



SUSHIL NAIR
*Deputy Chief
Executive Officer*

INTRODUCTION TO THE INDONESIA GROUP

We have a team of Indonesian specialists that has been covering Indonesia for more than 10 years. The team offers a complete range of legal services, whether in dispute resolution, corporate advisory or transactional services such as foreign direct investments, mergers and acquisitions, banking and finance, work-outs, mining and natural resources, projects and infrastructure.

Our clients include institutional investors, corporate and individual shareholders and management and we assist our clients in negotiating, structuring and documenting their investments and transactions.

We have readily available resources, including a network of associates and local resources, pertaining to investment, tax and related matters in Indonesia. Our team has worked on numerous transactions and contentious matters in Indonesia and is able to contribute a keen understanding of the problems and solutions to investments into Indonesia.

With respect to foreign investments into Indonesia, we provide effective and legal solutions to ownership restrictions, including the use of quasi equity instruments such as convertible bonds, loans and loanstock; and our tax specialists assist clients in arriving at a tax optimum structure both from the point of view of the jurisdiction of investment and the jurisdiction of remittance. For clients wishing to invest in Indonesia through Singapore, we are able to share our experience with other investment outfits and to provide practical advice on structure, tax incentives and regulation. We have advised on investments such as Softbank's investment into PT Bank Negara Indonesia Tbk, KT & G's investment into one of Indonesian's leading tobacco players, etc.

As for mergers and acquisitions, we have considerable experience advising both institutional investors and leading Indonesian groups on acquisitions and disposals both public and private. We are able to assist with regulatory issues such as competition law issues and capital market regulations. Our years of experience in Indonesia has ensured that we have been involved in many landmark transactions including advising Temasek on its \$1.5 billion divestment of its stake in Bank

International Indonesia to Maybank, the acquisition by PT Bakrie Sumatera Plantations Tbk of Domba Mas' state of the art oleochemical facility, etc.

We also have considerable experience in the mining and natural resources sector. We have advised a plethora of nationalities such as Chinese, Indians, Russians, and even Indonesians on numerous acquisitions and disposals of mining concessions and palm oil plantations.

The team also focuses on the expansion drive of PRC entities, both state-owned and private enterprises, under the "belt and road" project into South East Asia, in particular Indonesia. We use our Indonesian expertise to advise Chinese companies in Mandarin on acquisitions, investments, joint ventures, and disputes in Indonesia.

Our expert advice is frequently sought after by high net-worth individuals and families in Indonesia particularly after the Tax Amnesty in Indonesia and the adoption of Automatic Exchange of Information pursuant to Common Reporting Standard. Our services include tax and estate planning, establishment of trusts and philanthropic structures, reorganisation of offshore holding structures and businesses, as well as immigration and citizenship applications.

With respect to work-outs and corporate restructurings, our high level of expertise and depth of experience have led to our appointment to handle complex cases like restructuring Asia Pulp & Paper's US\$16 billion debt and TPPI's US\$1.5 billion debt restructuring with the Indonesian government. We frequently advise debtor companies and we believe that a key element to advising debtor companies is the ability to successfully negotiate with all creditors in order to achieve a consensual outcome that benefits all parties – our clients, its bankers, as well as its trade creditors. At the same time, our unparalleled strength in litigation means that in the event of a dispute, our clients will be represented by some of the most formidable advocates in Asia.

WHAT WE HAVE ACHIEVED

Competition Law

- **ASEAN**, to lead a prestigious project to study and recommend competition policy



JULIAN KWEK
Director



BLOSSOM HING
Director

and law for implementation in East Asian economies. As part of the study, Drew & Napier conducted extensive interviews of competition authorities, policy-makers and other stakeholders in 10 countries within Asia, including Indonesia.

- **A Singapore government-linked company**, in respect of allegations of cross-ownership made against it by Komisi Pengawas Persaingan Usaha (“KPPU”), an anti-monopoly body in Indonesia. This matter also involves inter alia related class action suits commenced in Indonesia.
- **A global consumer electronics company**, to assess the extent to which its distribution agreements in Indonesia are compliant with the Indonesian competition law.

Corporate M&A/ Banking/ Finance/ Capital Markets

- **Metro Holdings**, as lead counsel in relation to its investment in the development, marketing and sales of the five 32-storey residential towers in Bekasi, Jakarta worth Rp1,987 billion (approximately \$200.4 million) as well as the mixed development project in Bintaro, Jakarta worth Rp1,330 billion (approximately S\$127 million) by PT Trans Corpora. We worked with our Indonesian counsel to review and negotiate all other transactional documents, including the review of sale and purchase agreement, assignment agreement, marketing agreement and letter of undertaking.
- **CVC Capital Partners** on the restructuring of its investment, through Asia Color Company Limited, in PT Matahari Department Store Tbk (Matahari) with PT Multipolar Tbk and PT Matahari Pacific, and the subsequent public offering of a 40% stake in Matahari that raised approximately US\$1.36 billion.
- **Fullerton Financial Holdings Pte Ltd**, a subsidiary of Temasek, in the sale of its 75% stake in Sorak Financial Holdings which holds a 56% stake in Bank Internasional Indonesia (BII), to Maybank. This effectively made Maybank the controlling shareholder of BII. The Sale & Purchase Agreement also contemplated that Kookmin Bank would also sell its 25% stake in Sorak. The total purchase price for 100% of Sorak was US\$1.5 billion.
- **CVC Capital Partners** on its acquisition of a 15% interest in PT Siloam International Hospitals Tbk for approximately US\$165 million. The innovative deal involved competing interests of both parties, and the way in which it was structured to balance and manage the parties’ competing interests.
- **Fullerton Financial Holdings Pte Ltd**, in the purchase of ICB Financial Group Holdings Ltd’s stake in Sorak Financial Holdings Pte Ltd, which held a 56% in Bank Internasional Indonesia for US\$155 million.
- **Matahari Putra Prima**, as Singapore counsel, in the takeover of PT Matahari Putra Department Store for Rp 7.2 trillion, by CVC Capital Partners. It is reported that MPP will release its 90.76 percent stake in MDS to a joint venture company, Meadow Asia, in which it will hold a 20 percent stake. CVC, whose holdings in the retail sector include British department store chain Debenhams, will control the remaining stake.
- The shareholders of **PT. Henrison Inti Persada (PT HIP)** and its shareholders in relation to a joint venture with Noble Group. Under the terms of the joint venture, Noble Group acquired a 51% stake in PT HIP which will develop approximately 32,500 ha of land for palm oil production in Sorong Regency, West Papua Province, Indonesia. Based on Noble’s announcement, the joint venture represents Noble’s first venture in the oil palm sector. Noble further announced that PT HIP is to be registered as a member of the Roundtable on Sustainable Palm Oil, an organisation which promotes the production of palm oil in a sustainable manner based on economic, social and environmental criteria.
- The IPO of a subsidiary of **PT Bumi Resources Tbk**, as Singapore counsel, for its minerals assets on Jakarta Stock Exchange in an offering of approximately US\$1 billion.
- **PT Bumi Resources Tbk**, as Singapore counsel in connection with its Regulation D private placement convertible bond offering of USD375 million and in connection with its Regulation S bond offering of USD300 million.

- **Mewah Group**, a public-listed palm oil refinery group on its acquisition of land in Sumatra to develop plantations and a refinery.
- **Domba Mas Group** on the sale of its oleochemical plants to Bakrie Sumatera Plantations. The sale required the restructuring of debt in excess of US\$800 million held by various financial institutions, and a US\$2 billion off-take arrangement with Proctor & Gamble.
- **PT Mega Manunggal Property Tbk** in its partnership with GIC (Realty) Private Limited, Singapore to develop a portfolio of quality logistics warehouses in Indonesia. The transaction took into account recent amendments to the Indonesian Negative List in May 2016. This was one of the first high profile foreign investments to be implemented under the new Indonesian foreign investment laws.
- **F J Benjamin Group and PT Sukses Mitra Persada** on their alliance with Saratoga in respect to FJB's Indonesian retail business. This involved advising on a shareholders agreement and the sale of 25% of both the equity and existing debt instruments of the Indonesian retail business at a valuation of US\$120.8 million on a fully diluted basis.
- **CapitaLand Limited ("CapitaLand")** in its joint venture with the Credo Group to develop an integrated development in Central Jakarta, Indonesia. The total development cost is approximately S\$220 million. This was CapitaLand's first integrated development into Indonesia.
- A leading Singapore retailer in the share restructuring of its Indonesian retail operations. The Indonesian retail operations are set up as a joint venture with two other Indonesian conglomerates.
- A leading Indonesian group on the restructuring and acquisition of a substantial stake in a privately-held Indonesian pharmaceutical group and the subsequent joint venture between the foreign investor and the original Indonesian shareholders.
- A leading Indonesian group on the restructuring and acquisition of a substantial stake in a privately-held Indonesian packaging group and the subsequent joint venture between the foreign investor and the original Indonesian shareholders.
- Certain foreign and Indonesian parties on the establishment and development of hotels in Jakarta, Bali, Semarang, Solo, etc.
- Various Singapore parties in their multi-million dollar acquisition of the entire share capital of an Indonesian company involved in the paper & pulp industry. Subsequent to the completion of the acquisition, Drew & Napier also advised on the restructuring of debt obligations in excess of USD100 million.
- Joint venture between a major Japanese airline and its Indonesian counterpart.
- One of the largest Indonesian travel operators on its corporate expansion and development of new business including the raising of venture capital.
- **PT Bank Negara Indonesia Tbk and PT BNI Securities** on an investment by and joint venture with Softbank.
- One of the largest Indonesian public-listed cable television companies with respect to an investment by a major private equity fund.
- **Trisakti Purwosari Makmur ("Trisakti")**, one of Indonesia's leading kretek and cigarette manufacturers, on the disposal of Trisakti and other companies through a two-stage process. The first stage involved the divestment of a US\$ 78 million controlling equity interest in Trisakti to KT&G, as well as the issuance of a US\$70 million convertible bond by Trisakti. The second stage involved the sale of the remaining interest in Trisakti and other companies to KT&G.
- Jakarta listed **Agung Podomoro Land Tbk**, in its acquisition of PT Bali Perkasasukses. The acquisition marked Agung Podomoro Land Tbk's foray into hotel development in Bali and involved the restructuring of loans amounting to some USD15 million. Agung Podomoro Land Tbk is one of Indonesia's largest and fastest growing property developers, well known for its superblock developments such as Senayan City and Podomoro City.

Environmental

- **Asia Pulp & Paper Group** on the development and implementation of its environmental policies.
- **Golden Agri-Resources**, one of the largest Indonesian palm oil groups on the Roundtable Sustainable Palm Oil Certification Systems.

Mining & Natural Resources

- Advised the **Sawit Mas Group** on the disposal of its palm oil plantations in Indonesia. The sale involved the restructuring of various debt and hedging obligations valued in excess of US\$500 million.
- Advised **Resources Prima Group Ltd**, a Catalist listed company on issues relating to its coal concession held through PT Rinjani Kartanegara and the subsequent potential RTO of another coal concession and another nickel concession.
- Advised **Universal Resource and Services Limited** on its acquisition of an Indonesian oilfield concession.
- Acted for an **Indonesia mining company** on its buy-back of a 30% stake from Sojitz Corporation.
- Acted for an **offshore entity** in relation to its acquisition of an interest in a South Natuna Gas Field and the refinancing of the bank credit facilities.
- Advised a **major Indonesian coal producing group**, in respect of various energy related projects in East Kalimantan.
- Acted on the acquisition and disposal of various mining concessions.
- Advised on numerous exclusive off-take agreements, royalty agreements, and joint operation agreements with respect to mining concessions.
- Advised on various mineral trading agreements with respect to the sale and supply of minerals aggregating millions of tones from Indonesia.
- Advised on the acquisition and disposal of various palm oil plantations.
- Advised a leading public-listed palm oil refinery on acquisition of land in Indonesia

Restructuring & Insolvency

- **Asia Pulp & Paper**, in its US\$16 billion debt restructuring. The group has more than 300 subsidiaries across the world and its debt and equity securities were once publicly traded in several exchanges. The restructuring involves numerous cross-border multi-jurisdictional litigation including a series of cases before various Indonesian courts including the Indonesian Supreme Court regarding the validity of US\$1 billion worth of SEC registered notes. Further, there are also various judgments issued by the US courts in relation to the debt of the group, some of which are being sought to be enforced across the world.
- **PT Berlian Laju**, in its US\$2.6 billion worldwide debt restructuring. It is the largest restructuring exercise in Indonesia for some years. PT Berlian is a leading worldwide seaborne liquid cargo transportation specialist and one of the largest chemical tanker operators in the world. Its fleet of over 100 vessels comprises chemical tankers, oil tankers, gas tankers FSOs and FPSOs. The company is listed on both IDX and SGX. The total debt of the company is estimated at over US\$2 billion. As PT Berlian has assets and operations all over the world, its debt restructuring involves complex multi-jurisdictional legal and practical issues. The exercise has involved Court applications in Indonesia, Singapore and the USA. In Indonesia, the company's debt composition proposal has been approved by the Indonesian Courts with the approval of the vast majority of its creditors, both international and domestic. This deal has been awarded *Asian-MENA Counsel: Deals of the Year – Honourable Mention*.
- **Indonesian agricultural group bond restructuring**, in the restructuring of US\$300 million and US\$225 million bond issues for two companies in a diversified Jakarta Exchange-listed agricultural group. The restructuring involves a lawsuit filed in the Jakarta District Court against the security agent for US\$4 billion, and a lawsuit in the UK High Court in respect of the same matter.
- **PT Humpuss Intermoda Transportasi Tbk** and **PT Humpuss Transportasi Kimia**, in defending some US\$110 million claims by the liquidators of a former Singapore

subsidiary of the Humpuss Group. The Singapore Court of Appeal issued a landmark decision on an important area of procedural law. The Court of Appeal clarified the rules on service of court proceedings commenced in Singapore out of jurisdiction; in particular, that service out of jurisdiction by personal service by a private agent was permitted so long as the method of service was not contrary to the law of the foreign jurisdiction.

- **Indonesian power generation group bond restructuring**, in the restructuring of US\$300 million bond issue for a company in a diversified Jakarta Exchange-listed power generation group.
- **Domas Agroiinti Prima (Sawit Mas Group)**, advising the Sawit Mas Group including its oleochemical arm, Domas Agroiinti Prima, on its debt and corporate restructuring and sale of its palm oil plantations and oleochemical plants. The obligations to be restructured include debt in excess of US\$600 million, and a US\$2 billion off-take arrangement with Proctor & Gamble. The disposal will require the consent of all stakeholders and contemplates the purchaser assuming a substantial part of the obligations of the Sawit Mas Group.
- **Singapore Tin Ltd**, acting for the majority shareholders of Singapore Tin Ltd in its US\$85 million corporate restructuring, with a view to public listing in the future. Assets include tin mines in Indonesia.
- The restructuring of a US\$143 million bond issued by **PT Apexindo Pratama Duta Tbk**, a major energy services company based in Indonesia principally engaged in providing oil, gas and geothermal drilling services.
- **Welitron International Ltd**, on claims arising from three participation agreements dated 2 April 2003, 13 August 2004 and 16 April 2008 (involving debts totalling about US\$5.3 million) entered into with Lehman Brothers Opportunity Ltd ("LBO"), including an option to transfer all the rights and obligations under the facility and security documentation relating to a US\$180 million syndicated transferable loan facility to part finance the design and construction of a super premium office complex located in Indonesia. Proceedings were commenced in the English courts in October 2008 as a result of which LBO agreed to and did effect the transfer in favour of our clients in December 2008.
- **Indonesian companies**, in disputes with lending institutions and oil producer in a major multiple-jurisdiction, multiple-party oil and gas dispute in excess of US\$100 million.
- **PT Bayan Resources Tbk and Bayan International Pte Ltd**, in defending an alleged breach of joint venture agreement for the application of a patented technology to produce and sell upgraded coal. The plaintiff claimed about US\$750 million in damages, and the group counterclaimed for about US\$46 million. The cross-border dispute involves Australian, Indonesian and Singapore business interests.
- **UBS**, in defending it in 2 actions brought by several Indonesian multi-millionaires including Indonesian business magnate, Mr Turniady Widjaja. The plaintiffs were claiming for losses amounting to US\$11.2 million allegedly suffered as a result of trading in currency derivatives known as foreign exchange accumulators. The plaintiffs applied for summary judgment. At the first instance, while the court did not grant summary judgment, UBS was ordered to put up US\$8.78 million and US\$2.45 million as condition for leave to defend the actions. UBS appealed this decision and Drew & Napier successfully argued that the conditions should not be imposed. The plaintiffs thereafter withdrew their actions against UBS.
- **Merrill Lynch**, in an action against a Singapore company and its sole Indonesian shareholder involving the purchase of shares in an Indonesian company listed on

Trusts

- Advised on the establishment of various family trusts for Indonesian families with respect to their Indonesian and international holdings and assets whether for succession planning or wealth management.

Litigation

- **A client**, in a dispute over a coal mining business listed in the Indonesian stock exchange said to be worth over US\$1 billion.

the Jakarta Stock Exchange. The claim is for the sum of over US\$11 million, and involves issues of conspiracy, fraudulent misrepresentation, vicarious liability, and breach of contract. Merrill Lynch successfully obtained a Mareva Injunction against both defendants, and the same has been upheld by the Court of Appeal. The trial has been concluded and judgment is pending.

- **An Indonesian company**, in an application to set aside an ex parte injunction in Singapore restraining them from receiving the proceeds under a performance bond in the sum of S\$10.8 million (US\$7.19 million). This application is part of a wider dispute between the parties under an Engineering, Procurement and Construction Contract for the construction of a coal fired and steam generating power plant in Indonesia costing US\$108 million. Issues in this application include the applicability of foreign law, fraud and unconscionability. This matter is still pending
- **PT United Engineers Indonesia (PTUEI)**, in its action for about US\$5 million against Steel Trading International Limited (STIL). STIL had brought a counterclaim of about US\$8 million but subsequently settled the case after its managing director withdrew his entire evidence under cross-examination by Drew & Napier, during the trial. The managing director was STIL's main witness. PTUEI and STIL are subsidiaries of United Engineers and Goodpack Limited respectively. Both United Engineers and Goodpack Limited are Singapore listed companies.
- **An individual**, against a company in an indemnity claim for a sum of about S\$2 million for costs and damages incurred following the successful defending of criminal charges in Indonesia. Action was successfully settled on favourable terms to the individual.
- **One of the owners of a substantial and diversified Indonesian business conglomerate**, having interests in retail, finance and property development and who has been sued in Hong Kong in a misrepresentation claim involving US\$1 million.
- **Delifrance Asia Pte Ltd, (on behalf of Grands Moulins de Paris)**, in an action commenced in Indonesia to remove the registration of the "Delifrance" trademark by an Indonesian citizen. Extensive investigations were carried out to locate the whereabouts of the Indonesian citizen, and to verify if the trademark was being used by him in Indonesia.

Arbitration

- **An employer**, against a turnkey main contractor, in an international arbitration in respect of disputes involving termination of an engineering, procurement and construction contract for a power plant in Indonesia. The sums in dispute amount to about US\$200 million.
- **An Indonesian client**, in a dispute with a Chinese party over an Engineering, Procurement and Construction Contract for the construction of a coal fired and steam generating power plant in Indonesia costing US\$108 million. The dispute is the subject of an arbitration conducted in accordance with ICC Rules and administered by SIAC. The claim in damages is about US\$100 million.
- **A major global company**, against a US\$70 million damages claim in an UNCITRAL arbitration, for alleged breach of a joint-venture agreement brought by various Indonesian parties.
- **An Indonesian pulp and paper corporation**, in enforcement proceedings against a US corporation of an arbitral award of nearly US\$10 million, obtained after a hard fought arbitration from 2001-2004 concerning industrial machinery at the client's plant in Indonesia. Randolph is also currently acting as counsel for the Indonesian entity in on-going arbitral proceedings to enforce a guarantee of US\$1.036 million against the US corporation's parent company.
- **An international arbitration**, as lead counsel, seated in Hong Kong, where Drew & Napier represents Hong Kong and Indonesian companies in a dispute over a property investment venture with an American concern.

ACCOLADES

Chambers Asia Pacific and Global 2020

Corporate & Finance (Expertise based abroad): Indonesia – Leading firm for 5 consecutive years

Successful team handling high-profile deals for both domestic and offshore clients.

Particularly visible assisting financial institutions and corporate borrowers with project, real estate and acquisition financing. Offers further expertise in refinancing deals and litigation as well as regulatory compliance.

Well known for handling high-profile disputes in the region. Also offers substantial expertise in banking and finance, M&A, energy and natural resources, projects and infrastructure issues. Considered a go-to firm for major restructuring and insolvency matters, with especially established reputation acting for Indonesian debtors.

Strong record assisting international clients with investments into Indonesia, with a focus on tax regulations and restructurings.

Sources acknowledge the team's high-quality services. One client points out: *"They are different from other firms; they understand the client's needs and offer out-of-the-box suggestions."*

International & Cross-Border Capabilities—
Leading firm for 2 consecutive years

The firm maintains close links to local counsel practices across the region and internationally. The team is accustomed to playing a co-ordinating role on matters throughout ASEAN, and is frequently sought out by international firms to work on the local or regional elements of substantial international mandates.

"They gave good commercial advice both on Indonesian law and on the deal documents. The team was focused on getting the job done for the client."

Chambers High Net Worth Guide 2019

Private Wealth Law (Expertise based abroad):
Indonesia for 3 consecutive years

Leading lawyer
Julian Kwek

Kwek's practice is broad-ranging, and includes private equity, cross-border M&A and joint venture matters. He works with both Indonesian clients and wealthy inward investors.

Kwek helps high net worth families to reorganise offshore holding structures and businesses, as well as assisting with immigration and citizenship applications.

He also advises on tax efficiency and complying with the Common Reporting Standard.

MAIN CONTACTS

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