeyaretnam
Chairman

refurbishment works begin. What kind of tenants are taking up the new space, and how does it contrast to existing tenants?

We received an overwhelming number of enquiries once it was announced that office space is available at the new Maxwell Chambers Suites.

Some of our existing tenants, for instance, The Arbitration Chambers and One Essex Court, will be doubling their office space to cater to the rising demand for dispute resolution services.

Our new tenants include local and international institutions, dispute resolution practitioners, chambers and related legal support services who are keen to establish

a presence in Maxwell Chambers and in Singapore. Opus 2, an international firm which specialises in transcription and hearing room services, will also be the first ancillary services firm to occupy an office space at Maxwell Chambers.

With the wider range of legal services provided under one roof, we are confident that it will definitely strengthen Maxwell Chambers' position as the one-stop Asia Legal Hub.

3) As Singapore's dispute resolution scene has evolved over the past few years, how do you feel Maxwell Chambers has evolved with it? What have been some of the highlights of the venue in the past year or two?

The dispute resolution scene in Singapore has indeed evolved in recent years. Here at Maxwell Chambers, we are constantly striving to achieve service excellence as the market leader in the industry.

Besides our diligence in keeping up with the latest technology and corporate knowledge, the efficiency and efficacy of work processes are continually reviewed to optimise our productivity. In addition, the IT infrastructure at Maxwell Chambers is upgraded regularly to provide state-of-the-art facilities and services to our clients.



Also, in line with our strong belief in bringing added value to clients, one of the key developments at Maxwell Chambers is the provision of complimentary authentication and certification of arbitration awards seated on our premises.

Our vision for Maxwell Chambers is to be an international hub, and our expansion plan is an integral part of that goal. The strong demand for office space with Maxwell Chambers Suites in the past year is undoubtedly an affirmation of our hard work all these years.

4) Can you share some figures about your growth in cases in the past few years? Which countries and/or types of disputes have been leading this growth?

In the Hearing Centres Survey 2015, Maxwell Chambers is currently ranked second in the world as a leading arbitration centre by Global Arbitration Review.

The number of arbitration cases held at Maxwell Chambers has increased steadily over the years. 212 arbitration cases were heard on the premises in 2016, which was an 18% increase from 179 cases back in 2015.

In particular, Maxwell Chambers has registered a rise in the number of

investor-state cases conducted by the Permanent Court of Arbitration (PCA). Compared with 4 cases in 2015, at least 7 cases will be held at Maxwell Chambers in 2017. ICSID is also choosing to settle more investment disputes here in recent years.

5) It was recently announced that the Permanent Court of Arbitration (PCA) will set up an office in Singapore, taking up space in Maxwell Chambers. What do you feel this means for both the venue, as well as Singapore's arbitration scene going forward?

The PCA's decision to set up office here is a giant leap towards Singapore becoming an international dispute resolution hub.

Arbitrations administered by the PCA involve investor-state and investment treaties, and these are usually high-profile and complicated cases.

We have arbitrators and practitioners based in Singapore actively acting in PCA cases, and I believe such opportunities provide invaluable exposure and experience for our legal community.

Furthermore, this means creating more awareness for Maxwell Chambers as a dispute resolution centre, and increasing

our global standing and branding in the industry.

6) What do the next year or two hold for Maxwell Chambers?

With both the PCA and the International Chamber of Commerce's International Court of Arbitration (ICC Court) setting up offices here, we are anticipating more cases to come to Singapore for dispute resolution in the next 1 to 2 years.

At Maxwell Chambers, we are fully equipped to meet the challenge, and will continually strive to provide world-class facilities and services.

We are also really excited about Maxwell Chambers Suites commencing operations in 2019. We are positive that Maxwell Chambers and Maxwell Chambers Suites will complement each other to firmly establish ourselves as the international arbitration destination.

Maxwell Chambers

32 Maxwell Road, #03-01,
Singapore 069115

T: (65) 6595 9010

F: (65) 6339 3931

E: info@maxwell-chambers.com

W: www.maxwell-chambers.com



NISSAN MOTOR CO., LTD.

INSIDE NISSAN'S LEAN AND MEAN LEGAL TEAM

Japan's second-largest automaker has been busy with multibillion-dollar deals, but the legal team helping making it happen is surprisingly small. Nissan's global general counsel shares how his lean team punches above its weight.

BY JOHN KANG

■ The legal team at Nissan Motor Corporation's headquarters in Japan has been very busy. Last year, the automaker completed a \$2.29 billion deal to take a controlling stake in Mitsubishi, resulting in a Renault-Nissan-Mitsubishi alliance and placing it among the top three automotive groups by sales volume.

The transaction was complicated and regarded as the first of its kind in Japan,

but the Nissan legal team finished it in a very short period of time – about half a year, from April to October 2016.

Not long after the Mitsubishi deal, the legal team was hard at work again with the divestment of some Nissan ancillary businesses. In November 2016, the company sold its auto parts manufacturing unit Calsonic Kansei to U.S. buyout firm KKR for \$1.8 billion. And just a few months ago in August, GSR Capital, a Chinese private equity firm, agreed to purchase Nissan's electric battery business.

"On the deals front, we've done quite a number of meaty, interesting and technically challenging transactions led by the team here in Japan," says Ravinder Passi, global general counsel at Nissan.

The 22-strong team, which was recently named Innovative In-House Team of the Year at the ALB Japan Law Awards 2017, is smaller than its competitors. It is even leaner than Nissan's global legal team, which has about 150 people.

But what the Japan team lacks in people, it makes up for with a rich, diverse range of experience, says Passi. "The team is diverse in nationality, but also gender and age," he says, adding that a number of women are in managerial positions and on track for leadership roles within the legal function.

That's one reason why it punches above its weight. "You get different opinions, different experiences brought to the table," shares Passi, who has qualified lawyers from the UK, U.S., Germany, France, and Japan in his team. "The

uniqueness that it provides, from a very practical perspective, is the speed in which we can solve the problems."

"When the team comes together, we can very quickly mobilise ourselves using experiences from different parts of the world to tackle particular issues," he adds. "Instead of having to make a mistake ourselves and then learning from it, we utilise some of the mistakes that the others have made elsewhere."

PAUSE AND REFLECT

Passi also credits the use of the Hoshin Kanri, a Japanese

management methodology as a factor in the team's success. In essence, he explains, you specify in advance what your objectives are and set certain milestones and markers. Then you track on a monthly basis where you are against those milestones and markers, and if you are lagging, you have to pause and reflect as to why you are behind.

"We use Hoshin Kanri, and we are rigorous about tracking and following that because thanks to that methodology, we can see where things are working very quickly, where things aren't working quickly, and where improvements are advised," he adds.

In addition to the methodology, Passi also promotes a self-service philosophy. "We try and make sure that our clients are educated – you can't do everything with our limited numbers," he says. "For example, we use standard templates, 'frequently asked questions' documents and hold legal surgeries so that we can make the most of our resource."

Apart from the major deals the team has worked on, Passi is proud of the changes that the Japan team has made.

"From a cultural ethos perspective, one of the biggest accomplishments has been changing the team's mindset and beliefs so they are much more proactive in terms of providing services," he says. "We are ingraining ourselves more to the business, so it's much more practical, pragmatic, digestible advice and being proactive with it, and not waiting for the clients to say they have a problem." ^{ALB}

PETER DORAISAMY LLC

ADVOCATES & SOLICITORS

A DYNAMIC FIRM PUNCHING ABOVE ITS WEIGHT

INTRODUCTION

Peter Doraisamy LLC offers a comprehensive range of legal services to its clients. This ranges from basic legal advice to complex litigation. Whatever the nature of the brief, the objective of the firm is to deliver personalised and approachable partner-level service in an efficient and cost-effective manner.

As an independent and conflict-free law firm, we are often briefed by foreign law firms and other local firms who look to us to act as Singapore counsel in matters against major institutions and corporations. The leanness of the firm belies its in-depth expertise, sophistication and agility in providing exceptional legal services comparable to its larger contemporaries.

Our firm works closely with other like-minded law firms in the growing economies of Indonesia, Vietnam, Myanmar, Thailand and the Philippines. Through this informal network, we are able to assist our clients as they expand their business activities into the ASEAN region.

OUR DIRECTORS

Peter Doraisamy is the founding partner and Managing Director of Peter Doraisamy LLC.

Peter has, over 18 years of practice experience as counsel, developed proficiency in the conduct of complex cases covering an eclectic mix of practice areas. Peter has litigated at all levels of the Singapore Courts including the Singapore International Commercial Court. He is regarded by clients as a practitioner with excellent commercial acumen, able to find favourable outcomes in difficult cases.

Formerly Head of Disputes at the Singapore office of a US-based international law firm, Peter founded the firm in 2017 to continue pursuing his passion for the practice of law and to make a difference in his clients' lives.

Joining Peter from the same US-based international firm is Senior Director Andrew Lee. Andrew currently heads the firm's Private



Peter Doraisamy
Managing Director
pdoraisamy@
pdlegal.com.sg



Andrew Lee
Senior Director
alee@pdlegal.
com.sg

Client Practice Group. Andrew has acted in estate disputes involving significant assets in multiple jurisdictions. Andrew also deals with contentious matrimonial proceedings and regularly advises high net-worth individuals on estate, trust and succession planning matters.

His experience extends to the areas of maritime, offshore oil and gas, energy and international trade disputes and he has acted as counsel in SIAC, ICC, LMAA and SCMA arbitration proceedings.

As a former national rugby player for Singapore, Andrew now sits on the judiciary panel of the Singapore Rugby Union.

FIRM'S EXPERTISE

The firm's practice areas comprise corporate & commercial litigation, international arbitration, marine, trade & energy, insolvency & restructuring and private client disputes & advisory.

Recently, in association with HFI Consulting International, a specialist consulting and legal services provider, we have begun assisting players in the energy and water sectors to expand successfully across international markets with a focus on the ASEAN region.

At the core of the firm's practice is its strength in dispute resolution and shipping matters. Our recent portfolio includes one of the first cases to be heard in the

newly established Singapore International Commercial Court ("SICC") [*Teras Offshore Pte Ltd v Teras Cargo Transport (America) LLC* [2017] SGHC (I) 4].

In the SICC case, Peter and Andrew acted for a subsidiary of a Singapore main-board-listed company which had a claim against a US-based company related to three separate marine logistics projects off the coast of Curtis Island, Australia and involved cross-claims amounting to over US\$ 40 million. Peter and Andrew successfully obtained judgment for our client in the sum of US\$ 27 million.

As part of our growing private client practice, Peter and Andrew acted for the litigation representative of a wealthy widow with an estate of over S\$40 million suffering from dementia. The widow was involved in a highly publicised dispute with a Chinese tour guide, who manipulated and exercised undue influence over the widow to procure his appointment as the widow's donee under a Lasting Power of Attorney ("LPA") and procured a will in which the widow bequeathed her entire estate to him.

Peter and Andrew were able to revoke the LPA, set aside the will by way of a Court application for a statutory will to be made on behalf of the widow in her best interests and obtain final judgment against the tour guide [*TCZ v TDA, TBA and TDC* [2015] SGFC 63; *TDA v TCZ, TDB and TDC* [2016] 3 SLR 329; and *Chung Khin Chun K (by her deputy Mok Chiu Ling Hedy) v Yang Yin and others* [2015] 5 SLR 467 (reversed on appeal)].

Further details of the firm's expertise and recent cases can be found at our website: www.pdlegal.com.sg.

Peter Doraisamy LLC Advocates & Solicitors

22 Malacca Street
RB Capital Building #10-02
Singapore 048980
T: (65) 6220 0325
F: (65) 6220 0392
W: www.pdlegal.com.sg

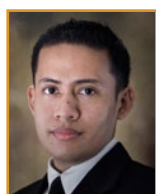
In its third annual list, *ALB* brings you 40 outstanding legal professionals in the region who are under the age of 40. These lawyers have worked on significant deals and disputes in the past year and have earned accolades from their peers, superiors and clients. The list is in alphabetical order.

RANKINGS BY
ASIAN LEGAL BUSINESS

TEXT BY
RAJ GUNASHEKAR

Barney ALMAZAR, 36*Partner, Gulf Law, Manila*

A specialist in the corporate-commercial and legal aid space, Almazar advises on international business and EU law. He has represented high net worth individuals, primarily Europeans from the Middle East oil and gas sector, who invested and set up businesses in the Philippines (\$75 million) and Thailand (\$14 million). He played a role in the establishment of Silicon Plant at Al Ghail Industrial Park in UAE for Anchor Allied as well as in settling a franchise dispute for a fast-food chain in Dubai. He was also involved in the JV structure for the production of armoured vehicles for civilian and military use (Harrow Security Vehicles, Bataan Export Processing Zone) and handled the on-going tender submissions on behalf of Secured Medical Direction UK before the Health Ministry in Bahrain, Saudi Arabia, UAE and Qatar. His clients include Li & Fung Jewellery Joaillerie, Philippine National Bank, Philippine Airlines, 3W Networks and Jollibee. "Almazar is brilliance and dedication," says managing partner Steve Todd.

Ahmad Jamal ASSEGAF, 35*Partner, Lubis Ganie Surowidjojo, Jakarta*

A banking and finance expert, Assegaf was named as a partner at Indonesia's Lubis Ganie Surowidjojo as in his early 30s. At present, he is representing syndicated lenders in \$1 billion credit facilities to PT Adaro Indonesia. He is also acting for significant syndicated lenders on four different transactions in providing credit facilities to Adaro Group Companies. He is advising Aegon Group (Futuready, AMSI) in preparing investment structure and its major breakthrough implementation in Indonesia. In addition, Assegaf is in charge of the firm's business development and was a finalist in the Young Lawyer of the Year category of the ALB Indonesia Law Awards 2016.

METHODOLOGY

Chosen from submissions received from August to September 2017, the list features private practice lawyers and in-house counsel. Lawyers based in Australia and China were not considered. Lawyers were listed on the basis of quality and complexity of work, career achievements, as well as recommendations from clients, colleagues and superiors.

Puneet BANSAL, 39*Managing Partner, Nitya Tax Associates, New Delhi*

Bansal is an expert in the indirect taxation space and has worked extensively with leading MNCs and Indian companies such as DuPont India, GlaxoSmithkline Consumer Healthcare and Swatch. He assists them in setting up operations in India, structuring their business models and supply chain operations, as well as optimising their tax exposures and contract reviews from the perspective of indirect tax. He has provided full-fledged support – tax as well as business – to around 100 clients transitioning to India's goods and services tax (GST) regime, including Heinz, Indian Express, Nissin Logistics, Spark Minda Group and Modern Foods. He also has experience in handling complex indirect tax litigation matters and has successfully represented clients before various judicial forums across India.

Baldev Singh BHINDER, 38*Partner, Joseph Tan Jude Benny, Singapore*

Bhinder specialises in energy, commodities, infrastructure, international arbitration, and cross-border litigation. Throughout his career, he has advised and acted on some of largest complex disputes in the world, working alongside exceptional names, including the Chief Justice of Singapore at Rajah & Tann. His offering includes both advisory and litigation services. At present, he is the lead counsel for a claim worth more than \$18.5 million in the Singapore High Court

relating to commodities trades. "Bhinder is a tenacious litigator in the Singapore courts but is equally skilled at mapping out a global strategy outside the court and identifying the right pressure points in any legal issue," says April Raimundo, EFA Group's chief legal counsel.

Angela CHAN, 37*Partner, Clifford Chance, Hong Kong*

As a capital markets expert, Angela Chan advised the underwriters for China Cinda Asset Management's issuance of \$3.2 billion in aggregate principal amount of 4.45 percent non-cumulative perpetual offshore preference shares. She also acted for Credit Suisse on the update of the \$11 billion guaranteed MTN programme of Huarong Finance II. "Chan exhibited excellent professionalism while working on our projects. Compared to other firms I have come across in deals, the Clifford Chance team, led by Chan and Connie Heng, has a solid understanding of Huawei's business and is reliable even under a short time window," shares Vicki Wang, Huawei's corporate finance legal counsel.

Christopher CHAN, 38*General Counsel & Head of Government Affairs, RedMart, Singapore*

Christopher Chan is known for his expertise in e-commerce, technology and the grocery business. He has also represented pharmaceutical firms such as Cephalon and Cephalon France against several generic-drug makers like Mylan, Sandoz, and Apotex in abbreviated new drug application (ANDA) multi-district complex patent litigation pertaining to a prescription medicine used to improve wakefulness. He advised Wyeth against several generic companies in ANDA U.S. district court patent litigations involving a medicine used in the treatment for depression and anxiety disorders. At RedMart, he

built out the legal, data privacy, compliance, government relations, safety, and crisis communications functions. "Chris is a standout in-house counsel at the cutting-edge of technology and e-commerce," says Zheng Xi Choo, director of law firm Peter Low & Choo.

Darrell CHAN, 39

VP & Head of Corporate Legal and Public Regulatory Affairs, APAC, Discovery Networks APAC, Singapore

An expert in the corporate legal and public regulatory affairs, Darrell Chan leads Discovery's APAC leadership team, which is based in Singapore. Previously, he was involved in the integration of a joint venture between AirAsia Berhad and Expedia through the latter's acquisition of the JV's equity. At Expedia, he led the charge to open up new markets, including India, China, Taiwan and Korea. At Discovery, Chan has been acting in multiple collaboration deals with partners in the region and successfully launched a new digital-first brand in China with its JV partner. He is responsible for Discovery's legal, regulatory, licensing and corporate affairs dossier in the region. He also oversees the group's growing portfolio of equity stakes in new businesses, coordinates its external affairs.

Wendy CHAN, 37

General Counsel and Compliance Director McDonald's Hong Kong, Hong Kong

Wendy Chan began her career as a news reporter, and she successfully brings her knowledge and communication skills to the legal industry. She has worked at the legal department of various Hong Kong-listed companies before becoming a commercial litigator at a renowned UK litigation firm. As general counsel at McDonald's Hong Kong, she played a key role in a deal with CITIC Carlyle, handling the due diligence process and liaising with different internal and external stakeholders. She completed a deal for CITIC Carlyle and McDonald's to form a strategic partnership that served as the master franchisee

responsible for McDonald's businesses in mainland China and Hong Kong. She was recently promoted as fast food giant's GC and compliance director within a year.

Remy CHOO, 31

Partner, Peter Low & Choo, Singapore



At 31, litigation expert Remy Choo Zheng Xi is one of the youngest name partners in a Singapore law firm. He co-leads a team of nine court-ready

litigation lawyers and regularly argues cases at the trial and appellate level as well as at the High Court and Court of Appeal. He has conducted three related trials in 2016 involving shareholder fraud, breach of trust and a commercial dispute involving a sale and purchase agreement for land on Sentosa Island. He won two of the lawsuits; the third one is on appeal with the Court of Appeal. He acted in a landmark case on statutory interpretation against a government agency, in a rare split decision of the Court of Appeal. Xi, who counts social media giant Facebook as one of his marquee clients, was described by Rajah & Tann partner Paul Tan as "one of the best in the business in his age range, and will be the lawyer to watch in years to come."

Jonathan CHU, 38

Partner, Stephenson Harwood, Hong Kong

Chu is an all-around intellectual property lawyer with significant and substantial experience in contentious and non-contentious IP matters. He had a key role in expanding the firm's practice with on-the-ground IP enforcement in China and is currently leading two major enforcement campaigns in the country. His clients include Lucozade Ribena Suntory, Xiaomi, Ryanair, CrossFit, Sansui, and White Cube, to name a few. "There are many good qualities about Jonathan as an excellent lawyer – the most important one is his responsiveness. This is especially

important for doing IP work in Asia, where a lack of communication may lead to confusion and frustration," says Amy Hsiao, partner and head of Asia practice at The Sladkus Law Group.

Joon Hyug CHUNG, 39

Partner, Shin & Kim, Seoul

A PE and M&A specialist, Chung has represented Morgan Stanley PE and Shinhan PE in their \$833 million acquisition of Norske Skog Korea. He acted for Korea's IMM private equity in its co-acquisition of Mars Entertainment – Turkey's largest cinema operator – for \$688 million. He was also part of the Samsung SDS and Samsung Networks merger and advised Kakao Corp. on its spin-off of Kakao Pay and \$200 million its issuance of shares to Ali Pay. "I plan to continue to pursue my career as an M&A and corporate lawyer. I believe that M&A transactions contribute to the vitality of national and international economies, and I take pride in my role as a dealmaker," Chung says.

Melinda Marie D'ANGELUS, 36

Partner, Azmi & Associates, Kuala Lumpur



A specialist in labour and employment as well as litigation and arbitration, D'Angelus has acted for a reputable oil and gas company in an

unfair dismissal claim brought by one of its former employees in the Industrial Court of Malaysia. She has provided legal advice on employment law and practices in Malaysia to two individuals and their legal counsels based in Singapore for an ongoing arbitration initiated by the individuals in Singapore International Arbitration Centre (SIAC). She has also assisted in obtaining the interpretation of provision in the Trade Unions Act 1959. D'Angelus also appeared for an Australian company in a claim against Malaysian company in the High Court of Malaya and successfully negotiated to settle the case out of court.



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For more information, please contact:
Frederick Hui
frederickhui@zhonglun.com
+852 2298 7126

Delano FURTADO, 39

Partner, Trilegal, Mumbai

Furtado is an M&A and JV specialist and has been with Trilegal for 14 years. He represented Italian fashion house Giorgio Armani on a joint venture with DLF India to set up a retail trade business in India. He acted for Thomson Reuters in the proposed acquisition of Newswire18 as well as the spinoff of the Reuters Market Light Business as well as and a subsequent equity investment that it made into the new company along with Ivycap Ventures. He was the lead advisor of Turkey's Arçelik A.S. on a deal with Voltas to establish a JV to enter the consumer durables market in India. "Furtado has made extraordinary contributions to the establishment of our company in India, providing his expertise and priceless collaboration in all matters," adds Zagope advocate Carla Alves.

Mark GORRICETA, 39

Managing Partner, Gorriceta Africa Cauton & Saavedra, Philippines

As a capital markets specialist, Gorriceta acted for Xurpas Inc on its IPO at the Philippine Stock Exchange (PSE). He served as lead counsel for Xurpas in its acquisition of 12 tech companies, both domestic and international. He also secured the sole tax-free ruling issued by the Philippines' Bureau of Internal Revenue (BIR). His clients include Ayala Healthcare, Manila North Tollways Corporation, Manila Water, and DM Wenceslao. "He is very quick to respond and thinks strategically. He does not just follow orders, and he finds a way to get things done," says Nico Nollado, chairman and CEO of Xurpas.

Dianyndra Kusuma HARDY, 26

Partner, Suhardi Somomoeljono & Associates, Jakarta

A dispute resolution lawyer and the youngest on this list, Hardy has advised China Mobile International in drafting employment agreement to establish representative office in Indonesia. He

represented PT Tiara Perdana Putrindo in advising and reviewing the agency agreement for refinery and heaters between the client and ITT, Spa Italy. He advised PT Warna Muda Merdeka in its review of various e-commerce agreements as it established portal Bujang.net. "He is one of our youngest partners and has great experience and practical knowledge in legal transactions," says Suhardi Somomoeljono, managing partner.

Frederick HUI, 38

Partner, Zhong Lun Law Firm, Hong Kong



Hui's expertise encompasses civil litigation and international arbitration. In the last two years, he has represented more clients in larger-value commercial litigation and international arbitration matters and expanded his clientele from private individuals and companies to MNCs, high-profile philanthropists, major banks and insurance companies. Some of his biggest clients include Bank of China and Jiang Tai Insurance Brokers. Since 2015, he has been acting for Bank of China's Yuncheng Branch in opposing an application for an anti-suit injunction filed by Sea Powerful II Special Maritime Enterprise. He is also representing a Korean company against a Brazilian company in the English High Court. Hui is also advising a Hong Kong-listed company in a construction dispute in connection with an alleged breach of a share transfer agreement.

Deborah IM, 37

Associate General Counsel, APAC, Facebook, Singapore



Im is responsible for the expansion of Facebook's presence across Asia, setting up offices in Indonesia, Thailand, Philippines and Malaysia. An expert in the internet and technology law

as well as regulatory and privacy, she guides Facebook through the regulatory issues it faces in complex and diverse legal landscapes across Asia Pacific. She works with the Telecom Regulatory Authority of India (TRAI) on regulatory issues affecting Facebook messaging. She manages regulatory issues around user-generated content on the Facebook platform and builds processes and protocols to maximise efficiency of the social media giant's APAC legal team.

Jingjing JIANG, 33

Partner, King & Wood Mallesons, Hong Kong

Jiang's practice focuses on investment funds, and he is one of the founding members of KWM's international funds team. According to his clients, he has an entrepreneurial mind and a strong commercial sense of their needs and the market demand. He has acted for Equis on the establishment of its \$2.3 billion Equis Asia Fund, Equis Asia Fund II, Equis Direct Investment Fund and Japan Solar Fund. He was involved in setting up Triton's \$3.8 billion Triton Fund IV. In another deal, he acted for China Resources Enterprise on the creation of its first global consumer fund with a target size of \$1 billion. He represented CGN on establishment of its first European renewable energy fund with a target size of \$1.1 billion.

Kyungchun KIM, 36

Partner, Lee & Ko, Seoul

An M&A and corporate governance specialist, Kim has advised Samsung Group's on the \$2.5 billion sale of its chemical affiliates to Lotte Group. He worked on the \$8 billion merger of Cheil Industries and Samsung C&T Corporation and was involved in the \$1 billion dollar merger between LG Chem and LG Life Sciences. He advised Eugene Corporation \$1.1 billion sale of its Himart unit. In another acquisition, he represented SK Holdings on its \$440 million acquisition of OCI Materials' share.

Shaun LANGHORNE, 39*Partner, Hogan Lovells Lee & Lee, Singapore*

Langhorne is a restructuring and insolvency expert who was previously a senior associate at Herbert Smith Freehills. He now leads Hogan Lovells' business restructuring and insolvency practice in Asia. He is advising Standard Chartered Bank on the restructuring of its \$1 billion exposure to Borneo Lumbung Group, a business controlled by billionaire Samin Tan. He is also acting for a creditor in the judicial management proceedings of Swiber Holding, a Singapore-listed offshore services provider as well as a for a European-based Lehman Brothers entity on various inter-affiliate issues regarding Hong Kong-based Lehman affiliates. His other clients include Australia and New Zealand Banking Group, Rabo Bank, Deutsche Bank, SSG Capital, and Borrelli Walsh.

Andrew LEE, 34*Director, Peter Doraisamy, Singapore*

Lee's expertise is in the practice of maritime, offshore oil and gas, and international trade dispute as well as civil and commercial dispute resolution.

He is involved in a dispute related to three separate offshore oil project works off the coasts of Thailand, Philippines and Australia plus cross-claims amounting to over \$40 million. He has acted for Pacific Ports Corporation, which was entangled in a dispute against a Timor Leste insurance company in the Singapore High Court over gasoil cargo valued at approximately \$1 million. Lee also has advised Mercury Marine Engineering in the arrest of a dry bulk container vessel registered in Panama. "Andrew has shown that he is more than capable of leading a team and take on complex and highly publicised litigious matters, while at the same time achieving good results for clients," says Peter Doraisamy, the firm's managing director.

Hyeong Joo LIM, 39*Partner, Yulchon, Seoul*

As an intellectual property expert, Lim managed a team that successfully invalidated three of four patents asserted by Nippon Steel against POSCO, where the remaining valid patent had expired. The case was part of the global war between the two major steelmakers with litigation in the U.S., Japan, and Korea. He established trade secrets compliance programmes for major Korean conglomerates, including Kolon, Hyundai Motors, and Doosan Heavy Industries. He defended Hyundai Motors and Hyundai Engineering from an individual inventor's claims of patent infringement and trade secrets misappropriation. He also set up employee invention compliance programmes for major Korean conglomerates including Samsung Electronics, Samsung Display Corporation, and SK Hynix. "Lim is creative and driven in conducting projects," adds Seung Min Lee, an in-house counsel at Hyundai Motors' IP department.

Wilbur LIM, 30*Managing Director, WMH Law Corporation, Singapore*

Wilbur Lim Wee Hao was a lawyer in one of the Big Four law firms in Singapore for several years before he founded WMH Law Corporation in November 2016. He is one of the youngest lawyers in the city-state to have started his own law firm. His practice includes commercial and construction litigation and arbitration, and he has also handled a range of criminal and matrimonial matters. Lim acted as the lead counsel for a High Court suit heard in May 2017 that involved protracted and lengthy court proceedings lasting almost four years. "Hao provides remarkable strategies, works on time, and is always available to discuss. His sound guidance also helps us save on legal costs," says Wong Shiou An, Trust Yoga's founder and managing director.

Wemmy MUHARAMSYAH, 37*Partner, Armand Yapsunto Muharamsyah & Partners (AYMP Atelier of Law), Jakarta*

A banking and finance partner, Muharamsyah is acting as legal counsel for one of the largest coal mining groups in Indonesia on its approximately \$ 300 million IPO, reportedly one of the biggest in the country. He has also advised a major Korean power producers on its power plant project. In addition, he represented the government of Indonesia in arbitral proceedings brought under the International Centre for Settlement of Investment Disputes (ICSID) convention based on bilateral investment treaties, in relation to the claims submitted by Churchill Mining and Planet Mining. His client won this approximately \$1.3 billion dispute in December 2016.

Rajat MUKHERJEE, 39*Partner, Khaitan & Co, New Delhi*

Mukherjee is an M&A lawyer who focuses on cross-border transactions. He represented Valeant Pharmaceuticals International on

the \$428 million sale of its western European business to Meda AB. He advised Mastech Digital on its acquisition of InfoTrellis India's 100 percent equity shares from Ontario Inc and its affiliates. He counseled Endo Pharmaceuticals Holdings in its \$370 million purchase of Indevus Pharmaceuticals. In another deal, Mukherjee acted for Valeant on its collaboration agreement with GlaxoSmithKline for the development of Retigabine drug. "He is extremely commercial, and his advice is practical, and he is solution-oriented," says Ann Beth Stebbins, a partner at Skadden, Arps, Slate, Meagher & Flom. A client calls him "an impressive M&A lawyer who takes into account the multi-cultural nature of the parties and provide very helpful advice from both legal and business point of view with efficiency and pragmatism."

Vanessa NG, 38

*COO & Director, Fortis Law Corporation,
Singapore*



Ng started the corporate finance and M&A department at Fortis Law Corporation in 2013. She was involved in the 2006 IPO of Yanlord

Land Group, the largest-ever IPO by a China-focused company on SGX-ST at that time, with a market capitalisation of \$1.7 billion. She is acting as Singapore counsel to Novena Global Lifecare Group in its proposed listing on the Taiwan Stock Exchange to raise \$150 million for its regional expansion. Her clients include Sakae Holdings, AsiaPhos, and Far East Group. "I have known Vanessa for many years. She was the partner in charge of my company at the law firm that handled my company's pre-IPO and IPO work. She is thorough and knowledgeable, and we continue to rely on her for legal matters," says Simon Ong, executive director of AsiaPhos.

Lomesh Kiran NIDUMURI, 37

Partner, IndusLaw, Bangalore

A litigation and dispute resolution lawyer, Nidumuri has counseled clients in a variety of litigation matters relating to commercial contracts, shareholder agreements, oppression and mismanagement, winding-up, amalgamation and restructuring of companies. He has also represented clients in disputes relating to tenders, tax, IPR, and white-collar crimes. He has acted for ANI Technologies (Ola Cabs), Microsoft, Larsen & Toubro, Citibank N.A and Mahindra in their important litigations. He advised Financial Times UK in its litigation with Times Publishing House across India and assisted in devising a litigation strategy. He also represented Just Dial in an action for copyright and trademark infringements against a subsidiary company of Network 18 group before the Delhi High Court.

Yuki OI, 38

Partner, Nishimura & Asahi, Tokyo

Oi is a lawyer specialising in the M&A and corporate space. He represented Idemitsu Kosan in its acquisition of Showa Shell shares from Royal Dutch Shell. He acted for Toshiba Corporation in the sale of Toshiba Medical Corporation to Canon as well as the recent sale of Toshiba Memory Corporation to a Bain Capital-led consortium. He also advised Idemitsu Kosan on its global offering of shares and its defence in a preliminary injunction procedure filed by the founding family. His clients include Aisin Seiki, Honda Motor, Mizuho Financial Group, Yahoo Japan, Cool Japan Fund, Bulldog-Sauce, Kyowa Hakko Kirin, Mitsubishi Heavy Industry, Mitsui Chemical, and Japan Bank of International Cooperation.

Hendra ONG, 35

*Partner, Hanafiah Ponggawa & Partners
(HPRP), Jakarta*

Skilled in resources and infrastructure practice, Ong quickly rose from being a junior associate to a senior one in 3.5 years – a process that normally takes more than seven years of experience. He represented Garuda Indonesia Airlines on its purchase of 50 Boeing's 737 MAX 8s Aircraft, valued at \$4.9 billion at 2014 list prices. He also acted on the restructuring of PT Mandala Airlines. He provided legal assistance to Lonza Group on its \$5 billion acquisition of Capsugel as well as to Sriwijaya Air in its IPO plan preparation.

Tom PLATTS, 39

*Partner, Stephenson Harwood (Singapore)
Alliance, Singapore*

As a corporate partner, Platts specialises in cross-border M&A in Southeast Asia, covering Myanmar, Malaysia, Singapore, Vietnam, the Philippines, Thailand and Indonesia. He also advises on capital markets transactions, private placements and other forms of equity fundraising for Asian companies in Singapore and the UK

in particular. He has advised Duff & Phelps on its acquisition of Quantera Global Asia, an Asia-Pacific transfer pricing advisory firm. He also advised Krispy Kreme Doughnuts on its high-profile market entry into Myanmar. He represented Zurich Insurance Group on its \$287 million acquisition of Malaysian insurance group MAAH's composite insurance business. He also advised British company BAA on the \$21.5 billion hostile takeover by Ferrovial. "He is a first-rate lawyer who impresses our clients with his commercial acumen and deep knowledge of the legal and business environment across Southeast Asia," says Sharon White, the firm's chief executive.

Sri Sarguna RAJ, 39

*Partner, Christopher & Lee Ong,
Kuala Lumpur*

An IP specialist, Raj assisted a well-known soft drink and beverage-maker against its competitor in an industrial design infringement and revocation action involving the industrial design of a beverage bottle. He represented a renowned foreign Chinese tea manufacturer in negotiating the assignment of a trademark filed by a local company in Malaysia. He was also involved in a copyright infringement action, advising a motorcycle manufacturer in relation to an action filed by a well-known multinational motorcycle manufacturer. Christopher Lee, the co-founding partner of Christopher & Lee Ong, says Raj is "a master of his craft and dedicated to his practice." Some of his clients include Al Baik Fast Food Distribution, BlueScope Malaysia, Astro GS, Iconix Consulting and Mestrae.

Samuel SEOW, 31

*Senior Legal Counsel, Samuel Seow
Law Corporation, Singapore*

As a dispute resolution and international arbitration lawyer, Samuel Seow An has managed commercial disputes across a range of industries including construction, joint ventures, energy and healthcare. He

has successfully defended an Indonesian company in the forestry industry against claims by multiple parties amounting to over \$10 million. He is also representing an Indonesian company in the property industry in a dispute with its joint venture partner involving claims of \$1 million. He is acting for a Singapore media company in recovering a six-figure U.S. dollar debt from an Indonesian company. He is also advising a Thai cosmetics company in a sale and purchase agreement involving multiple foreign entities as well as a South Korean construction company in debt recovery from multiple foreign entities.

Junhyun SONG, 38

Partner, Bae, Kim & Lee, Seoul

An antitrust lawyer, Song represented Samsung Electronics as intervener in Qualcomm's litigation that seeks to annul

the Korea Fair Trade Commission's (KFTC) decision on Qualcomm's abusive conduct in relation to its licensing practices. He has carried out in-depth risk analysis, which covers reviewing voluminous electronic and paper documents and conducting interviews with key employees. He implemented forensic analysis and investigations to perform a thorough compliance audit for SK Hynix, a memory semiconductor supplier. He again represented Samsung Electronics in connection with a pre-merger notification that Hewlett-Packard filed with the KFTC over an agreement between the companies that concluded with HP selling its printer business to the Korean conglomerate for \$1.05 billion. "Song has a deep awareness of client's needs and offers comprehensive solutions based on his expertise in IP and antitrust issues," says Jeong-Hee Kang, senior counsel of the global legal affairs team at Samsung Electronics.

Trinath TADAKAMALLA, 36

Partner, Phoenix Legal, New Delhi

Tadakamalla's practice areas include commercial disputes, insurance and reinsurance, construction and engineering and natural gas. He is advising the government of Telangana, a state in southern India, and its contractors before the National Green Tribunal and the High Court of Telangana and the state of Andhra Pradesh in several disputes arising from a \$6 billion lift irrigation project being construed in Telangana. He is also acting for a Belgian company in enforcing and executing a batch of four arbitral awards pronounced by two London-based arbitral tribunals against a conglomerate in the UAE with assets in India for a total amount of \$120 million. Some of his clients include Leighton, Iffco Tokio, Cott Beverages and Bajaj Alliance. "He is an excellent strategist who understands commercial and uses his skills

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to achieve the object,” says Ravi Kumar Reddy, New India Assurance’s chief manager.

Shijie TAN, 35

Partner, Rajah & Tann, Singapore



Shijie was made partner at the age of 29, one of the youngest persons in the firm to be made partner at that time. She has advised on many significant property transactions, whether by way of indirect or direct property acquisitions and divestment. She specialises in transactional deals with complex structures, such as those that involve profit participation schemes and share sale and purchase, which is unique in corporate real estate realm. She acted for M GPA (now part of Blackrock) on its acquisition of two significant Marina Bay properties, with one of the sites valued at over \$2 billion. She advised Mercatus Co-operative, which is owned by National Trade Union Congress, Singapore Labour Foundation and their affiliated unions, on its \$1.2 billion acquisition of a 50 percent stake in ‘Nex’, a highly popular Serangoon-located shopping mall, from a Pramerica Asia fund, making it possibly the biggest property investment deal of that year.

Shirin TANG, 39

Partner, Morrison & Foerster, Singapore

Tang specialises in corporate, PE and M&A transactions across Southeast Asia, China and the U.S. She has led several headline-making transactions in 2017, such as Global Logistic Properties’ proposed privatisation, which was widely reported to be the largest-ever buyout of an Asian company. She 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. Tang represented LinkedIn in its 2013-14 China market-entry and JV with China Broadband Capital Partners and

Sequoia Capital China. Her other clients include Softbank, Cordlife Group, and LinkSure Global Holding.

Elizabeth TONG, 34

Director, Drew & Napier, Singapore

A corporate, commercial and employment lawyer, Tong acted as the Asia Pacific coordinating counsel for Saudi Basic Industries Corp (SABIC) in a \$11.6 billion worldwide acquisition of General Electric’s plastics business. She oversaw local counsels across Hong Kong, Korea, Australia, Malaysia, Thailand and India and assisted on all aspects of the deal, including the cross-jurisdictional acquisition of related companies, incorporation and restructuring. She acted for Visa on all Singapore regulatory and transactional matters in relation to its international restructuring, including its sale and reorganisation of its Singapore entity. At present, she is advising PE investor Hellman & Friedman and GIC, Singapore’s sovereign wealth fund, on all Singapore financial regulatory matters in relation to their proposed \$ 1.8 billion acquisition of Allfunds Bank.

Akiko UTSUMI, 38

Assistant Manager & Legal Counsel, Nissan Motor Co, Yokohama

The expertise of Akiko Utsumi, a legal counsel with Nissan Motor, is in personal data protection, M&A, e-commerce and advertising. She played a central role in Nissan’s \$2.29 billion acquisition of a 34 percent stake in Mitsubishi Motors as well as oversaw the entire process of setting up NTT DOCOMO’s \$100 million venture fund. She also represented Nitto Denko, a Japanese client of Skadden, Arps, Slate, Meagher & Flom, in a deal to sell Aveva Drug Systems to Apotex. “Akiko is a very talented lawyer – she is meticulous, clear, focused, and results orientated. She has an incredible capacity to manage all of her projects and deal with any difficult legal issues they raise,” says Ravinder Passi, global general counsel of Nissan Motor.

Chumpicha VIVITASEVI, 37

Senior Associate, Weerawong, Chinnavat & Partners, Bangkok



A dispute resolution expert, Vivitasevi represented a leading international medical supply company in domestic and international litigation and arbitration in Thailand, Singapore, Austria and Switzerland in relation to a long-term international joint venture agreement. She acted for a subsidiary of a global petroleum exploration and production company in arbitration arising from a joint operating agreement tied to a concession in the Gulf of Thailand granted by the Ministry of Energy. She also advised Thailand’s largest mobile and telecommunications providers in arbitration claims relating to a concession agreement. Vivitasevi is “frankly superb, organised, extremely hard-working and personable,” says Michael Polkinghorne, a partner at White & Case.

Warathorn WONGSAWANGSIRI, 35

Partner, Weerawong Chinnavat & Partners, Bangkok



Wongsawang Siri has substantial experience in advising major corporations on domestic and cross-border pre-litigation, litigation and arbitration cases. He has represented clients in precedent-setting cases and some of the highest value disputes in Thailand. For example, he defended Advanced Info Service (AIS) – Thailand’s largest mobile and telecommunications company – in an arbitration claim of \$985 million in relation to concession fees. He also defended a PTT in a high-profile Supreme Administrative Court action. “Warathorn’s star is on the rise, and I expect him to become one of the titans of the Thai legal industry in the very near future,” says partner Wendy Lin from WongPartnership in Singapore. ALB



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Nowadays, law firm networks are helping clients obtain legal advice and services across the world. The question is: as the traditional paradigm comes under threat, can they provide a new model for the delivery of legal services globally?

BY DAVID HO

As business transactions become increasingly international, law firm clients require more and more cross-border services. As a result, they have been tapping into the power of legal networks to meet such needs. "Clients find it difficult to access the same depth and breadth of legal expertise in every jurisdiction in which they operate," explains Michael Siebold, chair of Interlaw. "If their 'home' firm is part of a professional

network like Interlaw, it gives them access to the same high-quality advice across all geographical markets."

The numbers speak for themselves. At present, there are some 200 legal industry networks globally, offering an estimated \$250 billion in services each year. Law firms across the world have been joining such networks, if not adopting similar structures as they look to offer a greater breadth of services.

For independent firms, joining a network gives them the platform they need to gain a competitive edge.

"An independent firm joining a law firm network gains the opportunity to compete against larger global firms," says Caroline Kerr-Martin, marketing and business development manager for Multilaw. "Multilaw can open doors in more than 100 countries, enabling firms not only to serve their existing clients with

international needs but also to find new markets without having to go down the more drastic route of a law firm merger.”

“The businesses of the clients are changing and need increased knowledge and insight and the network is a more effective way of really being able to deliver this,” says Antonia Grant, a partner at the Hong Kong office of Lewis Silkin. The UK-based law firm is a member of lus Laboris, a specialist human resources network.

Grant adds, “Clients can be more sophisticated in their consumption of legal services, gaining access to the best technical advice wherever it may be. This way, small and mid-sized firms with genuine talent and expertise are given the opportunity to compete globally, which has much wider benefits.”

Other members see similar benefits. “Being a member of Meritas has given our law firm a wider exposure to clients in

“We run regular checks to make sure that our member firms are actively participating. I believe most firms understand that in order to reap the benefits of joining a law firm network, they have to be active members.” – Tanna Moore, Meritas

different countries that wish to establish their presence in Indonesia,” says Al Hakim Hanafiah, partner and founding member of Hanafiah Ponggawa & Partners. The Jakarta-headquartered firm has been a member of legal network Meritas for more than 12 years.

He continues, “Some of the industries that are receiving quite a bit of interest from Meritas member firms located in the U.S., Europe and Asia (especially China) are infrastructure, mining, oil & gas and manufacturing.”

Multilaw’s Kerr-Martin also points out

that law firms can retain their domestic identity and independence while benefiting from the breadth of a global network for themselves and their clients. Multilaw, for instance, has 9,000 lawyers from about 90 firms around the world.

As she points out, “There are other key benefits such as being able to pitch for cross-border work, which is a significant advantage for member firms. Our firms regularly work together on business development initiatives. For example, a number of our Asia-Pacific firms collaborate with our Latin American firms throughout the

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LAW FIRM NETWORKS

“Our member firms undergo a rigorous selection process to ensure that we maintain the highest standards of service and expertise all around the world. Regular reviews ensure clients have access to the very best advice no matter where they need it. The network operates on a high level of transparency and at most affordable rates – no hidden fee-sharing or ‘commissions’.” – Michael Siebold, Interlaw

region connecting investors to target companies.”

The ability to bid for cross-border work is essential for any law firm looking to expand, and law firm networks recognise how important growth potential is to their member firms. In the past three years, Lex Mundi has undertaken various marketing and business development activities to showcase the services of their Asia-Pacific member firms to clients requiring advice throughout the region.

“Our Asia-Pacific business development strategy has resulted in member firms forging new relationships with foreign and Asia-Pacific MNCs requiring legal services outside of their home country, which would naturally help in their own firm’s growth strategy,” says Carl Anduri, president of Lex Mundi.

QUALITY CONTROL

Consistency is integral to a service provider’s reputation, so quality control is an important factor to consider when choosing a law firm network.

“Our member firms undergo a rigorous selection process to ensure that we maintain the highest standards of service and expertise all around the world. Regular reviews ensure clients have access to the very best advice no matter where they need it. The network operates on a high level of transparency and at most affordable rates – no hidden fee-sharing or ‘commissions’,” says Siebold of Interlaw.

Legal network Meritas recruits members through an invitation-only process. Tanna Moore, its CEO, believes that networks also need to monitor member participation to maintain

their quality and to avoid turning into a “directory listing.”

“We run regular checks to make sure our member firms are actively participating. I believe most firms understand that in order to reap the benefits of joining a law firm network, they have to be active members,” says Moore, “We have full time staff that will review a firm’s membership every three years as part our internal processes. This is beneficial for both the member firms and their clients.”

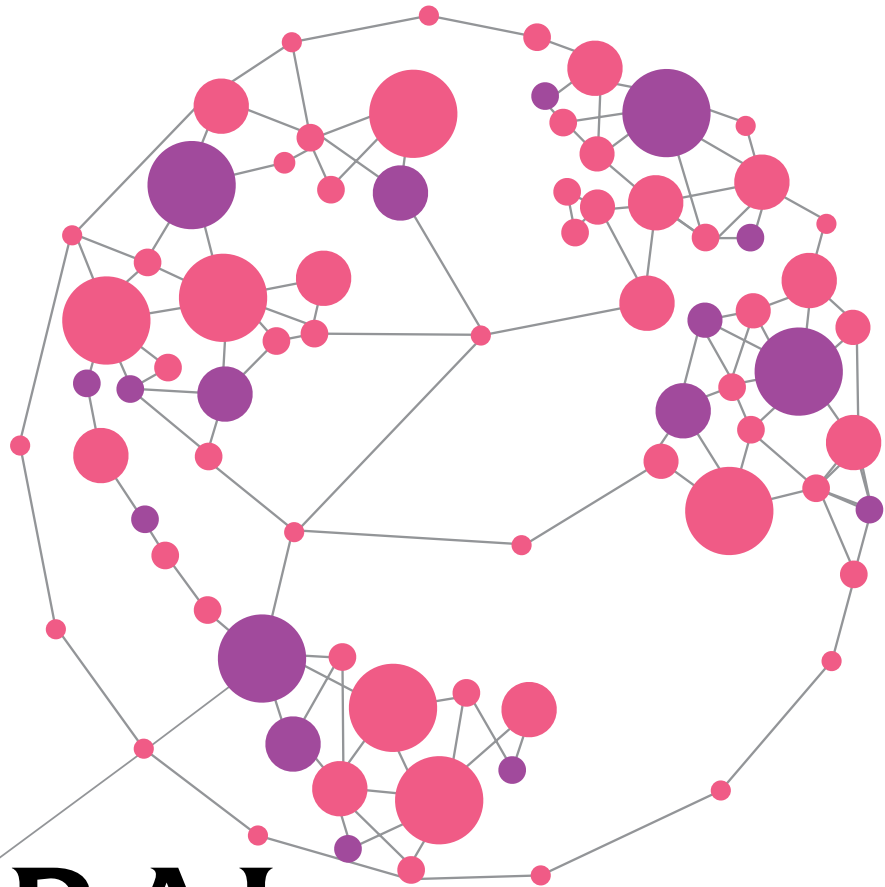
Another way that law firm networks can maintain and even enhance the quality of their services is to support the professional development and training of

employees in member firms, according to Anduri of Lex Mundi.

“Lex Mundi provides a wide variety of training programs, including week-long intensive training programmes offered through the Lex Mundi Institute. The institute also collaborates with the University of Cambridge’s Judge Business School to present an intensive five-day programme to enable partners to have a deeper understanding of the business concepts driving their clients. Lex Mundi also works with the member firms to enhance their project management skills and to enhance their knowledge management capabilities,” he says.

As with any business environment, competition is a concern. As Adam Cooke, executive director of Multilaw, explains, “We are typically competing with global law firms who have huge business development and marketing teams for work and have to do so with much less resources than the global firms are able to draw on. On the plus side, our leanness means we are often very competitive when it comes to the pricing of our legal service. We also face competition from the other networks when seeking members in certain jurisdictions.”





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LAW FIRM NETWORKS

THE TECHNOLOGY FACTOR

But challenges remain, especially at a time when the world – and the legal industry by extension – is in a state of flux.

Moore notes that the emergence of legal technology as well as the reluctance of cautious law firms to embrace it quickly and fully can be a problem.

Other networks agree. “Law firms that are members of networks will be challenged by the advantages of scale enjoyed by international business law firms, the increasing importance of technology in meeting client demand for value, and the growing client demand for improvements in client service. Networks cannot be passive in the face of these challenges or they will become irrelevant to their member firms,” cautions Anduri.

But if utilised properly, Siebold believes the concept of “a virtual global law firm” that allows clients to immediately access high-quality legal advice in any jurisdiction, is within grasp, thanks to technology. But it requires a strategic plan that is backed by the necessary investment and supported by dynamic member firms.

“Technology and its rapid march will be key. The networks that thrive will be those that fully embrace the connectivity that technology can bring and make best use of it – something that perhaps law firms are not known for. A higher degree of connectivity will ultimately bring more collaboration and cooperation that will result in more efficiencies and value for clients, attracting more business to the network,” says Grant of Lewis Silkin.

Cooke believes some of the top legal networks have already wisely placed technology high on their agenda.

“Bespoke technology will be a priority, not only to drive better engagement and communication among members but also to provide clients with solutions such as client extranet platforms, project management software and AI innovations,” he says. “Global law firms have set the benchmark, and if networks want to compete effectively with them, they need to match them in this area.”

A NEW INDUSTRY MODEL?

Opinions on whether law firm networks

“Bespoke technology will be a priority, not just to drive better engagement and communication among members but also to provide clients with solutions such as client extranet platforms, project management software and AI innovations. Global law firms have set the benchmark, and if networks want to compete effectively with them, they need to match them in this area.” – Adam Cooke, Multilaw

could evolve into the new mainstream model of legal services remain divided. Some interviewees are a little more cautious in stating whether networks could replace the traditional global firm structures completely.

“I don’t think law firm networks will displace global law firms completely, as I believe there is a space for everyone. Global law firms will continue to serve top-end customers with billion-dollar deals that feel more comfortable dealing with a single entity that has a strong brand name. But law firm networks will be taking up a big chunk of the lower to mid-range multi-jurisdictional work,” says Moore.

Some like Interlaw’s Siebold are confident that networks can create “a responsive, dynamic and quality alternative to the somewhat staid and flabby corporate law firm model” by investing in technology, its lawyers and its profile. He also cites the structure of law firm networks as a reason why they provide a sustainable model for the way forward.

“It is about taking the necessary steps to become the kind of legal partner that today’s multinational client is seeking. These clients want the reassurance of consistent high-quality legal advice in every jurisdiction in which they operate, and networks are most definitely the answer,” says Siebold.

He adds, “This breadth and depth of expertise is just too unwieldy to co-ordinate under a single corporate entity. That’s why international law firm brands are now turning their attentions to the network model, albeit with a self-serving approach, rather than one where the client takes centre stage.”


Others like Grant draw from her firm’s membership experience as to why law firm networks make sense as a model.

“Networks have significant potential, and that’s because they work for both the firm and client. The law firms can really structure themselves to provide technical ability and focus. It allows firms to work in a more nuanced way, easily gaining the insight and cultural sensitivity, which is all important in the HR field and plugging in knowledge to ensure that all areas are covered,” she says.

Cooke believes that legal networks are already mainstream, and it’s not just independent law firms that have realised this. He pointed to how a major player like Dentons – the world’s largest law firm – have launched its Nextlaw Global Referral Network in order to compete with the coverage offered by more extensive international networks.

As Cooke declares, “Global law firms have consistently failed in their promise to become truly global. Their model is just not sustainable above 50 or so countries. But there are another 130 or so countries where international clients want to do business, and it is only the networks that can offer this coverage. Networks are the future.”

One thing, however, is clear. Not only have legal networks proven that they are needed, they are also here to stay and will keep growing.

“In order to serve clients, all firms with a substantial clientele need to have broad international reach and will therefore become part of a network,” says Anduri. “We think that the number of networks will continue to grow.” 

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HARNEYS

BVI LITIGATION UPDATE: FIGHTING HURRICANES AND HERESY – NEW CASES

“A good (wo)man in a storm” is a maxim that one hears often, but does it apply equally to entire countries or islands? Just over three weeks ago, the BVI was hit by Irma, the strongest Atlantic hurricane ever recorded. So strong, it was even granted the dubious honour of having a new category formed especially for it. With it came inevitable devastation. Whilst everyone was affected, it was those with the least who suffered disproportionately, many literally losing everything.

In the short hours after the storm, whilst the emergency services of the BVI worked tirelessly to help those in need, the Financial Services Commission had temporarily shifted to Hong Kong and was open for filings and new business. The judiciary had moved BVI judges to St. Lucia with hearings remaining largely unchanged and online Court filings available. In the week after the Court reopened following the hurricane, the Courts had dealt with freezing orders, *Norwich Pharmacal* applications, and heard directions for three contested matters. Recently appointed (1 September) Commercial Division judge, Justice K. Neville Adderley had a busy start to his tenure.

In the recent case of *Friar Tuck Ltd and Quiver Inc v International Tax Authority* (31 March 2017), decided in the High Court in the BVI, Ellis J struck a blow for the rights of BVI corporations to be treated fairly when required by the International Tax Authority (ITA) to provide confidential information for onward transmission to foreign tax authorities. As is well-known, the ITA



Ian Mann
Partner and Head of Harneys' Asia
Litigation & Restructuring Practice
ian.mann@harneys.com

has powers under the Mutual Legal Assistance (Tax Matters) Act 2003 to require information of BVI companies that has been requested pursuant to Tax Information Exchange Agreements (TIEAs) made between the BVI and various foreign jurisdictions. In this case, the ITA served Notices on the Claimants under section 5 of the Act requiring them to provide a broad range of confidential information. The Notices were backed with criminal sanctions for a failure to comply. Neither the Notices nor the accompanying letters contained any information at all about the contents of the Request from the foreign authority, not even the identity of the requesting State or the tax payer who was the subject of the enquiry, or of the relevant tax years under investigation. Faced with such total lack of information, how were the Claimants to assess whether the Notices were valid? The Claimants' lawyers wrote to the ITA seeking basic information for that

purpose, but were met with a blanket refusal, the ITA taking the view that it had no obligation to provide any information at all about the factual basis for the Notices. That approach resulted in an application for Judicial Review of the ITA, the Claimants arguing that the ITA had acted in breach of the fundamental public law duty of fairness.

Ellis J upheld that challenge. She said that whenever a public function is being performed there is an inference, in the absence of an express requirement to the contrary, that the function is required to be performed fairly. The fact that the relevant legislation did not provide for this was immaterial: “The justice of the common law will supply the omission of the legislature”. This demanded that the ITA act in a way which was procedurally fair to the Claimants. Whilst the context of mutual legal assistance demanded that proper weight be attached to the need for confidentiality in relation to the Request by the foreign authority, procedural fairness required that the ITA provide the Claimants with a sufficient level of information to enable representations to be made as to the lawfulness of the Notices or the underlying Request, including the source of the Request, the tax period under investigation and a summary of the nature of the investigation. All of this the ITA was ordered to provide. The judgment is an important example of the application of the rule of law in the BVI. It sends a clear signal that the understandable desire of a public authority to be seen to be complying fully with relevant international obligations does not absolve it of its duty

to comply with fundamental principles of public law.

The Board of the Privy Council handed down its judgment on 17 August 2017 in *Chen v Ng* [2017] UKPC 27, an appeal from the Court of Appeal of the Eastern Caribbean Supreme Court (British Virgin Islands) as to the beneficial ownership of shares in a BVI company. The BVI company was a nominal defendant to the proceedings. While a number of interesting issues were considered, particularly noteworthy was the Board's decision on the Appellant's application that the BVI court did not have jurisdiction to determine a claim against the BVI company to rectify its register of members. The Appellant based her argument on the Board's earlier decision in *Nilon Ltd v Royal Westminster Investments SA* [2015] UKPC 2 that under BVI legislation

"proceedings for rectification can only be brought where the applicant has a right to registration by virtue of a valid transfer of legal title, and not merely a prospective claim against the company dependant on the conversion of an equitable right to a legal title by an order for specific performance of a contract".

Interestingly, the Appellant had not raised the issue of jurisdiction at first instance. It was only upon the publication of the *Nilon* decision, which came after the hearing before the Court of Appeal in this claim, that the Appellant decided to raise it. The Board found that the facts of this case distinguished it from *Nilon* in that the Appellant had in fact successfully applied to be joined to the proceedings voluntarily and unconditionally, and she did so on the basis that the real issue was not between the company

and the Claimant, but rather between her and the Claimant as to the beneficial ownership of the shares. As she effectively invoked the jurisdiction of the BVI court, she could not subsequently challenge it.

Ian Mann, Harneys, nominated for Disputes Lawyer of the Year 2017 by Asian Legal Business

With additional contributions from Vicky Lord of Harneys and Monica Carss-Frisk QC of Blackstone Chambers

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MAPLES

LOOK WHO'S BOSS¹: THE BRITISH VIRGIN ISLANDS ("BVI") BENEFICIAL OWNERSHIP INFORMATION REGIME

As codification of a commitment agreed by the BVI (together with other Crown dependencies and overseas territories) with the UK Government by way of an Exchange of Notes in April 2016, and in order to enhance existing robust arrangements on the exchange of beneficial ownership information to assist law enforcement agencies combat tax evasion and money laundering the BVI Government, on 30 June 2017, introduced the Beneficial Ownership Secure System Act, 2017 (the "**Regime**").

Each BVI company that falls within the Regime's ambit (an "**In-Scope Entity**") is required to identify and collect certain details of its beneficial owners and registrable legal entities, and provide those details to its registered agent, with an ongoing requirement to keep the details up to date.

There are specified exceptions that will exempt certain types of BVI company from the requirement to identify, collect and provide details on their beneficial owners (notably those that are investment funds, listed companies or subject to certain direct or indirect regulatory oversight in the BVI or other recognised jurisdictions).

All BVI Companies are required by law to have a registered agent. Registered agents are licensed corporate service providers with a physical presence in the BVI. The Regime requires the registered agent of a BVI Company to take an active role in a company's adherence to the Regime.



Michael Gagie
+65 6922 8402
michael.gagie@maplesandcalder.com

The registered agent of an In-Scope Entity must maintain a database containing details of beneficial owners of, and registrable legal entities, applicable to BVI companies for which it acts as registered agent. The database is not public and the information is accessible only by designated persons specified by BVI competent authorities, principally on proper and lawful requests made by UK law enforcement agencies.

This article provides a general overview of the Regime and summarises the obligations and actions that In-Scope Entities need to take to in order to comply with the Regime.

Which entities are within scope?

Subject to specified exceptions, the Regime is intended to apply to companies incorporated or registered under the BVI Business Companies Act, 2004.

Which entities are out of scope?

The Regime does not apply directly to foreign companies, or foreign companies that are registered in the BVI as a 'foreign company' pursuant to Part XI of the BVI Business Companies Act, 2004. The Regime does not apply to companies that were struck off the register of companies prior to 1 January 2016.

There are also a number of exceptions where certain categories of BVI companies are exempted from the full Regime and do not need to maintain their own beneficial ownership information. Broadly, these exceptions apply to companies either where they are:

- (a) listed on a recognised stock exchange (e.g. NYSE, NASDAQ, London, Cayman Islands or Hong Kong Stock Exchanges);
- (b) recognised, registered or otherwise approved as a mutual fund under the BVI's Securities and Investment Business Act, 2010 including an approved fund, an incubator fund, a public fund, a professional fund and a private fund;
- (c) a BVI licensee (being a company licensed under the BVI financial services regulatory legislation, including an insurance company, bank or trust company);
- (d) a 'subsidiary' of a company that is exempt under (a) or (b) above,

being a company where 75% or more of the interests or voting rights are held, directly or indirectly, by an exempt person; or

- (e) exempted by regulations.

Obligations of an In-Scope Entity

If no exemption applies, an In-Scope Entity must identify:

- (a) whether any individual is a qualifying 'beneficial owner' (as described below) of that In-Scope Entity; and
- (b) whether any legal entities (each a "registrable legal entity") would meet the definition of a beneficial owner in relation to that In-Scope Entity if they were an individual rather than a legal entity, and are:
- (i) an out of scope entity as set out above;
 - (ii) an issuer of securities listed on a recognised stock exchange or any regulated exchange;
 - (iii) a BVI licensee or foreign regulated person; or
 - (iv) a sovereign state or a wholly owned subsidiary of a sovereign state.

This obligation may require an In-Scope Entity to enter into correspondence with its shareholders in order to determine its beneficial owners and, if applicable, registrable legal entities.

All individuals who are qualifying beneficial owners, and registrable legal entities, will have their details provided to the In-Scope Entity's registered agent.

Similarly, an In-Scope Entity must notify its registered agent within 15 days of becoming aware of a change in the particulars of a beneficial owner or registrable legal entity.

It is an offence for an In-Scope Entity or its registered agent to fail to comply with its obligations under the Regime.

Who is a beneficial owner?

Generally, a beneficial owner of a company will be an individual who ultimately owns or controls a company and includes (though is not restricted to) an individual who meets one of the following conditions with respect to an In-Scope Entity:

- (a) In the case of a legal person other than a company whose securities are listed on a recognised stock exchange, a natural person who ultimately owns or controls, whether directly or indirectly, 25% or more of the shares or voting rights in the legal person;
- (b) In the case of a legal person, a natural person who otherwise exercises control over the management of the legal person;
- (c) In the case of a legal arrangement:
- (i) the partner or partners who control the partnership;
 - (ii) the trustee or other person who controls the legal arrangement; or
 - (iii) the settlor or other person by whom the legal arrangement is made;
- (d) In the case of a company that is in insolvent liquidation, administration or administrative receivership under the Insolvency Act, 2003, the natural person who is appointed as a liquidator, administrator or administrative receiver of the company;
- (e) In the case of a receiver being appointed over 25% or more of the shares or voting rights in a company, the creditor who appoints the receiver; or
- (f) In the case of a shareholder in the company who would otherwise be a beneficial owner but is deceased, the natural person acting as a personal representative of the deceased's estate.

A person shall not be treated as a beneficial owner only by reason of:

- (a) having the benefit of a security interest over shares or voting rights in a company; or
- (b) having a commercial exposure to the financial performance of a company pursuant to financial derivatives or similar contractual arrangements.

Required Particulars for Beneficial Ownership Register

The particulars of a beneficial owner that are required to be provided by an In-Scope Entity to its registered agent are set out in the legislation, and include details such as name, residential address, date of birth and nationality (or relevant corporate identifying information for a registrable legal entity). The registered agent's database must also contain details of the date on which such individual became or ceased to be a beneficial owner with respect to an In-Scope Entity.

¹ Abbreviation for the Beneficial Ownership Secure System Act, 2017 ("Boss")

About the Author

Michael is Managing Partner of Maples and Calder's Singapore office and Global Head of the British Virgin Islands law practice. Michael practises both BVI and Cayman Islands law and his experience and areas of practice cover corporate, downstream private equity work, commercial, banking and structured finance.

Maples and Calder (Singapore) LLP

1 Raffles Place
 #32-02A One Raffles Place
 Singapore 048616
 T: (65) 6922 8400
 F: (65) 6222 2236
 E: sginfo@maplesandcalder.com
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EVENT

ASIAN LEGAL BUSINESS

INDONESIA LAW AWARDS 2017

The 4th annual **ALB Indonesia Law Awards** will take place on **26 October 2017** at **Hotel Indonesia Kempinski Jakarta**. New and exciting awards to watch out for this year include Dealmaker of the Year; Dispute Resolution Lawyer of the Year and Technology, Media and Telecommunications Law Firm of the Year. Asian Legal Business congratu-

lates the finalists for this year – recognizing outstanding in-house teams from Indonesia’s top corporations, market-leading private practice firms and rising law firms as well as exceptional individual lawyers from Indonesia’s legal community.

Hadiputranto, Hadinoto & Partners is at the forefront of the nominations with 15 nominations. Following closely are Hiswara Bunjamin & Tandjung in association with Herbert Smith Freehills and SSEK Legal Consultants with 10 nominations each.

On the in-house side, the legal teams from AECOM Indonesia and Indosat are leading the nominations. Closely behind them are AIA Financial and CFLD Indonesia.

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LEADING LAW FIRMS (Excluding deals)

Hadiputranto, Hadinoto & Partners	15
Hiswara Bunjamin & Tandjung in association with Herbert Smith Freehills . . .	10
SSEK Legal Consultants	10
Lubis Ganie Surowidjojo	9
Roosdiono & Partners	8
Siregar & Djojonegoro	8
Tumbuan & Partners	8
Hanafiah Ponggawa & Partners	7
Widyawan & Partners	7
Imran Muntaz & Co.	6

LEADING IN-HOUSE TEAMS

AECOM Indonesia	4
Indosat	4
AIA Financial	3
CFLD Indonesia	3

This is a preliminary list. For the full list, please visit: www.legalbusinessonline.com/awards/indonesia-law-awards-2017

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KOREA LAW AWARDS 2017

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Asian Legal Business is proud to host the 5th annual **ALB Korea Law Awards**, taking place at the **Grand Hyatt Seoul** on **16 November 2017**. As the pre-eminent legal awards in Korea, the awards ceremony will welcome legal, business and government leaders to celebrate the successes of Korea’s legal community.

This year ALB will present 34 awards, recognizing the top deals, private practice firms, in-house teams as well as individual lawyers. The sheer number of awards and the introduction of new awards, such as Woman Lawyer of the Year; Projects,

Energy and Infrastructure Law Firm of the Year; and Construction and Heavy Industries In-House Team of the Year reflect the continued dynamism and vitality of the legal community.

On the in-house side, we see a record number of finalists for the Korea In-House Team of the Year and Korea In-House Lawyer of the Year awards. Top finalists include prominent domestic companies such as CJ Corporation, Hyundai Heavy Industries, KEXIM and SK Holdings. International-headquartered law firms are also making their mark on Korea’s legal community, and we also see a record number of firms nominated for the International Law Firm of the Year award; including market-leading firms Allen & Overy, Cleary Gottlieb Steen & Hamilton, Herbert Smith Freehills and many more.

Domestic Korean firms continue to set the stage in Korea’s legal market. Lee & Ko and Yulchon lead the group with 16 nominations each; with Bae, Kim & Lee and Kim & Chang coming in close behind with 15 nominations each. Some competitive categories to watch out for are Litigation Law Firm of the Year, International Arbitration Law Firm of the Year, Korea Intellectual Property Law Firm of the Year, International Intellectual Property Law Firm of the Year and Technology, Media and Telecommunications Law Firm of the Year – with domestic and international firms competing in all of these categories.

To reserve your seat/table at Korea’s largest legal celebration, contact **Sardor Yangibayev** at sardor.yangibayev@thomsonreuters.com.

KOREA LAW AWARDS SHORTLIST

This is a preliminary shortlist,
excluding deal categories.
For the full list, please visit:
[www.legalbusinessonline.com/
awards/korea-law-awards-2017](http://www.legalbusinessonline.com/awards/korea-law-awards-2017)

IN-HOUSE CATEGORIES

Banking and Financial Services In-House Team of the Year

- Bank of China
- Deutsche Securities Korea
- The Export-Import Bank of Korea (KEXIM)

Construction and Heavy Industries In-House Team of the Year

- Hyundai Engineering & Construction
- Hyundai Heavy Industries
- POSCO Daewoo Corporation
- POSCO E&C

Retail and Manufacturing In-House Team of the Year

- Continental Korea
- GM Korea
- Hyundai Mobis
- SK Global Chemicals

Technology, Media and Telecommunications

- In-House Team of the Year**
- eBay Korea
 - Google Korea
 - KC Tech Korea
 - Microsoft Korea
 - Samsung Electro-Mechanics

Korea In-House Team of the Year

- Bank of China
- CJ Corporation
- Continental Korea
- Deutsche Securities Korea
- eBay Korea
- GM Korea
- Google Korea
- Hyundai Engineering & Construction
- Hyundai Heavy Industries
- Hyundai Mobis
- KC Tech Korea
- Korea Electric Power Corporation (KEPCO)
- Microsoft Korea
- POSCO Daewoo Corporation
- POSCO E&C
- Samsung Electro-Mechanics
- SK Global Chemicals
- SK Holdings
- The Export-Import Bank of Korea (KEXIM)

FIRM CATEGORIES

Banking and Financial Services

Law Firm of the Year

- Bae, Kim & Lee
- Herbert Smith Freehills
- Kim & Chang
- Lee & Ko
- Shin & Kim
- Yoon & Yang
- Yulchon

Boutique Law Firm of the Year

- J & Partners
- Minwho Law Group
- SEUM Law

Construction and Real Estate

Law Firm of the Year

- Bae, Kim & Lee
- Kim & Chang
- Lee & Ko
- Shin & Kim
- Yulchon

Deal Firm of the Year

- Bae, Kim & Lee
- Cleary Gottlieb Steen & Hamilton
- Kim & Chang
- Simpson Thacher & Bartlett
- Skadden, Arps, Slate, Meagher & Flom
- Yulchon

International Intellectual Property Law Firm of the Year

- Covington & Burling
- Finnegan, Henderson, Farabow, Garrett & Dunner
- O'Melveny & Myers
- Ropes & Gray

Korea Intellectual Property

Law Firm of the Year

- Bae, Kim & Lee
- Kim & Chang
- Lee & Ko
- Minwho Law Group
- Shin & Kim
- Yoon & Lee International Patent & Law Firm
- Yulchon

International Arbitration

Law Firm of the Year

- Bae, Kim & Lee
- DR & AJU
- Herbert Smith Freehills
- Kim & Chang
- Lee & Ko
- White & Case
- Yoon & Yang
- Yulchon

Labour and Employment

Law Firm of the Year

- Bae, Kim & Lee
- Kim & Chang
- Lee & Ko
- Shin & Kim
- Yulchon

Litigation Law Firm of the Year

- Bae, Kim & Lee
- Herbert Smith Freehills
- Kim & Chang

- Kobre & Kim
- Lee & Ko
- Sheppard, Mullin, Richter & Hampton
- Shin & Kim
- Yoon & Yang
- Yulchon

Overseas Practice Law Firm of the Year

- Bae, Kim & Lee
- Covington & Burling
- DR & AJU
- Lee & Ko
- Shin & Kim
- Yulchon

Private Equity Law Firm of the Year

- Bae, Kim & Lee
- Herbert Smith Freehills
- Kim & Chang
- Lee & Ko
- Ropes & Gray
- Shin & Kim
- Yulchon

Projects, Energy and Infrastructure Law Firm of the Year

- Allen & Overy
- Bae, Kim & Lee
- Herbert Smith Freehills
- Kim & Chang
- Lee & Ko
- Linklaters
- Shin & Kim
- Yulchon

Regulatory and Compliance

Law Firm of the Year

- Bae, Kim & Lee
- Kim & Chang
- Kobre & Kim
- Lee & Ko
- Paul Hastings
- Yoon & Yang
- Yulchon

Shipping Law Firm of the Year

- DR & AJU
- Kim & Chang
- Lee & Ko
- Yulchon

Tax and Trusts Law Firm of the Year

- Bae, Kim & Lee
- Kim & Chang
- Lee & Ko
- Shin & Kim
- Yoon & Yang
- Yulchon

Technology, Media and Telecommunications

Law Firm of the Year

- Bae, Kim & Lee
- Herbert Smith Freehills
- Kim & Chang
- Lee & Ko
- Minwho Law Group
- Ropes & Gray
- Skadden, Arps, Slate, Meagher & Flom
- Yulchon

International Law Firm of the Year

- Allen & Overy
- Ashurst

- Cleary Gottlieb Steen & Hamilton
- Clifford Chance
- DLA Piper
- Finnegan, Henderson, Farabow, Garrett & Dunner
- Herbert Smith Freehills
- Kobre & Kim
- Linklaters
- McDermott Will & Emery
- O'Melveny & Myers
- Paul Hastings
- Ropes & Gray
- Sheppard, Mullin, Richter & Hampton
- Simpson Thacher & Bartlett
- Skadden, Arps, Slate, Meagher & Flom
- White & Case

INDIVIDUAL CATEGORIES

In-House Lawyer of the Year

- Hyung Chul Kim – Hands Corporation
- Heiri Lee – Kolon Industries
- Yun Hyeong Lee – Korea Electric Power Corporation (KEPCO)
- Andrew Sek Hwan Hong – Hyundai Heavy Industries
- Chaeho Kim – The Export-Import Bank of Korea (KEXIM)
- Eunjung Koh – ABL Life Insurance
- Daniel Kim – Deutsche Securities Korea
- Hayoung Hailey Kim – DellEMC Korea
- Hee-Suk Suh – Hyundai Engineering & Construction
- Kate Lee – Google Korea
- Kyung Sun Ma – Posco Daewoo Corporation
- Steve Jeong – Kakao Corporation
- Won Young Jung – Janssen Korea

Managing Partner of the Year

- William Park – Covington & Burling
- Jin Han Kim – DR & AJU
- Kye Sung Chung – Kim & Chang
- Michael S. Kim – Kobre & Kim
- Jae Hoon Kim – Lee & Ko
- William Yongkyun Kim – Ropes & Gray
- Sai Ree Yun – Yulchon

Dealmaker of the Year

- John Kim – Ashurst
- Hee Gang Shin – Bae, Kim & Lee
- Dongho Lee – Herbert Smith Freehills
- Jong-Hyun P ark – Kim & Chang
- Ho Joon Moon – Lee & Ko
- Daniel Kim – Paul Hastings
- Youngjin Sohn – Simpson Thacher & Bartlett

Woman Lawyer of the Year

- Jean Lee – Allen & Overy
- Annie Eunah Lee – Bae, Kim & Lee
- Suejung Alexa Oh – GlaxoSmithKline
- Heiri Lee – Kolon Industries
- Hyunjooh Oh – Lee & Ko
- Sae Youn Kim – Yulchon

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CAN LAW FIRMS WEAN THEMSELVES FROM THEIR ADDICTION TO LATERAL HIRING?

BY PHYLLIS WEISS HASEROT

Against serious odds, I am about to suggest that most law firms should seek “recovery” from their addiction to partner hiring. It’s a phenomenon that has grown from being a minuscule consideration in the early 1980s to becoming the key marketing strategy in perhaps the majority of firms in the last few decades.

Lateral hiring seems unstoppable. But has it been a successful strategy or a self-defeating one?

According to a 2016 study by ALM Intelligence, a majority of lateral partner hires bring in less business than promised and don’t meet firm expectations. Yet like confirmed gamblers, firms continue the pursuit. But at long last, some are finally using performance analytics to try to determine who is paying off and who is not.

What do firms stand to lose from this addiction?

Morale, cultural stability, client relationships, perceived consistent brand and valuable talent – all have a negative impact on firms’ finances, especially if the lateral has scored a lucrative signing deal (usually up to two years).

And what do lateral hires stand to lose?

Disruption of their business when they need to make another move, loss of unhappy clients they brought to the new firm, as well as damage to their reputation and prestige when news about their lack of success gets out.

Why is the weaning so difficult?

- Firms get caught up in the competitive chase and are prone to inertia – they

think they will be successful if they just give it another try. (Again, sounds like a confirmed gambler, right?) Every time they score with one lateral, they believe all over again.

- It seems easier than developing and nurturing younger talent, though that would actually cost less and help maintain a cohesive firm culture. Firms are miscalculating the risks and misjudging the comparative job-hopping probability of ambitious associates and free-agent-minded lateral partners.
- They believe that the marketplace will perceive the hiring of lateral partners with a client base and well-known reputations as a sign of growth and a strategy for the future. But the opposite might be true instead, and the next generation of senior associates and junior partners may see this as a potential obstacle to their opportunities for promotion and leadership.

What could firms do better?

- Improve the lateral integration process, whether it involves a group, a partner or associates;
- Analyse the reasons for the lateral acquisition failure;
- Execute more and better cross-selling with accountability and follow up; and (most importantly);
- Place meaningful focus on developing and retaining talented younger professionals – from smarter hiring to orientation to training, with special attention to mentoring, coaching, sponsoring and learning what retention strategies work for generation cohorts and individuals.

Realistically, I know most firms won’t abandon their lateral acquisition tactics, and sometimes they make sense for plugging holes in otherwise well-planned growth strategies. In any case, law firms need to be clear on their goals and which alternative strategies will best yield the results they want. They need to weigh short-term vs. long-term goals (the playoffs this year vs. rebuilding for the future).

Conducting lateral success analysis


Some firms have begun adopting performance analytics. For example, Littler Mendelson created its own software to

predict likely return on investment (ROI) on the laterals it hired and also to gain insight into whether they are likely to stay or jump ship for other opportunities. (After the first move from an original firm, lateral moves seem to get easier.) Overseeing this process is Zev J. Eigen, Littler’s global director of data analytics, a data scientist with a Ph.D. from MIT. He looks at relational data to predict the lateral’s cultural fit.

New innovations have also been introduced elsewhere, such as tools that enable firms to track work hours, billing, revenues, expenses, profitability and other metrics so that they can see what works and identify who are involved.

Perhaps it’s too soon to know if relying on these numbers is the answer to reducing disappointing results with lateral acquisition. However, incorporating data and focusing on talent development and management are useful steps – ones that clients would most likely encourage.

Data analysis, however, is only one part of the equation. Think about what baseball great Derek Jeter said in a recent interview about spending his entire career with one team: “That’s the thing I appreciate the most, because it’s the only place I’ve ever wanted to play. When you’re in it, you don’t really think about it too much because you just come to work and do your job. But after I’ve retired, I realised how special that’s been.”

And then look at the numbers. 

Phyllis Weiss Haserot is president of Practice Development Counsel, a marketing/business development and organizational effectiveness consulting and coaching firm she founded over 25 years ago. She helps firms solve inter-generational challenges to boost client attraction and retention, productivity, succession planning and knowledge transfer.

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