

# ASIAN LEGAL BUSINESS

ALB

AUGUST 2017  
ASIA EDITION



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THOMSON REUTERS®



MCI (P) 060/02/2017  
ISSN 0219 - 6875  
KDN PPS 1867/10/2015(025606)

# BEST BOUTIQUES

## BIG DEAL

Malaysia's M&A scene  
stays strong

## KEY PLAYERS

OFCs are vital for China's  
Belt and Road project

## S&P BOOST

Indonesia's hopes soar with  
better credit rating

## SERVER & PROTECT

How law firms can  
fend off cyber attacks

## TIPPING POINT

International law firms in  
Hong Kong at crossroads

# China Arbitration Summit 2017

September 19-20, 2017 Beijing, China



The 2017 China Arbitration Summit (2017 Summit), cohosted by Supreme People's Court of the People's Republic of China (SPC), China Council for the Promotion of International Trade (CCPIT) and China International Economic and Trade Arbitration Commission (CIETAC), will be held in Beijing on September 19-20, 2017. Being the most important event during China Arbitration Week, the China Arbitration Summit is a high standard conference in China and one of the most influential events in the field of international commercial arbitration.

Representatives of major international arbitration institutions, judges, arbitrators, lawyers, in-house counsels and other arbitration practitioners will share their views on hot issues in international arbitration such as the construction of legal and arbitration environment in *Building the Belt and Road*, the investment opportunities and investment arbitration in *Building the Belt and Road*, development trend and hot issues in international arbitration, prevention and compliance of legal risks in the Going-Out process, etc.

The 2017 Summit lasts for one day with simultaneous interpretation provided.

We warmly welcome all representatives of major international arbitration institutions, judges, arbitrators, lawyers, in-house counsels, academic professionals and other arbitration practitioners to join us in the 2017 Summit together.

For more information on the recent updates and registration service for the 2017 Summit, please visit the official website: <http://arbitrationsummit2017.csp.escience.cn>

We look forward to meeting all of you in Beijing in the beautiful autumn in September.

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AUGUST 2017

## “一带一路”国际合作高峰论坛 BELT AND ROAD FORUM FOR INTERNATIONAL COOPERATION

2017年5月14-15日 中国·北京

14-15 MAY 2017 BEIJING, CHINA



Chinese President Xi Jinping attends a news conference at the end of the Belt and Road Forum in Beijing, China May 15, 2017. REUTERS/Jason Lee

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#### Best Boutiques 2017

As the legal industry faces sluggish growth and increasing competition, boutique firms are expected to weather the storm better than many of their full-service corporate/commercial peers. The inaugural ALB Best Boutiques list highlights firms that are achieving success in their chosen specialism – be it matrimonial or TMT, dispute resolution or sports law – and occasionally beating the bigger players at their own game.

BY RANAJIT DAM

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# FROM THE EDITOR



**RANAJIT DAM**  
Managing Editor,  
Asian Legal Business  
Thomson Reuters

**This is the era of specialisation.** As the legal industry continues to face a series of challenges, some of the discussion has focused around the ideal size for law firms and the long-term sustainability of the full-service model. Individual opinions differ when it comes to this complex, controversial matter, but a rough consensus is that the model works best when it comes to large firms that can offer clients a complete suite of services. For mid-sized law firms as well as those that could be classified as "small", the route forward might be to pick a practice area and specialise.

At ALB, we tend to agree with this line of thinking for two good reasons. In a time of belt-tightening, the cost of maintaining an underperforming practice area is a luxury that few mid-sized and smaller firms can afford, especially if legal personnel remain under-utilised. This is occasionally compounded by wafer-thin margins, as the discounts that firms give to beat out competition ensure that revenue barely covers the costs incurred.

Secondly, developing a niche practice area, especially one that sees fewer lawyers, can reduce the threat of stiff competition. Clients will gradually identify a firm with that specific area of work, increasing the chances of referrals and enhancing the firm's brand and reputation in the market.

With this in mind, we are unveiling the first-ever ALB Asia Best Boutiques list, which we plan to make an annual fixture from now on. Firms that have made the inaugural list span a variety of practice areas – matrimonial and sports law feature as well as TMT and disputes. But what they have in common is a desire to be very, very good in what they do, and that is why they should be feted. Please join us in congratulating them.

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MCI (P) 060/02/2017  
ISSN 0219 – 6875  
KDN PPS 1867/10/2015(025606)

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# BRIEFS

THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

## SG LAUNCHES PROGRAMME TO PREPARE LAWYERS FOR TECH DISRUPTION

Singapore recently kicked off a new initiative aimed at preparing lawyers, particularly those from small and medium-sized law firms, for technological disruption.

The Singapore Academy of Law's Future Law Innovation Programme (FLIP) is due to launch in the fourth quarter of 2017 as a two-year pilot programme to help develop the model for the legal profession of the future. The programme was announced at the SAL's annual dinner on July 11.



*"HOW DARE YOU SEND ME AN EMAIL LIKE THAT. I'M ON YOU NOW... LET'S SEE WHO YOU ARE. WATCH YOUR BACK, B\*\*\*\*."*

**Marc Kasowitz, Donald Trump's longtime lawyer, lashes out at a stranger who sent him an email asking him to resign. Kasowitz's spokesman later said that the lawyer's emails were sent at the end of a "very long day."**



## REPUTATION REMAINS VITAL IN SELECTING LAW FIRMS

When it comes to choosing a law firm, clients are heavily influenced by a firm's reputation, according to a new report by the UK's Legal Services Consumer Panel.

The report says that 75 percent of consumers rely on reputation, citing a lack of pertinent information to allow for comparison of law firms. Additionally, little more than a quarter of consumers shop around to find the best firm for their needs and reputation beats price (69 percent) when it comes to selection. That said, the vast majority (83 percent) are happy with the outcome of their legal matter, and 80 percent were happy with the legal services they purchased. The survey concludes that more needs to be done within the legal profession to help the decision-making process and continue to drive competition in the legal-services market.

## \$55.7 bln

Total value of outbound M&A deals in the Asia-Pacific region in the first half of 2017 – down 58.1 percent from the same period last year, according to Mergermarket. The decline has been attributed to tougher capital controls enforced by China.



**52** - Number of mergers and acquisitions among law firms in the U.S. in the first half of the year, according to Alman Weil MergerLine. This beats the previous mid-year peak of 48 in 2015 and 2016.

## IN THE NEWS

- > UK law firm Gordon Dadds looks set for a public listing in London, which would make it the second law firm to be listed there. Gately was the first, debuting on the Alternative Investment Market in 2015. Gordon Dadds said in a statement that negotiations for a reverse takeover of marketing company Work Group, which is listed on a sub-market of the London Stock Exchange, are at a "very advanced" stage.
- > Google has tapped the services of Cleary Gottlieb Steen & Hamilton, Allen & Overy, Slaughter and May, White & Case, and Garrigues as it prepares to do battle with EU antitrust regulators after a landmark fine and the possibility of a second record sanction before the end of the year. The EU competition authority hit the company with a 2.4 billion euro (\$2.7 billion) penalty last month for unfairly favouring its shopping service.



## LAW FIRMS ARE GOING OPEN-PLAN, AND IT'S NOT TO CUT COSTS

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](mailto:Taran@thomsonreuters.com) or call her at (65) 6870 3909 today.

When you enter the office of a law firm, you expect to see corner offices and not open, communal work areas. But this is gradually changing, as the industry has slowly adopted the workplace trend of the past decade: open-plan offices.

While cutting on costs is usually an important factor in going open-plan, especially for cash-strapped startups, that's not the case for law firms.

"Cost plays no significant part. Often, any money saved is ploughed back into the new premises in one form or another," explains Nigel Francis, the Hong Kong office head of Addleshaw Goddard, whose offices are all open-plan. "Decisions on location – which might cause a 50 percent reduction in rent – will be made first, but there may be a linkage between location and a fit out."

Instead, the major reason for going open-plan is the increased collaboration between lawyers, which could help generate business.

"It's enabling our lawyers – from the youngest to the most experienced – to really understand what the other practice groups are doing, which helps remove the physical barriers of developing a

cross-selling mentality," explains Bob Charlton, head of Asia at Berwin Leighton Paisner. "Lawyers have to be quality service providers, but they also have to generate business. It's easier to generate business as part of a team than it is on your own."

The lack of walls or other forms of physical barriers also boosts communication. It can even lead to better training for junior lawyers, as they have more access to their mentors. As Francis observes, "People actually will see each other all the time, developing individual client relationships or particular areas of work. And the fact that people have the ability to continually share information and update each other as to what's going on – I think can only be a good thing."

There is, of course, a downside to the open-plan design. The biggest, particularly for lawyers, is confidentiality, but that can be easily overcome with soundproofed private rooms, counters Charlton.

And while more communication has its advantages, it could also be distracting. "One of the challenges of open-plan is the question of whether it's too disruptive, noisy, and whether it causes lower productivity and efficiency on individual


matters," notes Francis. "That's something that requires management."

There is also the loss of the corner office – a status symbol coveted by many lawyers. Charlton, however, contends that nowadays, you don't need the corner office to show you have status. "It comes in a different, more modern way. Things aren't symbolised by the corner office with the beautiful view anymore," he says. "They are symbolised by other things like responsibility, by relationships with clients, by involvement in key projects and how people operate in teams."

If the benefits easily outweigh the drawbacks, then why haven't more law firms adopted open-plan offices?

"Law firms don't fit out offices on a regular basis," Francis points out. "It's something that law firms hate because it's an expense that effectively doesn't generate an immediate return. So law firms don't move offices very frequently, and they look for every possible reason to avoid it."

It also doesn't help that law is, by its very nature, a conservative profession. "Lawyers are very conservative about change," says Charlton. "It takes time for lawyers to embrace change. They need to see the situation and work out the benefits, understand the situation, and then they start to embrace it."

"So I think it is a slow process with lawyers, but it will carry on," he adds. "It's inevitable." 



## CIETAC INTERVIEW: AN INTERNATIONAL BRAND IN CHINA'S ARBITRATION AND CHINA'S EXPERIENCE IN INTERNATIONAL ARBITRATION

**ALB: As business activities grow more diversified in recent years, is it true that more and more firms tend to resolve disputes through arbitration?**

**CIETAC:** In the context of the further deepening of globalization, the implementation of the Belt and Road initiative and the formation of a consensus on "improving the credibility of arbitration", arbitration, as the main alternative dispute resolution mechanism, has become increasingly accepted by the parties involved in commercial disputes. CIETAC was founded in 1956, is the first arbitration institution in China. The rise in the caseload of the CIETAC as well as the increase in the dispute amount of cases show that China's arbitration system has been continually developing in recent years and becoming more mature. With the development of arbitration system. Both domestic and foreign enterprises have become more familiar with arbitration and increasingly accepted arbitration as the major form of dispute resolution in the context of international commercial transactions.

**ALB: How should Chinese enterprises exploit this international dispute resolution mechanism to protect their trading activities and investments in the process of going global?**

**CIETAC:** Why arbitration is the most commonly-used mechanism for dispute resolution in international commercial transactions? Firstly, compared to other dispute resolution mechanisms, arbitration has advantages of expertise and efficiency. In addition, arbitration follows the principle of party autonomy, which makes it more flexible. And arbitration awards are recognized internationally and comparatively easier to be enforced in a foreign country. The two latter reasons can be seen as the two critical keys to unlock "the lock of disputes" globally. Thus the enterprises should make full use of the principle of party autonomy to meet their needs with regard to dispute resolution. In practice, the parties concerned may agree on the choice of arbitration institution, and in the context of international arbitration, the parties often conclude agreements on the governing law, place of hearing, arbitration language and seats of arbitration. Furthermore, the *Convention on the Recognition and Enforcement of Foreign Arbitral Awards*, commonly known as the *New York Convention*, has over 150 state and region members so far. Enterprises should make full use of the Convention and seek the enforcement of awards through multiple ways to have arbitration awards recognized and enforced, therefore further protecting their rights and interests.

**ALB: As the forerunner of China's arbitration, would you please share with us the development status and service characteristics of the CIETAC?**

**CIETAC:** Over the past 60 years, CIETAC has received around 30,000 cases and gradually developed the following characteristics:

1. **Internationalization.** The 2017 CIETAC Panel of Arbitrators includes 1,437 arbitrators, of which



**WANG CHENGJIE**  
Vice Chairman & Secretary General

28.2% are foreign arbitrators coming from 65 countries and regions. CIETAC has established cooperative relations with arbitration institutions in more than 40 countries and regions, and CIETAC has participated in the discussions on the development of arbitration rules and other arbitration-related matters in a number of international arbitration organizations as observers, founding members and members.

2. **Expertise.** CIETAC has set up branches to resolve commercial disputes in different sectors, such as finance, construction and public-private partnerships. CIETAC arbitrators in different professional backgrounds can cope with the diversified types of dispute in the new era.
3. **Convenience.** CIETAC has set up eight branches and more than 30 offices to provide the parties concerned with easy access to dispute resolution services. The establishment of CIETAC Hong Kong Arbitration Center (CIETAC Hong Kong) in 2012 is not only a milestone in the development of its international operation, but also means the endeavor of CIETAC, as an international arbitration institution, to improve its arbitration services for overseas parties concerned.
4. **Efficiency.** In 2016, CIETAC's caseload and dispute amount of cases reached a historical high – the amount of received cases was 2,181, with a year-on-year growth of 10.82%. Meanwhile, CIETAC maintains high efficiency in case management and dispute resolution under the pressure of increasing caseload. According to the data disclosed by a neutral third-party

institution, CIETAC closed a total of 2,111 cases in 2016. Cases subject to the ordinary procedure were in average closed within 143 days after the formation of arbitral tribunal, and 67% of the cases subject to the summary procedure were closed within 104 days after the formation of arbitral tribunal.

**ALB: Nowadays, the world's major arbitration institutions are constantly improving their arbitration operations to elevate further their attractiveness. What has the CIETAC done in this endeavor?**

**CIETAC:** CIETAC revised its Arbitration Rules again in 2015 following the development of arbitration and by absorbing international advanced practices. The prevailing Arbitration Rules makes it possible to efficiently resolve disputes by including joinder of additional parties and consolidation of arbitrations on respect of the party autonomy. The new Rules also set forth special provisions for arbitrations administered by CIETAC Hong Kong and provisions dealing with the appointment of emergency arbitrators, all of which provide a strong support for CIETAC to keep up with the trend of international arbitration, and to carry out international advanced practice.

Furthermore, by soliciting opinions of the relevant experts, CIETAC formulated the *China International Economic and Trade Arbitration Commission Hong Kong Arbitration Center Rules as Appointing Authority in Ad Hoc Arbitrations* according to the Hong Kong arbitration law and the practice of arbitration in Hong Kong. The Rules has become effective on July 1, 2017. The implementation of the Rules helps to further clarify the ad hoc arbitrations services provided by CIETAC Hong Kong and enhance the positive role played by CIETAC in ad hoc arbitrations.

CIETAC has kept holding various arbitration activities such as the China Arbitration Summit and the China Arbitration Week to elevate its presence and expand its impact. Meanwhile, CIETAC has been actively communicating and collaborating with the Supreme People's Court and the People's Courts at all levels to gain greater support from judicial organs and promote the coordination and communication between arbitration and the judicial sector, thus creating an even more friendly atmosphere for the judicial review of arbitral awards.

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## WONGP EXPANDS SE ASIA REACH THROUGH FILIPINO ALLIANCE

■ Singapore's WongPartnership has formed a strategic alliance with Philippine law firm Zambrano Gruba Caganda & Advincula (ZGLaw), expanding its regional network to cover nine cities across China, the Middle East and ASEAN.

ZGLaw is a full-service law firm with key transactional practices in banking, debt and equity capital markets as well as M&A and project finance.

In April last year, WongPartnership entered into a strategic alliance with Al Aidarous International Legal Practice, a boutique law firm in UAE that has offices in Dubai and Abu Dhabi. Two years prior to that, in 2014, the Singapore firm expanded its reach into Indonesia by teaming with Jakarta-based Makes & Partners. <sup>ALB</sup>

## DWF TO OPEN IN SINGAPORE WITH EX-EVERSHEDS QUARTET

■ Manchester-headquartered law firm DWF is set to open in Singapore after welcoming two partners from the legacy Eversheds office in the city-state: former managing partner Oommen Mathew and arbitration and construction specialist Iain Black.

DWF's SG office has also hired two lawyers from Eversheds Harry Elias, namely Charis Tan and Kate Lan.

Mathew is a disputes specialist who has experience representing clients in both domestic courts and international arbitrations. He started his career at Allen & Gledhill and worked at local dispute resolution boutiques Tan Peng Chin and Haq & Selvam before joining Eversheds in 2009.

Black, who headed Eversheds' Asia construction, infrastructure and energy practice, has experience in litigation, arbitration, adjudication and mediation across Europe, the Middle East, Africa and Asia. His prior experience includes stints with the legacy Davies Arnold Cooper and the legacy Masons. <sup>ALB</sup>

## APPOINTMENTS



### AKHIL ANAND

**Leaving:** Shardul Amarchand Mangaldas  
**Joining:** Luthra & Luthra  
**Practice:** Litigation  
**Location:** New Delhi



### MICHAEL CHIN

**Leaving:** Hogan Lovells  
**Joining:** Simmons & Simmons  
**Practice:** Corporate and Commercial  
**Location:** Hong Kong



### POLLY CHU

**Leaving:** Winston & Strawn  
**Joining:** Withers  
**Practice:** Corporate  
**Location:** Hong Kong



### HENRY GOODWIN

**Leaving:** Taylor Vinters  
**Joining:** PwC Legal  
**Practice:** Corporate  
**Location:** Singapore



### MABEL LUI

**Leaving:** Winston & Strawn  
**Joining:** Withers  
**Practice:** Corporate  
**Location:** Hong Kong



### SCOTT PETERMAN

**Leaving:** Jones Day  
**Joining:** Orrick, Herrington & Sutcliffe  
**Practice:** M&A and Private Equity  
**Location:** Hong Kong



### DANIEL TANG

**Firm:** Winston & Strawn  
**Joining:** Withers  
**Practice:** Corporate  
**Location:** Hong Kong



### WEE JEE KIN

**Leaving:** China Sonangol International  
**Joining:** RHTLaw Taylor Wessing  
**Practice:** Corporate  
**Location:** Singapore



### TERENCE YEO

**Leaving:** Kelvin Chia Partnership  
**Joining:** Colin Ng & Partners (CNP)  
**Practice:** Private Equity and Fintech  
**Location:** Singapore



## BILL ON LAND: LONG-AWAITED LAND REFORM IN INDONESIA

Since 2015, the House of Representatives of Indonesia ("DPR RI") and the Government of Indonesia ("GOI") have prioritized the issuance of a new land law to address developments in land use not covered under the 1960 Agrarian Law, particularly with respect to natural resource related uses. Although the draft Land Bill is still under discussion between the GOI and the DPR RI, it is expected to be issued by 2019.

Based on the current draft of the Land Bill, a number of points are worthy of discussion:

- **Land Registration and Agrarian Reform**

The issuance of a new land law is expected to help resolve the litany of land-related problems in Indonesia, such as overlapping use rights and agrarian conflicts between companies and customary land owners. In its current form, the Land Bill mandates the GOI to carry out land registration every five years for certified land, uncertified land, and community (customary) land rights. Registration aims to avoid overlap and to provide legal certainty in the granting of land rights by providing better information on the status of land ownership.

- **Rights over Land**

One of the highlights of the draft Land Bill is the regulation of land rights, including right to cultivate (*Hak Guna Usaha*), right to build (*Hak Guna Bangunan*) and right to use (*Hak Pakai*). Under the Bill, limits are placed on the total area that may be granted to certain industries, for example, 200Ha



**INKA KIRANA**  
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for the right to build (*Hak Guna Bangunan*) for a housing area. Provisions on the recording of building leases (*Hak Sewa Untuk Bangunan*) as well as the fiducia security that may be granted for buildings constructed upon leased land have also been proposed under the Bill.

- **Right of Use of Space and Underground**

The draft Land Bill adopts the *ad coelum* doctrine (rights to the air above and the ground below a plot of land) for the right to cultivate (*Hak Guna Usaha*) and the right to build (*Hak Guna*

*Bangunan*). If subsurface rights are granted along with surface rights, overlap between, e.g., cultivation rights and mining/oil & gas rights, would be less likely. However, because mineral and other natural resource rights are reserved to the State in Indonesia, it is unclear how the doctrine will be applied.

- **Land Courts**

The draft Land Bill introduces a mechanism for resolving land disputes through a Land Court. Land Courts will be established in every district court in every provincial capital. Based on the draft Land Bill, there is no appeal mechanism to the High Courts; appeals will proceed directly to cassation in the Supreme Court.

- **Land Bank**

Another highlight in the draft Land Bill is the establishment of a Land Bank to maximize the utilization of land. The Land Bank will have the right to manage and take over the rights to abandoned land, auctioning the rights to eligible parties.

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## UK'S CRS OPENS IN HONG KONG WITH MAYER BROWN, MAPLES HIRES

London-headquartered Charles Russell Speechlys (CRS) has ventured into Asia by opening an office in Hong Kong, which will be run in association with a newly established local firm under Jonathan Mok, previously a partner at Mayer Brown JSM.

Mok practises in all areas of family disputes and focuses on high-profile matrimonial, asset tracing and criminal litigation. He is one of the few civil solicitors to be granted higher rights of audience in Hong Kong and is the only solicitor advocate specialising in family disputes.

Mok will be joined by Richard Grasby from Maples and Calder. Grasby, who was

the first trusts partner at an offshore firm in Asia, will focus on private wealth advisory work.

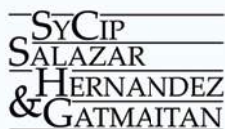
Ashley King-Christopher, a tax partner at CRS, will relocate to Hong Kong from London. He advises international clients and their family office executive teams on the integration of international wealth protection structures with business and investment transactions.

Graeme Kleiner, who heads the contentious trusts and estates team at CRS, will take overall responsibility for

coordinating the Hong Kong office with its other international offices.

"Our move into Hong Kong fits squarely within our international expansion strategy," said managing partner James Carter in a statement. "The firm will have direct access to clients and intermediaries in five of the world's top ten private wealth centres, further extending our ability to support the world's leading creators and owners of private wealth, their families and enterprises across the full spectrum of business and personal needs." 

## REGIONAL UPDATE: PHILIPPINES



## ENFORCEMENT UPDATE: PHILIPPINE COMPETITION ACT



It has been almost two years since Republic Act No. 10667, otherwise known as the Philippine Competition Act (the PCA), took effect on August 8, 2015. Under the transitional clause of the PCA, to enable parties to renegotiate agreements or restructure their businesses to comply with the law, an existing business structure, conduct, practice or any act that may be in violation of the PCA shall be subject to the administrative, civil and criminal penalties only if it is not cured or is continuing upon the expiration of two years after the effectivity of the PCA. This grace period expires on August 7, 2017.

In this regard, the Philippine Competition Commission (PCC) recently published its draft 2017 Rules of Procedure (the Rules), which apply to investigations, hearings, and proceedings before the PCC, except matters involving mergers and acquisitions which are governed by separate PCC issuances. The Rules provide for the procedure for both adversarial proceedings, *e.g.*, fact-finding preliminary inquiries to determine if there are reasonable grounds to conduct a full administrative investigation and full administrative investigations to determine if there is sufficient basis to charge an entity for violation of the PCA, and non-adversarial proceedings, *e.g.*, request for a binding ruling or issuance of a show cause order or submission of a consent order. The PCC is expected to issue the final Rules by August 2017 and the Rules will take effect 15 days after its publication.

Under the PCA, administrative penalties for anticompetitive agreements and abuse of dominant position involve a fine ranging from US\$2million to US\$5million. The PCA also allows for the institution of a separate and independent civil action by any person who suffers direct injury by reason of any violation of the PCA after the PCC has completed the preliminary inquiry. Administrative and civil actions are barred unless instituted within five years from the time the cause of action accrues.

Finally, the PCA also imposes criminal penalties for anti-competitive agreements between competitors that are *per se* illegal or have the object or effect of substantially preventing, restricting, or lessening competition. Such penalties involve imprisonment from two to seven years, and a fine ranging from about US\$1 million to US\$5 million. For juridical entities, the penalty of imprisonment shall be imposed on its officers, directors, or employees holding managerial positions, who are knowingly and willfully responsible for such violation.

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## AMID DANA GAS DEBACLE, ISLAMIC FINANCE SEEKS SAFEGUARDS AGAINST ILLEGALITY CLAIMS

The Islamic finance industry is seeking ways to safeguard deals against challenges to their religious permissibility, after a case in the United Arab Emirates raised the risk that issuers of Islamic bonds could refuse to redeem them after such a challenge.

Bankers and lawyers say several mechanisms, new and old, could address the problem, though it may be impossible to remove the risk entirely.

Legal provisions in contracts for financial instruments could prevent their sharia-compliance from being questioned after they are issued. Investors may also screen scholars who certify instruments as sharia-compliant more carefully, and pay more attention to what mechanisms, such as courts, exist to rule on potential disputes.


In June, Sharjah-based Dana Gas declared it would not make payments on \$700 million of sukuk maturing this October because Islamic finance standards had changed since the instruments were issued four years ago.

The change in standards meant the instruments were no longer sharia-compliant and had become “unlawful” in the United Arab Emirates, Dana argued.

This raised concern across the Islamic finance industry that more companies could avoid redeeming sukuk by adopting the same argument as Dana. The outcome of the Dana case, which is being fought in British and UAE courts, could hurt liquidity and growth in the global sukuk market, Moody’s said.

To try to avoid similar cases in future, investors may demand more detailed and restrictive language in sukuk documentation. Such language already exists for some sukuk, but it is not used consistently and is not standardised.

“We foresee sukuk investors increasingly demanding sharia assurances which could include a sharia undertaking in the form of an explicit waiver of any defence of non-compliance,” said Mohammad Hasif Murad, investment manager at Aberdeen Islamic Asset Management in Malaysia.

Some issuers in Indonesia go further by stipulating that if their sukuk cease to be sharia-compliant, they will be declared in default, mature immediately and become repayable to investors. 

# INDONESIAN NATIONAL PAYMENT GATEWAY



## Overview

The use of technology in the payment system in Indonesia has developed dramatically in the past few years. Currently, the domestic payment system is relatively complex and fragmented due to the non-efficient domestic payment interconnection. With respect thereof, there is a necessity to regulate the interconnection or interoperability of retail payment system in Indonesia providing the efficient, reliable and secure payment infrastructure.

To overcome this issue, Bank Indonesia has enacted Bank Indonesia Regulation No. 19/8/PBI/2017 regarding National Payment Gateway ("NPG Regulation") on 22 June 2017, which mainly regulates that any domestic payment shall be processed domestically by National Payment Gateway ("NPG").

## Role and Requirements of NPG Providers

NPG Regulations mainly regulates the role and requirements to become NPG providers, as follows:

### 1. Standardization Institutions

Standardization institutions, as institutions appointed by Bank Indonesia, has the role to prepare, develop, and manage certain standards to ensure interconnection and interoperability of payment instrument, payment and switching canal as well as security.

### 2. Switching Institutions

Switching institutions shall have the role in processing data of domestic payment transaction.



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To become a Switching Institution, a company shall obtain prior approval from Bank Indonesia after fulfilling, among others, the following requirements:

- a. obtaining license as a switching provider from Bank Indonesia;
  - b. has conducted domestic payment transaction process using infrastructure in Indonesia,
  - c. at least 80% of its shares shall be owned by Indonesian individual and/or legal entity (direct or indirect).
3. **Services institutions**  
Services Institutions, as institutions appointed by Bank Indonesia, has the role to: (i) secure the payment transaction and confidentiality of customer's data, (ii) conduct reconciliation, clearing and

settlement, and (iii) develop a system to prevent fraud, risk management and risk mitigation.

## Impact to Existing Switching Companies

The issuance of this new NPG Regulation will give significant impacts particularly to existing switching companies, who are majority owned by offshore companies (directly or indirectly), due to the minimum 80% local shareholding requirement (direct or indirect).

An existing switching company who already owns a principal license may file an application to become a Switching Institution within 3 months as of the enactment of the NPG Regulation.

A company who already owns principal license as a switching company who does not change into a Switching Institution may still conduct its business activities by having cooperation with a Switching Institution.

As no grandfathering clause exists in this NPG Regulation, we expect to see in the pipeline, certain policies made by Bank Indonesia to deal with those offshore majority-owned switching companies already existing in Indonesia.

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## ASIA DEALS

### \$11.6 BLN

**Nesta Investment Holdings' takeover bid for GLP**

Deal Type: M&A

Firms: Kirkland & Ellis, Morrison & Foerster, Allen & Gledhill, Davis Polk & Wardwell, Clifford Chance, Skadden, Arps, Slate, Meagher & Flom

Jurisdictions: Singapore, China, Hong Kong

### \$6.3 BLN

**COSCO Shipping's offer to buy OOIL**

Deal Type: M&A

Firms: Paul Hastings, Kirkland & Ellis, Slaughter and May

Jurisdictions: China, Hong Kong

### \$1.95 BLN

**SG IPO of Singtel's NetLink NBN Trust**

Deal Type: IPO

Firms: Allen & Gledhill, Clifford Chance, Milbank, Tweed, Hadley & McCloy

Jurisdictions: Singapore, U.S., UK

### \$1.6 BLN

**Takata's asset sale to KSS**

Deal Type: M&A

Firms: Weil, Gotshal & Manges, Nagashima Ohno & Tsunematsu, Skadden, Arps, Slate, Meagher & Flom

Jurisdictions: Japan, U.S.

### \$1 BLN

**Zhongyuan Bank's initial offering on HKEx**

Deal Type: IPO

Firms: Paul Hastings, Sullivan & Cromwell

Jurisdictions: China, Hong Kong

### \$800 MLN

**SP Setia's acquisition of I&P Group**

Deal Type: M&A

Firms: Wong & Partners, Zainal Abidin & Co

Jurisdiction: Malaysia

### \$800 MLN

**HK trading debut of Tencent's China Literature unit**

Deal Type: IPO

Firms: Skadden, Arps, Slate, Meagher & Flom, Davis Polk & Wardwell, Clifford Chance, Han Kun Law Offices, Grandall Law Firm

Jurisdictions: China, Hong Kong, U.S.

### \$525 MLN

**Alpha Investment Partners and Keppel Land China's JV for Shanghai tower**

Deal Type: M&A

Firms: Paul Hastings, King & Wood Mallesons, Llinks Law Offices

Jurisdiction: Singapore, China



## EVENT

# VIETNAM IN-HOUSE LEGAL SUMMIT 2017

JUNE 7 - SHERATON SAIGON HOTEL & TOWERS



- 1 In-house counsels and compliance professionals attending the event
- 2 **Justin Gisz**, Frasers Law Company presents a topic on "Tips for Effectively Resolving Commercial Disputes"
- 3 Delegates networking during refreshment break
- 4 Opening remarks by conference chairperson **Tom Vaziey**, Dragon Capital
- 5 (L-R) **Le Anh Hai**, Nghi Son Refinery and Petrochemicals LLC; **Rachael Bewsey**, Premier Oil Plc.; **Thao Cung**, VinaCapital; **Vu Thang**, Liberty Insurance Limited; **Loi D. Truong**, Traveloka Vietnam Limited sharing their insights on the topic "Next Gen In-House Legal Counsels: Effectively Leading Your Legal Team as a Revenue Generator and Trusted Business Advisor"
- 6 (L-R) **Do Hoang Anh**, British American Tobacco Vietnam; **Nguyen Le Bich Dao**, Manulife Asset Management Vietnam; **Aaron Ferguson**, Standard Chartered; **Thuy Minh Lai**, Citibank Vietnam; **Le Bao Ngoc**, Prudential Vietnam Finance Company Ltd. speaking on a panel regarding "Legal and Compliance: Instilling Strong and Effective Legal Management"



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# KOREA IN-HOUSE LEGAL SUMMIT 2017

JUNE 28 - JW MARRIOTT HOTEL SEOUL

- 1 Delegates networking during refreshment break
- 2 (L-R) **Young Seok Lee**, Seoul IDRC and Yulchon LLC; **Heehwan Kwon**, KCAB; **Kenny Um**, Hyundai Heavy Industries; **Eun Young Oh**, POSCO E&C speaking on a panel regarding "Arbitration as a Dispute Resolution Mechanism for Cross-Border Deals & Transactions in Korea - Challenges and Growth Opportunities"
- 3 **Park Kyung-ho**, Anti-Corruption and Civil Rights Commission (ACRC) delivers the keynote address
- 4 Delegate interacting with one of the Summit sponsors
- 5 (L-R) **Paul Cho**, GM Korea Company; **Nicolai Nahrgang**, Continental Group; **Son-U Michael Paik**, SeAH Holdings; **YooRee Kim**, Teva-Handok Pharmaceutical Co. expressing their views on the panel topic "Understanding the Do's and Don'ts when Managing a Compliance Incident from both Internal and External Perspectives"
- 6 **Ik-Sang Chung**, Microsoft Korea talks about "What Legal Professionals Need to Know About Cybersecurity?"
- 7 In-house counsels and compliance professionals attending the event



4



6



3



5



7

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# BEST BOUTIQUES

As the industry faces sluggish growth, boutique law firms are beginning to come into the spotlight. The inaugural ALB Best Boutiques list profiles some gamechangers.

BY RANAJIT DAM

## HONG KONG

### GALL

**Established:** 2010

**Practice areas:** Dispute resolution, employment

**Managing partner:** Nick Gall

A boutique dispute resolution firm, Gall specialises in a variety of litigation, mediation and arbitration. Core practice areas include commercial litigation, fraud and asset tracing matters, employment disputes, insolvencies, obtaining emergency injunctive relief remedies, regulatory and criminal matters, and family matters. High-profile work in the past year included acting for Yusuf Alireza, the former CEO of Singapore-listed Noble Group, in his dispute against Richard Elman, the group's founder. Gall also has a well-regarded employment practice.

### FITZGERALD LAWYERS

**Established:** 2012

**Practice area:** Dispute resolution

**Managing partner:** Darren FitzGerald  
Hong Kong-based FitzGerald Lawyers has associate offices in Shanghai, Beijing and Sydney, allowing it to carry out cross-border disputes work. On the arbitration side, key recent work has included advising Hong Kong's Fully Best in its payment dispute with Singapore's Chimbusco International Petroleum in proceedings before the Hong Kong High Court.

### KOH VASS & CO

**Established:** 2012

**Practice area:** TMT

**Managing partner:** John Koh

Operating in association with Osborne Clarke, Koh Vass & Co's range of clients and work belie the fact that the Hong Kong firm just has two partners. "We

are a small office, but we act for several of the largest technology companies, some of the biggest brands and fastest-growing companies," says the firm. "But we punch massively over our weight." Apart from TMT, the firm also specialises in retail and consumer, digital business, life sciences and healthcare, and digital health.

## INDIA

### PAMASIS LAW

**Established:** 2012

**Practice area:** Dispute resolution

**Founding partners:** Sameer Jain, Sandeep Bajaj, Siddharth Jain  
Jain, Bajaj and Jain set up Pamasis in the year 2012. After five years, the firm boasts a client list that includes names like Micromax, Toshiba, Playboy, BHEL and Mahindra. Notable recent work has included assisting in the auction of properties belonging to the Sahara Group of Companies, enabling the recovery of the funds deposited by investors and allowing Sahara to secure the bail of its founder, Subroto Roy.

### SPICE ROUTE LEGAL

**Established:** 2012

**Practice area:** TMT, M&A

**Managing partners:** Mathew Chacko, Praveen Raju

Notable TMT work for Spice Route Legal included advising more than 10 Fortune 500 companies on Indian data protection law, and upwards of 25 Asian companies in structuring global data protection compliance. The firm has also assisted in crafting and negotiating the entire contractual framework for monetisation of artists rights around the TV show Indian Idol 2017, and even assisted a leading Indian singer on the false attribution of a sex tape. It also does M&A work, mostly for technology companies.

### UNIVERSAL LEGAL

**Established:** 2004

**Practice area:** Private equity, M&A

**Managing partner:** Partha Mandal

The eight-partner Universal Legal has offices around India, namely in Bangalore, Chennai, Mumbai, Delhi, Chandigarh and Ahmedabad. Its private equity practice, which has witnessed solid work in the past year



or so, boasts clients ranging from PE firms to the recipients of investments. The M&A practice is equally active with work across established and emerging sectors in India.

## INDONESIA

### BAHAR & PARTNERS

**Established:** 1992

**Practice areas:** Transportation, TMT

**Managing partner:** Wahyuni Bahar  
Bahar & Partners' transportation practice encompasses aviation, maritime, toll roads and railways, serving clients that include Angkasa Pura, Angkasa Pura II, AirAsia, Kereta Api, IPC, Rig Tenders Indonesia, and Astratel Nusantara. The TMT practice, also well-regarded, covers sectors from digital business and e-commerce to IT solutions and IT transactions, assisting notable clients such as Omnispace, Telkom Indonesia, VADS, IMX and eCurrency. Key personnel include managing partner Wahyuni Bahar, and Anggia Rukmasari, who heads the transportation practice.

### DKNS LAWYERS

**Established:** 2014

**Practice areas:** Project finance, regulatory

**Managing partner:** Veronica Situmorang

Infrastructure currently tops Indonesia's development priorities, and Jakarta-based DK & Situmorang Lawyers (DKNS) wants to tap into this segment's great potential for legal work. The firm is looking to guide private sector investors in the infrastructure sector, which face numerous challenges, particularly the country's complex legal structures and regulatory disharmony. Key personnel in the practice are Donke Ridhon Kahfi, Marlindah J. Adriaanz, Diana Widiastuti, Raditya Danarki Dhaksa and Daniel T Lumbanraja.

### FARDALAW

**Established:** 2007

**Practice area:** Labour law

**Managing partner:** Darmanto

Recent work for the six-lawyer Farianto & Darmanto Law Firm (Fardalaw) involved

advising an international oil and gas company on issues related to labour and employment law, which includes efficiencies, collective termination, pension, and outsourcing, among others. In the past year, they have helped large clients settle cases by mutual agreement, and also protected clients from risks related to takeovers, downsizing and other corporate actions. "We treat clients not only as kings but also as friends," says the firm. "This means we give them our best service and also make sure they feel comfortable and protected." Fardalaw has seen business pick up, thanks to recent changes in employment regulations, and points out how its philosophy differs from its peers. "Our approach considers humanity, local wisdom and culture," says the firm, "because industrial relations issues are very similar to a family's issues involving a father and his son."



## FARIANTO & DARMANTO LAW FIRM

## FARDALAW

The focus of our practice has been litigation, especially in providing legal services regarding manpower. Clients who retain us for continuing and ongoing legal work include oil and gas, service, agriculture, consumer goods, insurance, and other companies. We endeavor to treat our clients like kings but also as friends; meaning, we strive to provide the excellence of service usually reserved for royalty while at the same time offering the kind of legal advice reserved for one's close friend. This is done so that our clients fully enjoy the benefits of comfort and protection.

### Practice Areas:

- Employment/Manpower law
- Industrial relation disputes (terminations, dispute over rights and interest)
- Corporate action in relation to employment law
- Draft and review of employment agreements, company regulations, collective labour agreements
- Litigation/dispute resolution (bipartite, mediation and industrial relations court)



Darmanto

Darmanto is a managing partner of Farianto & Darmanto Law Firm and a member of the Indonesian Advocate Association/PERADI. He handles litigation/dispute settlements regarding industrial relations issues. He is also a frequent speaker on industrial relations matters.



Willy Farianto

Willy Farianto is a partner of Farianto & Darmanto Law Firm. He is a consultant for companies in relation to manpower especially at times of restructuring, acquisition, etc. He is an author of several national and international journals, books and articles in relation to employment law. He is a frequent speaker on industrial relations matters and is a member of the Indonesian Advocates Association (PERADI). He is a Certified Human Resources Professional and holds a Certificate of Competence in the area of Training Methodology from the Indonesian Professional Certification Authority.

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Website : www.fardalaw.com

**SAMUEL BONAPARTE****Established:** 2012**Practice areas:** Shipping, aviation**Managing partner:** Samuel

Bonaparte Hutapea

Samuel Bonaparte recently proved the strength of its shipping practice by representing a lay-up company in performing a ship arrest at Batam and Bontang ports in a case valued at approximately \$1.5 million. It was the only Indonesian law firm to successfully conduct this arrest and, until the time of printing, had succeeded in maintaining the arrest in spite of attempts by international and Indonesian firms to overturn it. Samuel Bonaparte also has a notable aviation practice, with clients including Nomad Aviation and ICBC Finance Lease.

**KOREA****MINWHO LAW GROUP****Established:** 2011**Practice area:** Technology**Managing partner:** Kyung-hwan Kim

Named as the Boutique Law Firm of the Year at the ALB Korea Law Awards 2016, Minwho Law Group is acting on behalf of the Korea Communications Commission in two lawsuits filed by KT and Interpark for the imposition of civil penalties in a high-profile case related to hacking. The firm is also working with the Korea Database Agency to create a fundamental law on data infrastructure and data assets. Other notable clients at present include Hyundai Pay and Dongbu Daewoo Electronics.

**SEUM LAW****Established:** 2012**Practice area:** Venture capital**Managing partner:** Hoseok Jung

SEUM Law's clientele includes both investors such as 500 Startups, Legend Capital, Hanwha Dreamplus, FuturePlay and Fast Track Asia, as well as technology companies. Managing partner Hoseok Jung is on the mentor panel for the Korean government's K-Startup programme, as well as the advisory committee of the Korea Creative Content Agency.

**MALAYSIA****DONOVAN & HO****Established:** 2014**Practice area:** Labour and employment**Managing partners:** Donovan Cheah, Shawn Ho

Established in 2014, Donovan & Ho recently represented an oil and gas corporation in judicial review proceedings to quash a decision of Malaysia's Minister of Human Resources. It has also assisted and advised multinational corporations with retrenchment and redundancy exercises in Malaysia as well as acted for employers in unfair dismissal claims filed by former employees who were dismissed for misconduct and/or poor performance.

**MAHWENGKWAH & ASSOCIATES****Established:** 1985**Practice area:** Sports law**Managing partner:** Raymond Mah

In October 2016, MahWengKwai & Associates (MWKA) merged with Richard Wee's team from fellow Kuala Lumpur law firm Richard Wee & Yip, making it one of the few firms in the country with sports law capability. Wee, who organises the annual Sports Law Conference, also helped set up the Sports Law Association of Malaysia (SLAM), and the firm offered advice to sports real estate owners, athletes, associations and other sports-based companies.

**SHANG & CO****Established:** 2011**Practice area:** Matrimonial law**Managing partner:** Chris Chin

Shang & Co. saw a 210 percent increase in revenue last year, and key work included a cross-border parental abduction case that encompassed China, Taiwan, Australia and Malaysia as well as a case involving a New Zealand client with Malaysia domicile on his matrimonial (movable and immovable) assets division in Malaysia, Australia and the U.S. worth \$12.5 million. It also represented a Taiwan client with Malaysia domicile on her matrimonial assets division in Malaysia and Taiwan worth \$6 million. The firm plans to expand its

presence throughout Malaysia and into Southeast Asia.

**TAN SWEE IM, SIVA & PARTNERS****Established:** 1999**Practice areas:** Construction, dispute resolution**Managing partner:** Sivabalan

Sankaran

With experience practising in Malaysia and Brunei, Sivabalan Sankaran advises clients on contracts, commercial and litigation, insurance and construction. Significant recent work includes advising on and drafting documents for the Kuala Lumpur City transport project, and other large-value adjudications and major infrastructure-related arbitration. Iskandar Regional Development Authority, BRDB Developments, CMC Machiplex and China Power are among current clients.

**PHILIPPINES****GULAPA LAW OFFICE****Established:** 2015**Practice area:** Construction and real estate**Managing partner:** Aris Gulapa

Established just two years ago, Gulapa Law Office (G-Law) has already picked up a number of accolades, including winning the Boutique Law Firm of the Year award at the ALB Philippine Law Awards 2016, where it was also nominated in a number of categories. Current projects the firm is involved in includes the Clark International Airport project, the new Philippine e-passport system, and the C3 Elevated Expressway Project.

**SINGAPORE****COLLYER LAW****Established:** 2015**Practice area:** Venture capital and technology**Managing director:** Azmul Haque

Collyer Law specialises in venture capital transactions, and much of its work involves investment into Indian and Singaporean companies in the technology space. Last year, it advised the founder of Capital Square Partners and executive chairman of Minacs Group (Singapore) on certain gainsharing



arrangements in relation to the \$420 million sale of holdings by private equity investors, CX Partners and Capital Square Partners. This was one of 2016's largest acquisitions in the business process outsourcing (BPO) space, where the Synnex Corporation purchased Indian BPO firm Minacs Group.

#### PROVIDENCE LAW ASIA

**Established:** 2012

**Practice area:** Dispute resolution

**Managing partner:** Abraham Vergis

Recognised as the Dispute Resolution Boutique Law Firm of the Year at the ALB SE Asia Law Awards 2017, Providence Law Asia has been involved in a number of high-profile cases. These included acting for a client in judicial review proceedings against the Law Society of Singapore over a complaint of over-charging by lawyers at WongPartnership. At present, the firm is acting for Russian national Dmitriy Shpor, in a 3 billion yuan suit which is currently being heard by the Singapore International Commercial Court.

#### TAN KOK QUAN PARTNERSHIP

**Established:** 2000

**Practice areas:** Dispute resolution, insolvency

**Managing partners:** Marina Chin, Eddee Ng

Among Tan Kok Quan Partnership's (TKQP) notable recent work is acting for Sharon Tan, a defendant in the City Harvest Church matter – one of the largest, longest-running and highest-profile white-collar crime cases in Singapore's history, where church leaders were accused of diverting millions of dollars in church funds. TKQP also has a well-regarded insolvency, restructuring and investigations practice.

#### YEO & ASSOCIATES

**Established:** 2009

**Practice area:** Family law

**Managing partner:** Beatrice Yeo

Recent innovations introduced by Singapore's Yeo & Associates include a do-it-yourself online divorce platform, which can be used for a flat low fee,

as well as a wills package that can be purchased over the counter. "Our strategy is to educate and empower clients about the law and their legal rights on a 'low bono' basis," says managing partner Beatrice Yeo. "We normally aim to prevent litigation and have successfully achieved a mediated settlement in almost all cases. However, if cases require litigation, our firm has the expertise to litigate at all levels of court." Yeo adds that her firm is always at the forefront of launching new legal products and procedures that emphasise speed, quality and low costs. "It's essential for a boutique law firm to reach every level of society," she notes. "Apart from providing our clients with legal knowledge, we also counsel them to give them greater support." The firm has also set up offices in the middle of neighbourhoods in order to enable easy access to clients. 

## YEO & ASSOCIATES LLC

### ADVOCATES & SOLICITORS

*... More than mere Family Lawyers...*



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#### Practice Areas

Divorce, Annulment & Separation  
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Matrimonial Assets  
Maintenance for Wife & Children  
Child Custody, Care & Control  
Child Adoption  
Access Rights  
Family Violence  
Conveyancing pertaining to  
Divorce Court Order

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From September 2017

#### YEOLAW @ PPC

(Adj Family Justice Courts):  
101A Upper Cross Street  
#12-13 People's Park Centre  
Singapore 058358

#### YEOLAW @ SENG KANG:

11 Rivervale Crescent  
#02-07 Rivervale Mall  
Singapore 545082

# CHRISTOPHER & LEE ONG

## THE DEVELOPMENT OF TECHNOLOGY AND CYBER LAWS IN MALAYSIA

Malaysia has one of the most comprehensive set of technology and cyber related laws in South East Asia. These laws were intended to catapult Malaysia into the digital future and they have succeeded to a certain degree.

The focus on technology and cyber laws coincided with the switch in the 1990s from a largely commodities and manufacturing based economy to one which was increasingly services based. The government of Malaysia, saw the possibilities of the digital economy and deliberately set to harness it as an engine of growth, bestowing upon Malaysia the Multimedia Super Corridor (a special development zone with preferential tax treatment for digital enterprises and the MSC Bill of Guarantees) and a set of laws intended to give assurance to investors in the Malaysian digital ecosystem.

Amongst these laws were the Computer Crimes Act 1997 ("CCA"), the Communications and Multimedia Act 1998 ("CMA") and the Digital Signature Act 1997 ("DSA"), which were intended to set the regulatory framework for the advent of the digital economy. It served as a powerful declaration of national intent which has been a guide to Malaysia's journey thus far.

The CCA, which was modelled on the UK Computer Misuse Act 1990, has been reportedly utilised in several hundred matters, though only a handful have been reported in the press and/or in the law reports. However, lately there have been a number of reported cases which indicate an increased willingness on the part of the AG's Chambers to prosecute cybercrime.

The DSA, which was modelled after the digital signature legislation of Utah and guarantees the authenticity and integrity of digital signatures, had a lackluster beginning with limited corporate level uptake, but has since seen an enormous level of usage in Malaysia in the past decade. Today, there are millions of banking, tax and immigration related transactions which are grounded on the guarantees provided by the DSA.

The CMA, a convergence legislation that shifted the focus from regulating "telecoms" to regulating the network and the content that passed through it, has been an unqualified success. The CMA has ensured transparency and the equality of treatment and removed the opaque licensing regime of the Telecommunications Act 1950. It



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Partner

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has served to encourage the growth of mobile operators, MVNOs and other telecoms facilities providers, some of whom have become regional players.

On the consumer side, the Consumer Protection Act 1999 was extended to apply to electronic / online transactions in 2007, with specific regulations being extended to online business suppliers and online marketplace operators in 2012. Further, the Personal Data Protection Act (PDPA) was passed in 2010.

Moving to the here and now, in a time when internet services and computing power are becoming near ubiquitous to the man in the street (at least in urban areas), it would seem that most South East Asian economies are at risk of being overwhelmed by a digital tsunami. Regulators across the region are bravely paddling to stay on top of the changes being wrought by the likes of fintech, e-money, peer-to-peer funding, bitcoin, blockchain, over the top (OTT) services (e.g. Netflix), disruptive technologies (e.g. Uber, Grab, Airbnb), autonomous vehicles, drones, etc.

The government of Malaysia has taken cognizance of this reality and of the fact that everyday activities are increasingly being carried out online and acknowledge the need to regulate these emerging digital activities.

This acknowledgment, has taken the form of the repeal of the Payment Systems Act 2003 and its

replacement with a more liberalized e-money and payment services regime by the Malaysian Central Bank ("BNM") under the Financial Services Act 2013. Other examples of the financial sector capitalizing off the said digital tsunami includes the Securities Commission launching its Peer-To-Peer (P2P) Financing Framework in late 2016, followed by BNM launching its Fintech Regulatory Sandbox in 2017.

In terms of "disruptors", such as Uber and Grab, the government has recently tabled the Commercial Vehicles Licensing Board (Amendment) Act 2017, which will require e-hailing services to be licensed prior to commencing operations.

In addition to the above, a new cyber court was also established in September 2016 to regulate cyber activities and to facilitate growth of the digital economy. The cyber court was established to address the increasing number of civil and criminal cyber offences.

On the horizon, there are upcoming amendments to the CMA, CCA and DSA, which are all currently under review by the relevant government ministries and/or the AG's Chambers. Additionally, the government recently announced a new Cyber Security bill which is intended to combat a variety of cybercrimes, including the recruitment and financial sourcing by terrorist groups, money laundering and online gambling.

Undoubtedly, the pace of change has picked up tremendously, causing governments across the region to accelerate their legislative programs particularly in respect of technology and cyber related laws, whether to accommodate digital activities within existing legislation or to reflect new realities with new legislation. The Malaysian government seems to be amongst the leaders in meeting this challenge and considering their track record to date, is likely to successfully meet the challenge.

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# A POSITIVE MOOD

Despite the uncertainties of 2016, Malaysia's M&A scene saw some significant dealmaking last year, and lawyers are seeing more of it in 2017.

BY RAJ GUNASHEKAR

■ The year 2016 has been generally viewed as a challenging year for global markets, with factors including falling crude oil prices as well as political events such as Brexit and the various policy changes in the U.S. stemming from a new administration leading to an overall economic slowdown.

Despite these hurdles, Malaysia still managed to record an economic growth of 4.2 percent in 2016, and this year started off even better, with the country posting a 5.6 percent growth in the first quarter of 2017. Moreover, when it came to mergers and acquisition (M&A) deal activity, the numbers were equally good.

According to Duff & Phelps, as of November 2016 a total of 375 transactions had taken place, the highest since 2013. Total M&A deal value in the first 11 months of the year reached \$14.6 billion, up from \$8.8 billion a year previously. Domestic M&A deals comprised half of the total deal value in 2016.

Lawyers say that there is increased optimism for Malaysia's immediate future, not least because of the potential of greater investment from China. The two countries recently signed 14 agreements for projects valued at up to \$33 billion. "We expect that the continued influx of Chinese investments will continue to encourage M&A activities here in Malaysia, either in the form of JV partnerships with Chinese investors, or more Chinese investors coming in to acquire assets and companies in Malaysia in the relevant

sectors," says Kuok Yew Chen, a partner with Christopher Lee & Ong, Rajah & Tann's associate law firm in Malaysia.

## THE POWER OF SMALL

One area that has seen a lot of activity has been small and medium enterprises (SMEs). According to Malaysia's Ministry of International Trade and Industry, SMEs account for 97.3 percent of a total of 662,939 business establishments in Malaysia.

The introduction of the equity crowdfunding regime and the growing trend of startups in Malaysia have resulted in an increase in M&A activity in the SME sphere. Angel investors and venture capitalists are constantly looking out for the next new business to invest in.

However, traditional sectors also remain strong. According to the Duff and Phelps report, the top sectors in Malaysia based on deal value last year were real estate, energy and telecommunications.

For example, the largest M&A deal in 2016 was the acquisition by IWC-CREC – a consortium between Iskandar Waterfront Holdings and China Railway Engineering Corporation – of a 60 percent stake in Bandar Malaysia.


Despite, or even perhaps as a result of, the slump in global oil prices, the oil and gas sector in Malaysia has seen some M&A activity. Notable transactions include MISC Berhad's acquisition of a 50 percent stake in Gumusut-Kakap Semi-Floating Production System.

The TMT sector has also seen several large transactions, including Axiata Group's private placement exercise in its telecommunications tower subsidiary, edotco Group.

## DIGITAL BOOM

According Christopher & Lee Ong, there is also increasing activity in the digital space, particularly mobile apps and online businesses.

"Given that these are relatively new business structures, there is considerable uncertainty over the regulation of such businesses," says Kuok. "The government has indicated that they will be introducing new legislation to regulate e-businesses, which are currently operating in an unregulated environment."

With the recent launch of the Digital Free Trade Zone (DFTZ) by the Malaysian prime minister, law firms expect to see continued growth in M&A transactions in the digital business space. "It is expected that e-commerce will continue to grow exponentially in Malaysia," says Kuok. 





Former Malaysian prime minister Mahathir Mohamad smiles during an interview with Reuters in Putrajaya, Malaysia, March 30, 2017. REUTERS/Lai Seng Sin

# BACK TO THE FUTURE

Mahathir's comeback renews Malaysia's opposition in looming polls

BY JOSEPH SIPALAN  
AND PRAVEEN MENON  
OF REUTERS

■ Prime Minister Najib Razak won Malaysia's last general election, despite losing the popular vote. Since then, he has been embroiled in a corruption scandal that has been investigated in a half-dozen countries.

Yet the avuncular leader with an aristocratic pedigree was still expecting to cruise to another election victory in polls due by mid-2018, maintaining his coalition's record of unbroken rule since independence in 1957.

Now, all bets are off.

That's because his former mentor and prime minister for 22 years, Mahathir Mohamad, who turned 92 last month, has agreed to join a fractured opposition alliance and head the government again if it wins. He would be the world's oldest prime minister if that happened.

Mahathir, along with Najib's former deputy, Muhyiddin Yassin - fired last year for questioning his boss about the scandal - have formed a new party called Bersatu (Unite). It has opened branches in 165 of parliament's 222 constituencies, Muhyiddin told Reuters, a feat few opposition parties have managed.

During his 1981-2003 rule, Mahathir championed modernization by switching Malaysia's focus from plantations and mining to a diversified high-tech manufacturing base on the back of foreign investment. He built the world's tallest buildings at the time, the Petronas Twin Towers.

A considerable fan base is excited about his comeback.

"I was still young when Mahathir was prime minister. And I thought anything was possible ... maybe cars could fly," says Nazariah Harun, a former government party supporter in the southern state of Johor, bordering Singapore.

Mahathir also dealt ruthlessly with opponents, jailing his former deputy - and now alliance partner

- Anwar Ibrahim on corruption and sodomy charges in the late 1990s.

The opposition alliance hopes to capitalize on a couple of scandals that are resonating in rural Malaysia.

One is around the state's 1Malaysia Development Berhad (1MDB) strategic development fund that Najib, 63, founded after taking power in 2009.

Its murky transactions through overseas front companies and Middle Eastern partners, many of them exposed by foreign media reports, have bewildered the public over the past two years.

Najib insisted he did nothing wrong when it leaked to the media that \$700 million wound up in his bank account before the 2013 election.

The other scandal, involving state plantation company FELDA, is more problematic because it directly affects tens of thousands of small landholders in the heartlands. They are a key vote bank for Najib's party, the United Malay National Organisation (UMNO).


## UMNO PATRONAGE

The 1,600 residents of Kuala Sin, a village of farmers and rubber tappers in Mahathir's home state of Kedah, are switching from UMNO to Bersatu, says UMNO's former chief there.

"I've held the ballot box here (for UMNO) from 1962 until 2014... but this year, God willing, UMNO will lose," says 77-year-old Ramli Mat Akib at his weathered two-storey wooden home in Kuala Sin.

The UMNO branch office opposite his home has closed.

Mahathir's son Mukhriz, who leads Bersatu's campaign in Kedah, believes it is "making huge headway" in rural Malaysia.

"It goes all the way down to the branches, and in Kedah very many UMNO branches have dissolved," Mukhriz says. 





## INCREASING INDIA SEATED INTERNATIONAL ARBITRATION CLAUSES

A few years back non- Indian Companies were not ready to accept to the choice of incorporating dispute resolution clauses with International Arbitration seated in India, even if the other party is from India and the subject matter of the contract is situated in India. The main reason for such a hesitation was the expected delays, unpredictable court interventions, un-amended law and the necessity to go to the local court for enforcement of a foreign award, which took long time to end the process etc., But after the new amending law which came into force from 23rd October 2015 the scenario has completely changed and now India is becoming a desirable seat of International Arbitration. The following are the main reasons for the change.

The recent Amendment to Arbitration and Conciliation Act, 1996, which is the procedural law for all arbitrations seated in India and enforcement of foreign arbitration awards in India, has made the said act very efficient. The first important change is the mandate to complete all India seated arbitrations within 12 months from the date of formation of the arbitral tribunal. The said amendment allows parties jointly to extend the time by another 6 months and beyond that only the courts have the power to extend the deadline. After this amendment, each arbitrator and the arbitral institution is keen in completing the arbitrations within 12 months. India allows international arbitral institutions like ICC to administer arbitrations in India. The said rule will apply to all the international arbitrations administered by International arbitration institutions like International Chamber of Commerce (ICC), Singapore International Arbitration Centre (SIAC) etc., Hence India seated ICC & SIAC arbitrations will end much faster than the other popular international arbitration seats.

The other major attraction arising out of the present Indian seat is the changes made in Indian law relating to the definition of Public Policy. One of the major challenge for any arbitration seat is the interference by the supervising courts in an arbitration award. Mostly the interferences are done on the ground of Public Policy and the amendment has restricted the scope of "Public Policy"



**S RAVI SHANKAR**  
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and hence the court interference is also reduced considerably.

The other important amendment is relating to the exclusion of the jurisdiction of the District Courts from dealing with litigations relating to international commercial arbitration. Earlier all the arbitrations including the international commercial arbitrations seated in India, were treated as domestic arbitrations and hence the District Courts in the seat of arbitration were the supervising courts. There are 1200 District courts and 26 High Courts in India. High courts in India are situated in the State Capitals of India. Each State of India has only one High Court and the High Court Judges are better informed about the international Arbitration procedures. Hence the amendment has chosen to shift the jurisdiction for handling litigations relating to international arbitrations from District Courts to High Courts. This shift helps the parties to get a better approach to the arbitration related litigation and to cut one stage of appeal.

The other major advantage with Indian seat is, the availability of option to get the interim orders from the courts in a faster way. Globally, parties to international arbitrations, choose emergency arbitrator

awards than court orders in the matters of interim protection because the emergency arbitration award being an arbitration award gets the support of New York Convention on Recognition and Enforcement of International Arbitration awards. The Court judgments do not get the support of the said New York convention and hence enforceability is an issue. But in India Emergency arbitration awards are not expressly recognized by law, even though interim awards are recognized and enforceable. But the Indian courts are very fast in granting interim orders and Indian law is same as English law. Hence against a party from India Court interim orders will work better and against foreign parties, emergency arbitration provision can be used. Since India is a New York Convention member, the emergency arbitrator awards passed in India are enforceable in many countries.

The other major reason for the attraction of Indian seat is the removal of automatic stay of arbitration awards, in case a party chooses to challenge the award passed in India. As per the un amended Act, after completion of 90 days from the date of receipt of the arbitration award, the arbitration award becomes an enforceable Court Decree. But in the meantime, if a party chooses to challenge the award, the award cannot be enforced till the final disposal of the challenge. But the amendment has changed this and has made the parties to approach the court to get a stay. In such a situation, Courts can impose conditions to stay the award and make the challenging party to make certain deposits before considering the challenge.

Hence India has become a seat of International Arbitration favored by Foreign parties after the new Act.

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# BELT, ROAD AND OFFSHORE

China's trillion-dollar Belt and Road Initiative is expected to impact a significant chunk of the world's economy, especially large swathes of Asia, Africa and Europe. And offshore financial centres are an important part of this strategy, translating to increased work for lawyers. **BY HAKY MOON**



China's Belt and Road Initiative has been receiving increasing attention internationally, and for good reason, as the initiative aims to boost trade ties and investment across countries in Asia, Africa and Europe.

"The Belt and Road Initiative is an interesting and ambitious undertaking. At a time when populism and anti-globalism seems to be spreading across the globe, the initiative is in stark contrast," says Stephen Adams, managing partner at Collas Crill's Singapore office. "The ability to encourage the investment of private funds alongside the funds on offer by China will be critical to the success of the overall Belt and Road initiative."

The trillion-dollar initiative that includes large-scale infrastructure construction projects is an ambitious feat. It aims to connect 68 countries in Asia, Europe and Africa through an infrastructure-building plan funded, in large part, by China.

"As you know, China has been engaged in widespread infrastructure investment globally as part of the Belt and Road Initiative," says Kristian Wilson, partner at Bedell Cristin in Singapore.

To achieve this, the initiative requires bringing together international joint ventures and find ways to deploy massive amounts of capital in different countries.

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"It is a period where Chinese capital is moving out of China, compared to, historically, capital moving inbound," notes Wilson.

This shift is likely to create significant amounts of work for legal professionals that specialise in offshore structures but to reap the most benefits they will have to be aware of the many implications including in China's ambitious plan.

## OUTBOUND OBSTACLES

As Wilson notes, the increased attention given to the Belt and Road initiative comes at a time when China's currency restrictions continue with some outbound deals being stalled since last year.

In 2016, China's outbound investment hit a record high. According to M&A intelligence provider Mergermarket, Chinese companies invested over \$51 billion into the U.S. via 65 deals in 2016. That is a 360 percent surge from 2015 when Chinese companies invested \$11.7 billion.

Alarmed by the surge of overseas acquisitions included in these deals that seemed unrelated to the core businesses of some companies, Chinese authorities quickly moved to tighten capital control to stabilize the currency. Although a formal, unified approach is yet to be seen, regulators are closely examining overseas investments more than ever, for authentic investment transactions and for strict compliance with all related rules and regulations.

As a result, Chinese outbound investment dropped nearly 46 percent to \$48.19 billion in the first half of the year, according to the Chinese Ministry of Commerce. And there has also been a slowdown of activities in the free trade zones (FTZs). Currency restrictions are bleeding into delayed approvals for Chinese companies that are looking to invest out of China.

Although there is significant funding commitment coming from China, it is generally thought that there is a substantial gap between the committed and the required amount of funding to build the infrastructure Asia will need over the next two decades.

## OFFSHORE IN PLAY

Despite these concerns, offshore financial centres (OFC) such as Cayman Islands and British Virgin Islands (BVI)

"The Belt and Road Initiative is an interesting and ambitious undertaking. At a time when populism and anti-globalism seems to be spreading across the globe, the initiative is in stark contrast. The ability to encourage the investment of private funds alongside the funds on offer by China will be critical to the success of the overall Belt and Road initiative."

— Stephen Adams, Collas Crill



continue to be the nexus for China's outward strategy, particularly for the Belt and Road Initiative.

Kristy Calvert, a partner and chief representative at Harneys, said there has been an increased amount of activity under the initiative.

"[There are] more infrastructure deals than in the years preceding its launch by Chinese President Xi Jinping in 2013," she said.

Despite some deals having been stalled from the leading state-owned enterprises (SOEs) and private players in the second half of last year due to currency and approval restrictions, Calvert said her firm achieved significant growth in the region, particularly for fund formations and other deals from China.

Calvert has been seeing top-end fund managers who specialise in infrastructure projects overseas touring Chinese cities to make deals on the back of the Belt and Road initiative.

"Many of the leading international forums on the Belt and Road initiative were held in the second quarter of this year throughout China's major cities. Dedicated Silk Road associations have also been formed in recent months, with some enjoying fantastic support and assistance from the provincial government," she says.

Given that Belt and Road is a Central Government initiative, it comes as no wonder that the provincial governments are particularly active, as there are so-called "achievements" on the Belt and Road initiative that each provincial government official can talk about when reporting upwards.

Calvert also notes that the Belt and Road momentum offers exciting prospects for the use of offshore holding companies for the structuring of these large outbound deals, in particular Cayman and BVI companies, depending on the location of the ultimate investment.





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“We see and expect to see an increase in funds formation with investment objectives linked to China Belt and Road Development. We are also seeing many of our infrastructure clients looking to independently raise funds.”

— Christopher Bickley, Conyers Dill & Pearman

Cayman Islands’ success is predicated on the jurisdiction and its experienced service providers providing a neutral efficient hub connector for capital and financing around the world.

Along with Cayman Island, BVI stands as one of the world’s largest OFCs for the incorporation of companies, especially those facilitating cross-border trading and investments.

BVI has continued to prove to be successful for Chinese corporation for the last 30-35 years.

And both offshore vehicles stand to benefit from these initiatives.

“In general, China continues to present significant deal flows, ranging from Chinese fund managers going out to set up their US dollar funds to help manage the increasing pool of high net worth individuals with money overseas, to IPOs and top-end M&A transactions,” she says.

“Cayman and BVI structures continue to have a central role in these deal flows, given many of these structures have already become embedded over the past decades in the structures of China’s lead international players,” she adds.

Christopher Bickley, a partner and head of the Hong Kong office at Conyers Dill & Pearman agrees and notes that the OFCs are playing a “material role in the Belt and Road initiative”.

“In particular, we see and expect to see an increase in funds formation with investment objectives linked to China Belt and Road Development. We are also seeing many of our infrastructure clients looking to independently raise funds for infrastructure development, particularly in Western China,” says Bickley.

David Lamb, partner and co-chairman of Conyers Dill & Pearman provides some recent trends he have been observing regarding OFCs.

“The M&A market continues to be active with Cayman being the top target jurisdiction for offshore transactions,” he notes.

Lamb says the Cayman team of Conyers Dill & Pearman has been involved in a number of high profile multi-billion dollar acquisitions in the past years, particularly in the insurance sector, and has worked closely with the M&A team in the Hong Kong office on a significant number of mergers originating in Far East.

“Our M&A practice also benefits from our strong presence in the private equity sector as many acquisitions and disposals are downstream transactions for private equity and venture capital funds,” notes Lamb.

Bickley further adds that in terms of IPOs and capital markets, the first six months of 2017 have been particularly active. For IPOs, the first half of 2017 has seen 53 Cayman companies launching on the SEHK, with their offerings totalling \$2.269 billion in value.

In addition, Anthony Webster, head of the Asia private equity practice and a partner of the funds team at Maples and Calder, points out that Cayman Islands is a trusted, reliable and well-regulated financial centre, which plays a valuable role in global financial capital flows.

“It is a premier global financial hub efficiently connecting law-abiding users and providers of investment capital and financing around the world – benefiting developed and developing countries,” he says.

## CHANGING WORK

China’s Belt and Road initiative includes many substantial infrastructure construction projects, such as power stations, roads, rail, ports and maritime shipping facilities.

Wilson of Bedell Cristin sees both existing and new offshore structures being used. Existing offshore structures such as holding companies, investment vehicles, financing vehicles are still in use, and they are either targets for Chinese investment, acquisition or joint ventures. At the same time, newly set up offshore structures for acquiring funds and

investing in projects is also widely used.

As a result, the type of work Wilson sees going forward may be focused on Chinese investment in Asia through BVI vehicles or into BVI vehicles.

“The type of work could be advising on the financing arrangements to a BVI company or fund where it is raising funds to invest in infrastructure projects, or advising on M&A or joint venture aspects of a deal where the acquirer



**\$51 BILLION**  
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or investor is seeking to invest in a BVI target," he notes.

Wilson has also worked on a number of deals in Southeast Asia that involved Chinese investment into real estate or infrastructure projects.

"The main type of work we have seen has been project financing related, mainly infrastructure investment, or joint venture and M&A related, in the form of co-investment in the acquisition of hard assets," he adds.

"We have also worked on funds transactions, where the clients have raised funds with the intention of investing in hard assets, although this is more in the private commercial space," notes Wilson.

## COMING TOGETHER

Webster of Maples and Calder points out that China's major infrastructure projects built along the Belt and Road corridors bring together investors, lenders, construction companies and other business enterprises in very complex transactions.

"This requires detailed analysis of legal, regulatory and tax parameters of multiple countries. These require the creation of international joint ventures between Chinese companies and foreign business; huge amounts of capital to be deployed from and to many countries in order to finance them, including capital from Chinese and international investors, lenders, development banks, agencies and private investors," he notes.

Webster says he has observed the increased use of Cayman vehicles since Belt and Road's inception.

"In fact, we have been told by one Chinese organisation that is fundamental to Belt and Road, that Cayman vehicles are their preferred choice when structuring transactions," says Webster.

And so far, he's seen a number of Cayman Islands private equity funds, project financing and joint venture firms being formed specifically to invest in Belt and Road projects.

"Very often a company or other legal entity based in a neutral jurisdiction, such as the Cayman Islands, is the most efficient way to bring those international stakeholders involved with a project together in a business-friendly and cost-effective structure," he adds.

For these reasons, the use of Cayman Islands vehicles predates the Belt and Road initiative. Cayman Islands



"The experience and expertise which exists amongst Cayman's legal, accounting and other professional advisors based both in the Cayman Islands as well as in other key financial centres such as Hong Kong, London and Dubai, working together with institutional financial institutions, lenders, development banks, agencies and legal and professional advisors based in many other countries, play a very meaningful and valuable role in structuring the transactions that support the Belt and Road initiative."

— Anthony Webster, Maples and Calder

vehicles have long been playing this type of role in international project financing and investment fund structures for many decades.

"Cayman Islands companies have been used extensively in the development and financing of infrastructure projects in many countries, whether through debt and equity financing vehicles, such as private equity and venture capital funds, bond-issuing vehicles and capital markets solutions, such as international public offerings, public-private sector partnerships (PPP) and securitisations," says Webster.

He further adds, "The experience and expertise which exists amongst Cayman's legal, accounting and other professional advisors based both in the Cayman Islands as well as in other key financial centres such as Hong Kong, London and Dubai, working together with institutional financial institutions, lenders, development banks, agencies and legal and professional advisors based in many other countries, play a very meaningful and valuable role in structuring the transactions that support the Belt and Road initiative."

Going forward, Webster believes that he will continue to see strong growth in the use of Cayman and BVI vehicles by the Asian business community.

## BELT AND ROAD OPPORTUNITIES

In terms of a wider perspective from the offshore area, Wilson sees many OFCs are following the Belt and Road initiative closely. And recent developments signals how OFCs are evolving according to global demands.

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“Jersey will continue to be popular for transactions involving UK based property. Mauritius and Singapore are typically the channels for foreign investment into India. Luxembourg vehicles, particularly Undertakings for the Collective Investment of Transferable Securities (UCITS), remain a popular choice as a gateway for investing into Europe.”

— Anthony Oakes, Ogier

and BVI recently introduced legislation requiring certain companies and limited liability companies to create and maintain a (non-public) register of beneficial owners.

What this means for Belt and Road market users is continued confidence in the BVI to facilitate their cross border transactions and investments.

“The BVI has been at the forefront of this space more than ever, with BVI Asia House on the ground for several years now, and the BVI Government having taken a roadshow to China recently,” notes Wilson.

“In addition, a private bank, the Bank of Asia, has recently opened in the BVI backed by Hong Kong-based shareholders, which not only points to the continued relevance of the BVI in Chinese investment, but is in and of itself representative of the belt and road, as it is itself a new institutional investment in the Caribbean.”

Adams believes the opportunities for OFCs lies in the fact that countries along the Belt and Road initiative have different languages, cultures and legal systems in various levels of development.

“The ability to structure a foreign investment through an OFC offers investors the certainty they require which may not otherwise be available through a direct investment. From an investee country perspective the use of an OFC enables it to have access to a pool of highly qualified and experienced professionals that may not be available locally,” he notes.

Most OFCs offer tax neutrality, flexibility, stability and legal certainty that many times are not available in the country where the investment is made.

Going further, Adams sees OFC playing similar roles as it has with foreign direct investment (FDIs) when it comes to the Belt and Road initiative.

Drawing from his experience with offshore centres playing the conduit role in foreign direct investment,

Adams expects that investments made along the Belt and Road route to be structured, similarly through an OFC.

“OFCs have always acted in a complementary fashion with jurisdictions, such as Hong Kong, London, Singapore, and we would expect that investments made along the Belt and Road route to be structured similarly through an OFC,” notes Adams.

## THE RISE OF CYPRUS

While BVI and Cayman island has long been favourites for Chinese investors, the use of mid-shore jurisdictions such as Cyprus is also becoming increasingly popular, according to Calvert.

“Harneys’ Cyprus office, being one of the largest international law firms in the region, is seeing a rise in instructions,” she notes.

“This is evident from various important developments in recent months between the Cyprus and Chinese governments.”

Some of the benefits Cyprus offers includes a passport that is given for a \$2.3 million property investment.

Secondly, the location of Cyprus is ideal to set up shop for investments in several parts of the world.

These are namely Eastern Europe, Southeast Europe, the Middle East and North Africa.

The geographical importance was remarked by Huang Xingyuan, Chinese Ambassador to Cyprus, while reporting updates on the Belt and Road Forum for International Cooperation, this year in Beijing. Huang emphasized that Cyprus could play an important role

in promoting the Belt and Road initiative.

The support between the two is mutual, with Cyprus Education Minister Costas Kadis present at the Belt and Road Forum in Beijing in May.

## NEXT STEPS

Going forward, it is clear that the use of OFCs – both traditional and new – within Belt and Road market users will only continue to increase as there is a clear demand, despite overall use of OFCs tends to be down when compared to historical numbers.

“While the number is nowhere near traditional numbers, it is still substantial. It is likely that automatic exchange of information (AEOI) initiatives, and various



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other things, have caused the mass incorporation end of the market to become tighter," says Adams.

That said, the trend in OFC is moving toward higher regulation and transparency in response to international initiatives.

"Complying with these international standards requires substantial investment by OFCs and it would not be surprising if there were a rationalisation in the number of centres describing themselves as OFCs in the coming years as the cost of international compliance becomes prohibitive for certain centres," he notes.

This can be traced from uptick in business in places like Hong Kong and Singapore, which are done at the expense of OFCs.

"The current environment is becoming increasingly complex and there appears to be a move toward more quality and reliable service providers and jurisdiction. This is coupled with the provision of more value added and sophisticated services," says Adams.


"The fact remains, whether critics want to acknowledge it or not, that OFCs support the global economy and

facilitate capital flows and investment across borders," he adds.

Anthony Oakes, partner at Ogier, a firm that provides legal advice on BVI, Cayman, Guernsey, Jersey and Luxembourg law, agrees.

Oakes believe that various OFCs will still be relevant, "Jersey will continue to be popular for transactions involving UK based property. Mauritius and Singapore are typically the channels for foreign investment into India. Luxembourg vehicles, particularly Undertakings for the Collective Investment of Transferable Securities (UCITS), remain a popular choice as a gateway for investing into Europe."

Oakes further adds that the OFC used in particular investments would depend on the location of the project and the tax treatment being sought.

"Without doubt, OFC will benefit from the Belt and Road initiative. The traditional favourites of the Chinese market, Cayman and BVI, will continue to be used – BVI entities as holding companies and Cayman entities as investment funds, both private equity and hedge funds," he says. 



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# SHOT IN THE ARM

BY RANAJIT DAM

Standard & Poor's recently upgraded Indonesia's credit rating to investment grade, spurring hopes of additional investment worth billions of dollars into Southeast Asia's biggest economy. Lawyers talk about the potential impact of the upgrade, as well as the sectors that are hot at present.



People walk past the Standard & Poor's building in New York's financial district. REUTERS/Brendan McDermid

In May this year, rating agency Standard & Poor's (S&P) upgraded Indonesia's sovereign credit rating to investment grade, marking the first time since the 1997 Asian financial crisis that the country's sovereign bonds had that rating from all three major credit ratings agencies. Fitch upgraded Indonesia to investment grade in December 2011 and Moody's followed suit in January 2012.

The upgrade was well received in Indonesia, with President Joko Widodo –popularly known as Jokowi – describing it as “very important.” According to Reuters, the main stock index in Jakarta went up more than 3 percent after the S&P upgrade – the biggest intraday percentage rise since October 2015 – and gained 2.6 percent for the day. The rupiah currency also rose and Indonesian dollar bonds rallied.

The S&P upgrade was due to a number of factors, including Indonesia's recently concluded tax amnesty programme – said by many to be the world's most successful – and efforts to overhaul the taxation system, along with improvements in the country's external balance.

“For the past few years, the investment climate in Indonesia has been improving, as evidenced by growing foreign capital inflows,” says Abadi Abi Tisnadisastra, a partner at AKSET Law in Jakarta. “The interest from foreign investors to invest in Indonesia continued to be high this year, and the rating upgrade from S&P certainly gives supplementary confidence booster for investors as it is a positive signal that Indonesia has strong economic fundamentals.”

Naz Juman Schinder, managing partner at Schinder Law Firm, points out that Indonesian authorities should receive credit for taking effective expenditure and revenue measures to stabilise the country's public finances. “In recent years, Indonesia exhibited effective policymaking to promote sustainable public finances and balanced economic growth,” she notes. “The S&P ratings upgrade will improve market perception towards investment in Indonesia. We expect that these facts

## INVESTMENT IN INDONESIA: RECENT UPDATES IN INDONESIAN DISPUTE RESOLUTION FOR INVESTORS IN INDONESIA



Nowadays, Indonesia as a developing country has become a potential country for investment among foreign investors. However, due to a fluctuated economic condition, the business risk for investment has also growing along with the chances of gaining benefit from the investment itself. In order to address this risk, the consideration to choose the dispute resolution forum in the agreement has become a critical issue as well.

Many large companies choose Indonesian National Board of Arbitration (Badan Arbitrase Nasional Indonesia – “**BANI**”) as one of the alternatives dispute resolutions under Law No. 30 of 1999 on the Arbitration and Alternative Dispute Resolution (“**Arbitration Law**”). The consideration for choosing BANI is the credibility and effectiveness in solving cases. To the best of the author’s experiences, BANI’s judgment mostly provides a win-win-solution judgment, instead the state court mostly decides who won and lose a case.

Since 1977 until September 2016, Indonesia has only one legitimate BANI where located in Wahana Graha Building, 1st and 2nd Floor, Jl. Mampang Prapatan No. 2, South Jakarta (“**BANI Mampang**”). However, since September 2016, this situation has changed because there is a new BANI entity where located in Sovereign Plaza, 8th Floor, Jl. TB Simatupang Kavling 36, Jakarta (“**BANI Sovereign**”). The issue arises when the Ministry of Laws and Human Rights



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approved BANI Sovereign’s legal entity status, yet BANI Mampang has not had any legal entity.

Historically, BANI Mampang was established under the Decree of the Chamber of Commerce (Surat Keputusan Kamar Dagang Indonesia) No. SKEP/152/DRH/1977 dated 30 November 1977. BANI Mampang has also successfully registered their rights over their trademarks i.e. “Badan Arbitrase Nasional Indonesia” on 2003 and “BANI Arbitration Centre” on 2012. Thus, even though BANI Sovereign has obtained their legal

entity status, it does not mean that BANI Mampang lose their legal standing to work under the Arbitration Law.

One of the major questions from the investors for the above issues is who will have the prevailing legal standing for making the judgment or can BANI Mampang’s decision challengeable in the future.

In brief, BANI Mampang has successfully won the case against BANI Sovereign at the State Administrative Court (Pengadilan Tata Usaha Negara – “**PTUN**”). Consequently, PTUN has revoked the Decree of the Ministry of Laws and Human Rights regarding the establishment and legal entity status for BANI Sovereign.

However, BANI Sovereign has stated that they will file an appeal about this court decision and sue BANI Mampang for their assets issues and other intellectual property rights cases. Consequently, there are some outstanding issues to be considered by investors who will choose BANI Mampang as the choice of the dispute resolution forum. The above cases will most likely disrupt the court process at BANI Mampang or any future dispute until the case between BANI Mampang and BANI Sovereign solved.

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will stimulate investment decision of domestic and foreign investors either by means of stock market, banking financing, or corporate funding.”

According to Ayik Candrawulan Gunadi, a partner at ABNR, there is now cautious optimism that the lift to investment grade will help attract a certain class of global investment funds which has been closed to Indonesia so far.

“There are strong indications consistent with the World Bank, Goldman Sachs and other global investment predictions that by reaching investment grade, Indonesia may potentially unlock a new source of inflows – particularly from Japan – that could amount to between \$3 billion to \$5 billion over the next year,” says Gunadi. “In the few months since the upgrade, we have already seen a great deal of activity and interest, flowing particularly from major Singaporean, Japanese, Korean, and European investors and companies.”

Among the challenges faced by foreign investors in Indonesia today are complex paperwork, bureaucracy and unclear regulations, notes Marcia Wibisono, partner at Yang & Co. “With this new status, the government

“The S&P ratings upgrade will improve market perception towards investment in Indonesia. We expect that these facts will stimulate investment decision of domestic and foreign investors either by means of stock market, banking financing, or corporate funding.” – **Naz Juman Schinder, Schinder Law Firm**

has expressed its commitment to build trust and attract foreign investors to enter into business in Indonesia,” she says. “In our experience, there has been an increasing interest from foreign investors in entering into our country.”

### HOT SECTORS

Indonesia attracted foreign direct investment worth 396.6 trillion rupiah (\$29 billion) in 2016 – 8.4 percent above the 2015 total. Metals, machinery and electronics, chemicals and pharmaceuticals, paper and printing, and mining and transport were among the biggest recipients. The 2016 figure, however, excluded investment in banking and the oil and gas sector.

“Even though mining has declined significantly in recent years, it is still the favorite sector for investors. To increase the investment in mining sector and in order to increase economic growth, the government has now redefined several main provisions on minerals and coal mining.” — Marcia Wibisono, Yang & Co.

plantations and financial services, the fastest-growing sectors over the past three years have been railways, land and air transportation, electricity, and manufacturing of food and beverages. “Even though mining has declined significantly in recent years, it is still the favorite sector for investors,” she says. “To increase the investment in mining sector and in order to increase economic growth, the government has

“FDI growth is attributed to a set of economic policy packages that was implemented by the Indonesian government between September 2015 and November 2016,” says Schinder. “The government has introduced 14 stimulus packages mainly focusing on deregulation, law enforcement and business certainty, interest rate tax cuts for exporters, energy tariffs cuts for labour-intensive industries, tax incentives for investment in special economic zones and lowered tax rate on property acquired by local real estate investment trusts.”

Wibisono observes that while investors always show interest in sectors like mining and energy,

now redefined several main provisions on minerals and coal mining.”

She also points out that the manufacturing industry is the largest contributor for Indonesian economy.

AKSET’s Tisnadisastra adds that the government has set a list of investment priority sectors, where infrastructure remains the main theme for the years to come. “Other sectors listed in the list includes agriculture, maritime and tourism,” shares Tisnadisastra. “In addition, we have also seen recent strong interests in healthcare, real estate and e-commerce & IT sectors.”

According to Gunadi, investment interest in

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Indonesia is heavily influenced by the Negative List, under which the government determines particular business lines to be closed or partially closed to foreign investment. "The government has shown an encouraging trend towards liberalisation through the latest iteration of the list in 2016, which eased some of the restrictions across a number of key sectors in energy and mineral resources, transportation, pharmaceuticals and manufacturing."

He continues, "Power-generation industries were among those opened to allow for greater percentages of foreign ownership, and accordingly, we continue to see significant activity from investors in coal, oil, and gas projects in particular. There is also noticeably more interest around Indonesia's capacity in the renewables sector, reflecting the global trend towards growth in these industries."

He notes that importantly, the government has indicated that it will issue a revised Negative List this year. "One key sector that may benefit is the airport industry," says Gunadi. "The Transportation Ministry has stated an intention to revise the current ownership restrictions in airport management to boost services in

that field, in which case airports could offer a promising new attraction for foreign investment within the next year or so."

### SECURITISATION PLANS

In an interview with Reuters last month, Jokowi said the government would ease foreign ownership restrictions on certain industry sectors in August. He added that following the S&P upgrade, Indonesia was hoping for additional inflows worth \$10 billion from pension funds and other institutional investors over the next two years. Ministers have been tasked with marketing the country aggressively to investors such as Canada Pension Plan and Japan's Government Pension Investment Fund.

In a bid to help the country win these additional inflows, Indonesian state firms are now aiming to get big international pension funds to buy their securities backed by future income of infrastructure assets, according to another Reuters report. Under a securitisation model, a company typically issues a trust-like investment structure that is backed by future revenue from a project or an asset, with investors earning a certain rate of return.

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The initiative from the government to attract additional inflows capitalising on Standard & Poor's recent credit rating upgrade to investment grade needs to be appreciated. However, we note that the effectiveness of this investment structure can vary greatly." — Abadi Abi Tisnadisastra, AKSET Law



"The essential background to this policy is that Indonesia is currently pursuing ambitious targets including plans to build up to 5,000 kilometres of railway tracks, 1,000 kms of toll roads, 24 seaports and 35,000 megawatts of power plants," says Gunadi of ABNR. "To realise this strategy will require investment of more than 5 quadrillion rupiah (\$374.76 billion) between now and 2019."

Indonesia's biggest toll road operator, PT Jasa Marga Tbk, for example, has begun working to securitise about half of the 4 trillion rupiah (\$298.4 million) in revenue expected over five years from a road linking Jakarta to cities in West Java province, said Reuters. The securities – expected to offer annual returns of 8 to 9 percent over five years – have received a positive initial response from potential investors including pension funds. Similarly, state-controlled electricity firm Perusahaan Listrik Negara (PLN) is issuing securities backed by the projected income from a power plant."

Lawyers, however, are not convinced on how effective the securitization plans will be. "The initiative from the government to attract additional inflows capitalising on Standard & Poor's recent credit rating upgrade to investment grade needs to be appreciated. However, we note that the effectiveness of this investment structure can vary greatly," says Tisnadisastra of AKSET.

He adds, "Given the huge needs for infrastructure investment, this type of investment structure could potentially fill the gap. However, there will be challenges as this type of investment structure issued by state-owned companies is relatively new, it may not create immediate appetite to investors. Most investors including pension funds may opt to wait and see before making their decision to invest. In addition, further regulatory support may be required to create more certainty about this type of investment."

From an investors' perspective, this involves high risk and low returns, according to Wibisono of Yang & Co. "Although the idea itself is promising and the infrastructure projects in Indonesia are booming, the fact is that the infrastructure investment scheme announced by President Joko Widodo is quite new in Indonesia.

And from a financial point of view, the returns are not that significant, not to mention the long term period," she says. "Given the above fact, it seems that most of the pension funds companies will prefer to allocate funds to safer instruments."

Schinder of Schinder Law Firm points out that the pension funds would not be invited to invest in brand-new projects, or those that are being

constructed, but only in those that already generate income. "This would make the investment less risky for the investor," she says. "Therefore, to court foreign pension funds is one of the effective solutions to provide funds for the infrastructure projects. However, the state's debt would also increase, and the challenge for the government is to ensure all infrastructure projects run smoothly."

## LAWYERS BUSY

As Indonesia moves to update its regulations to draw more investment into the country, lawyers are seeing a steady stream of work. "We find ourselves busy with many cases, mostly related to government infrastructure and mega projects," shares Schinder. "The main concern of foreign investors is the government's consistency in improving regulations and securing the implementation of such new regulations."

According to Tisnadisastra, his firm is busy helping clients understand legal requirements that are relevant to their investment/proposed investments. "Clients must be aware that other than formal regulations, assessment on informal policies and practical approach is necessary," he shares. "We also advise clients on potential exposure related to their investments/proposed investments so they are able to make the right decision and, if possible, to have a clear plan on how to mitigate the risk. At the moment, our firm is busy handling M&A transactions in various industries, project financings, energy and power related investments, real estate transaction and other matters."

Most clients that approach Yang & Co. are seeking creative and effective legal strategies to help them pursue their goals in doing businesses in Indonesia, says Wibisono. "We are not just drafting contracts or reading any regulation and advising what to do and what is prohibited," she says. "We offer solutions to guide a client's business through unfamiliar situations and help the business to succeed. We have advised mining companies, plantation companies, oil companies, insurance companies, banks, financing companies, and so on. Recently, we have been busy with works related to real estate, project finance, and F&B." 



## IMPACTS OF INDONESIAN NEW PATENT LAW NO. 13/2016 ON PATENT ANNUITY

On August 26, 2016, Indonesian new Patent Law No. 13/2016 came into force to replace the old Patent Law No. 14/2001. Although there are several significant changes worth noting in the new Patent Law No. 13/2016 such as time reduction for patent granting process, exclusion of second use or second medical use claims as patentable subject matter, implementation of e-filing registration, scope expansion of simple patent, scope expansion of compulsory licenses, post granting amendment under Patent Appeal Commission, etc., the most controversial changes in the new law are the provisions regarding annuities.

After studying the new Patent Law No. 13/2016, it can be noted that the changes regarding annuity focus on the **debt** imposed on the Patentee for late annuity payment. Previously, according to the Article 115 of Patent Law no. 14/2001 and its elucidation, if the annuities are not paid within 3 (three) consecutive years, a patent shall be deemed void and the outstanding annuities along with the surcharges will become debts which still must be paid by the Patentee. The new Patent Law No. 13/2016 removes debt for late annuity payment and there are six impacts of this change in order to achieve harmonization of the law.

**First**, once the Patentee fails to pay within the stipulated deadline under new Patent Law, the patent is considered to be deleted (Article 128(1) of Patent Law No. 13/2016). This is because there is no grace period for late payment under new Patent Law.

**Second**, change in annuity due date. The method to calculate annuity due has changed under the new Patent Law, thus Patentee will have to check the new annuity due date of their patent in order to keep the patent alive. According to the new Patent Law, first annuities, which is the annuity from filing date to grant date with additional one year, must be paid by 6 (six) months at the latest from the issuance of patent certificate (Article 126 (1)). The next annuity must be paid by 1 (one) month before the beginning of the next year of period of protection (Article 126(3)).

As stated in Circular Letter No. HKI-3-08. OT.02.02 year 2016 regarding transition period



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of annuity fees payment from Patent Law No. 14/2001 to Patent Law No. 13/2016, the new Patent Law applies to annuities that are due on or after August 26, 2016 (the enforcement date of the new law) based on the due date of the old patent law. In cases where the annuities that are due before August 26, 2016 based on the due date of the old patent law, the procedure, calculation, and due date of the annuity follows the old Patent Law No. 14/2001. In Article 114(1-2) of Patent Law No. 14/2001, the payment of first annuities (which is the annuity from filing date to grant date) shall be made at the latest one year from the Grant Date of patent, whereas the next annuity payment shall be made at the latest on the same date as the grant date of patent.

**Third**, there might still be debt that needs to be paid by the Patentee. Although the new Patent Law No. 13/2016 removed the debt due to late annuity payment, because the annuities that are due before August 26, 2016 based on the due date of the old patent law follow the procedure of the old Patent Law No. 14/2001. This means during transition period between old and new laws, outstanding annuities that

fall under old Patent Law are still considered as debt.

**Fourth**, there is no need to file formal request for cancellation if Patentee does not wish to keep their patent. Previously, this request needs to be made to stop the incurrence of further fees because the debt mechanism that applies in Patent Law no. 14 of 2001.

**Fifth**, requesting deferment is possible and needs to be made if Patentee wishes to delay annuity payment. Under the new Patent Law, it is possible to file deferment for maximum 12 months as of expiry date upon request to the Directorate General of Intellectual Property (DGIP) Office in Indonesia. Such request must be filed within 7 (seven) working days before due date (Article 128 (2), (3), and (4) of Patent Law No. 13/2016) and it will impose late payment surcharge. The payment surcharge is 100% of annuity fee (Article 128 (5) of Patent Law No. 13/2016).

**Sixth**, executive right of the Patentee during deferment period shall be restricted. As long as the Patentee is yet to pay annuity payment during the deferment period, third party cannot perform any of the acts as referred to in Article 19 of Patent Law No. 13/2016 to infringe exclusive right of the Patentee, however the Patentee also cannot prohibit the third party from committing any of the acts as referred to in Article 19 and cannot license as well as transfer the said Patent to the third party. Furthermore, the Patentee cannot file a civil action or criminal charge (Article 128 (6) of Patent Law No. 13/2016).

So far, the adoption of a new Patent law on annuities is in progress as planned. The Directorate General of Intellectual Property (DGIP) Office, in particular, continues to update their system to accommodate the changes in the law. Thus there is still a need for supportive cooperation among stakeholder in order to support the transition of law.

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# SIZE DOESN'T MATTER

The recent DLA Piper hack has shown that law firms remain vulnerable to damaging data breaches, regardless of size. Cybersecurity experts provide tips on how law firms can avoid becoming the next cautionary tale. **BY JOHN KANG**

■ As repositories of sensitive information that corporate clients entrust lawyers with, law firms are a treasure trove for hackers. And smaller law firms, with their leaner IT departments and limited resources, are often regarded as more vulnerable to cyber attacks.

Recent cyber attacks, however, show that this belief is a misconception. DLA Piper, one of the largest firms in the world and a leader in cybersecurity, fell victim to a major cyber attack in June, disrupting phones and email systems, forcing lawyers to work using cellphones.

Last year, hackers broke into the computer networks at several prestigious U.S. firms, including Cravath Swaine & Moore and Weil Gotshal & Manges, according to the Wall Street Journal. In 2016, hackers also stole 11.5 million documents from Mossack Fonseca, a major offshore firm based in Panama, resulting in history's biggest data leak.

"All law firms and organisations are vulnerable. There is this gross misconception of perceived vulnerability of boutiques and smaller firms because, compared to the larger firms, they're seen as less secure," explains Gino Bello, senior director in the technology team at FTI Consulting and a computer forensic expert. "They're as secure

as each other, and as insecure as each other."

Bello adds that cybersecurity attacks are all automated. "These attacks are programmed to trawl through the internet to find vulnerabilities, which can create a level playing field, whether you're a big international law firm or a small local firm, both can be affected," he says.

The scariest part of all this is just how unprepared law firms are. A recent study by cybersecurity consulting firm LogicForce shows the ubiquitous risk of cyber attacks for firms. The survey covered more than 200 law firms across the U.S. with a headcount ranging from one to more than 450 total attorneys, working in a full complement of practice areas. It found that all the respondents had been subjected to hacking attempts, with 40 percent of the firms unaware that they had been attacked. All of the firms were also not compliant with their clients' policy standards.

The LogicForce study also found that there are over 10,000 network intrusion attempts per network every day. A large percentage of these attempts likely carried out by automated scripts, which do not discriminate based on firm size, and do not target specific businesses, or people.

## STAY SAFE, STAY ALERT: A CHECKLIST

LAW FIRMS HAVE BEEN SOMEWHAT BEHIND OTHER INDUSTRIES FOR CYBER SECURITY, BUT WITH SOME PLANNING AND A STRATEGIC APPROACH, THEY CAN BE MORE CYBER SECURE:

### JON BOLES, NAVIGANT

- ✓ The best way to develop a plan is to start with an audit – an assessment of your current state. To help identify priorities, do a review of your systems, policies and procedure and outline a map of the network and how your data interacts.
- ✓ Risk management is nothing new to law firms – it's just a new form of risk to be assessed, prioritised and managed. Once the cybersecurity assessment is complete and translated into standard business terms and concepts, it becomes measurably easier to incorporate into the business plan and strategy.
- ✓ The same cybersecurity assessment can be used to develop a layered defence, protecting the highest priority first. Much of cybersecurity is about doing the basics: Begin with the greatest need and build outward to enhance security and to keep expenses focused on the priorities.

### SANJAY AURORA, DARKTRACE

- ✓ What tomorrow brings is always going to be different. The WannaCry ransomware attack wreaked havoc globally, prompting security teams worldwide to update their defences. Yet a few weeks later, a slightly different version (Petya/NotPetya) caught many unprepared. The lesson here is that attempting to predict the future proves futile in the face of constantly evolving attacks, and AI will be central to the future of cybersecurity.
- ✓ To stay ahead in this new cyber arms race, law firms need to adopt an "immune system" approach to cybersecurity. By modelling defence on the human immune system, technologies based on probabilistic mathematics and machine learning can learn a "pattern of life" for every user and device as well as the entire network. From this precise understanding of "self", AI can detect and defend against cyber-threats at their nascent stages, without the use of rules, signatures, or prior assumptions.

### GINO BELLO, FTI CONSULTING

- ✓ There are simple technology-related measures, such as implementing a strong password policy, using two-factor authentication, encrypted hard drives, a virtual private network, and up-to-date anti-virus software. In addition, law firms need to put a policy in place, both proactively before an attack happens and reactively when indeed it does, and follow it.
- ✓ Undertake penetration testing and iterative cyber risk reviews so the firm knows where the potential vulnerabilities are, where the critical data is, who can access it, and how they can better protect that data when the worst case scenario happens. Also, consider the information security capabilities of your partners and vendors who may have access to or store your data.
- ✓ People, at all levels, need to have proactive training and awareness programmes.

**ON THE RISE**

Law firms can expect more and more cyber attack attempts. As Bello points out, "The volume of hacking and the sophistication of hackers are increasing, and part of that is the increase in the number of devices connected to the Internet, and that it can be lucrative."

According to Jon Boles, director of the information security and cyber practice at Navigant, the most common security incidents faced by law firms today are email phishing attacks, which try to gain access to clients' information. "Recent attacks like ransomware WannaCry and Petya have shown that hackers and their attacks are expected to only become more disruptive and sophisticated in the future," he notes.


In this new era of threats,

attackers are no longer motivated by financial gains alone, but also by the ability to manipulate the outcome of legal cases and corrupt trust in respected organisations, says Sanjay Aurora, Asia-Pacific managing director of Darktrace, a global machine learning company for cyber defense.

Aurora cites an example where Darktrace discovered an attempt to exfiltrate data from a video-conferencing device within a law firm handling a major M&A case. Attackers had breached the device inside the law firm's boardroom, enabling them to listen to the conversations taking place over the course of a week.

It is likely that the attackers were aiming to steal confidential information to disrupt the M&A process, and/or potentially use the

"Recent attacks like ransomware WannaCry and Petya have shown that hackers and their attacks are expected to only become more disruptive and sophisticated in the future." — John Boles, Navigant

stolen information as a foundation for blackmail, shares Aurora. "The attack highlighted how Internet of Things (IoT) devices create network blind spots that legacy security systems are incapable of securing. IoT attacks are a prime example of new threat trends developing in the legal sector, as law firms continue to digitally transform." 

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# TIPPING POINT

A combination of factors has placed international law firms in Hong Kong under significant pressure. This is a moment of reckoning, when firms need to decide whether they should consolidate, scale down, or simply exit. BY JOHN KANG

■ The last few years have been difficult for U.S. firms focusing on capital markets in Hong Kong. In late 2016, Cadwalader Wickersham & Taft closed its Hong Kong office, while Fried, Frank, Harris, Shriver & Jacobson also left the city in early 2015. More recently, firms like Orrick, Herrington & Sutcliffe, Ropes & Gray, and Winston & Strawn have suffered a string of partner losses.

It was not that long ago that Hong Kong looked like a goldmine to U.S. firms, and just five years ago, China was growing at more than 9 percent a year. A stream of mouth-watering capital markets transactions from fast-growing Chinese companies flowed through the Asian financial hub, such as the Hong Kong listings of Agricultural Bank of China in 2010 and Industrial and Commercial Bank of China in 2006, both of which raised more than \$20 billion.

So U.S. firms set up shop in Hong Kong with hopes of building a significant capital

markets practice focused on China. But in their over-optimism, a lot of them underestimated the degree of competition they would face, says Colin Law, head of Greater China and the Asia capital markets group team leader at Shearman & Sterling.

Many U.S. firms were attracted by the headline figures. "If you get it right, you can bill anywhere between \$1 million and \$4 million for each transaction," he shares. But the space soon became crowded as a growing number of firms offered the same services, effectively turning it into a competition on price. The firms that relied on M&A and capital markets work were hit the hardest by this race to the bottom, points out Law: "Those are increasingly seen as offerings that are not the preserve of specific individuals or specific firms. They can be handled by anybody."

## CORNERED BY COMPETITION

Not only did U.S. firms have to compete with each other as well as with long-established

UK firms like Clifford Chance, but they also faced another challenge: firms from the mainland.

PRC firms like JunHe were among the first from China to set up bases across the border in 2006, and, like the U.S. firms, focused on capital markets.

What has become evident in the past decade is that Chinese companies are the drivers of transactional work in Hong Kong, and U.S. firms were too slow to factor in the need to build strong relationships with this new group of clients, says Law. Whereas for PRC firms, many with hundreds – even thousands – of lawyers in China, these businesses basically were their clientele.

Law continues, "Now that China has woken up to the global demands and opportunities, they will just turn to their relationship firms for help. So for U.S. firms with no deep penetration in the market, they will continue to lose market share to Chinese firms. That's a big challenge."

There are now 26 registered Chinese firms with offices in the city, according to a list compiled by the Law Society of Hong Kong. Red Circle firm Haiwen & Partners is one of the latest entrants, launching its Hong Kong office earlier this year to focus on capital markets.

## SLOWDOWN STING

While there are more firms competing for transactional work on one side, the supply of work has been drying up since the Chinese economy started to slow down in 2012.

The pinch was especially felt earlier this year, when China's crippling capital controls took effect, curbing the outflow of funds, according to Raymond Chan, managing partner of local firm Wilkinson & Grist.

From the perspective of international clients, the growing political uncertainty in Hong Kong has not helped either.

Take the saga of the missing book-sellers in late 2015, the election of the unpopular Carrie Lam as chief executive in June, or the more recent disqualification of four pro-democracy lawmakers for improper oath-taking. All these have added to the worries of clients and, by extension, their law firms.





"There's lots of political uncertainty, and that has certainly increased in the last five years," observes Patrick Sherrington, regional managing partner for Asia Pacific and the Middle East at Hogan Lovells. "Political change is one thing, but uncertainty about the operation of the rule of law has the effect of undermining client confidence."

Finally, an undeniable fact is that Hong Kong is an expensive place for lawyers not doing a lot of work. Rents are ridiculous in the city's financial district of Central, where international firms have historically been housed, causing a number to move to Quarry Bay in the eastern part of Hong Kong Island.

### STICK OR TWIST?

The key question to ask then is this: Have things gotten to a point where we can expect to see more exits from Hong Kong as firms reassess their prospects in the region?

For Chris Howse, a founding partner at local firm Howse Williams Bowers, it will come down to how much firms believe

"Some of them will stay, if it makes sense to their practice worldwide. Other people will take a look and decide that they don't need to have a presence on the ground."

— Chris Howse, Howse Williams Bowers

they need to have an office in Hong Kong. "Some of them will stay, if it makes sense to their practice worldwide," he says. "Other people will take a look and decide that they don't need to have a presence on the ground, as they're just wasting money at this point. And then they will close the office."

Meanwhile, international firms that don't have a presence in Hong Kong won't exactly be queuing up to plant a flag.

Law expects firms now have a sense of

what it's like to operate in Hong Kong, so they will be more realistic when it comes to the costs they're going to incur in rolling out their service. "People will have more realistic expectations, and with that I think the growth in Hong Kong will be moderate," he adds. "I would be surprised if people come to Hong Kong in a big way, so the movement in the partner levels will more likely be bite-sized."

That said, lawyers like Sherrington feel that having an office in Hong Kong is still worth it. "There will always be opportunities for law firms," he says. "I'm relatively bullish about Hong Kong's prospects in because it's always been a gateway to China, even if it's less so now, and it is at the heart of the Pearl River Delta. We see Hong Kong being used by China as a test ground for initiatives like RMB trading and Stock Connect. It's really the centre where the Chinese corporations can test their ability to go international." 

## INDONESIAN LAWYERS

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# GROWING WITH VIETNAM

In the decade since Duane Morris established offices in Vietnam, the Southeast Asian country has opened up its economy and experienced rapid growth and increasing inflow of business. As a result, the Philadelphia-headquartered firm has been able to grow its Vietnam offering pretty much in tandem with the market, and now stands as one of the leading law firms in the country. **BY RAJ GUNASHEKAR**



GILES COOPER (L) AND OLIVER MASSMANN

■ When Oliver Massmann and Giles Cooper opened Duane Morris' Vietnam offices back in 2007, they were hardly new to the country. Former colleagues at Baker McKenzie Vietnam, they each had a decade of experience in the local market at that point, and spoke fluent Vietnamese.

"We started off very small with just two Vietnamese lawyers and built up on that step by step," says Massmann, one of Duane Morris' two directors in the country. "Our experience in the Vietnam market contributed to a good start for the firm."

The year 2007 was an important one for Vietnam. On Jan. 11 that year, the country officially became the 149th member of the World

Trade Organisation (WTO), following some 11 years of preparation. Today, it is one of the world's fastest growing economies.

And Duane Morris Vietnam has grown side by side with the country. At present, the firm's Hanoi and Ho Chi Minh offices have about 15 lawyers, including directors Massmann and Cooper.

## OUT OF THE WOODS

Having spent its first few decades as a highly centralised planned economy, Vietnam began experimenting with a mixed economy in the 1980s that used both directive and indicative planning through five-year plans. However, prior to its ascension to the WTO, there was much uncertainty for investors.

"Until 2006, there were a lot of grey areas," says Massman. "Whenever a client would ask if they could establish an entity, and how long it was going to take, the standard answer was 'I don't know.'"

But the WTO changed all that. "That was the moment when doors opened in many different sectors in the country," says Cooper. "Market access restrictions came off with a very clear road map. It was a bright time for Vietnam. It was a happy coincidence that this happened when we moved to Duane Morris."

Being immersed in both the language and the culture was a big help for both Massmann and Cooper, whether it came to mingling at a local event, negotiating a deal, or interacting with government personnel.

"When clients see us speaking their local language, it certainly does provide a boost, and they start to relax and open up in meetings and converse more freely," shares Cooper. "It creates a lot of trust with the government as well."

In the past decade, the market has swiftly evolved to become a lot more sophisticated. Key laws have changed – on multiple occasions, in some cases – and Duane Morris has started seeing more complex transactions.

## WORK, WORK, WORK

In the early years, Duane Morris' Vietnam offices only had foreign clients, but the mix has been changing. "Today, foreign clients make up 85 percent of our clients, while the rest are domestic. These are local companies that need help with things like overseas listings or bond issuances, or even expanding overseas to countries like Myanmar or Singapore."

In 2016, Vietnam received a record \$15.8 billion in foreign direct investment (FDI), up 9 percent from the previous year, and that is something that the firm has been involved in. However, FDI can be a crowded space for law firms, and Duane Morris says it is focusing on M&A as well. "M&A is high-level work, and there we show what we can do with the value-added services we provide," explains Massmann.

He adds that he has worked on some of the largest deals in the last four or five years. "We have worked on M&A deals in the infrastructure and oil and gas and power sectors. We are also working on deals related to real estate, and insurance."

Cooper also points out, "Historically, the law didn't even allow for M&As, but these have grown very rapidly in the last decade. M&A in energy, especially renewable energy, is of immense interest. This is an exciting time."

#### THE NEXT DECADE

From Duane Morris' point of view, its biggest achievement in the first 10 years has been to turn its Vietnam operation into a profit centre. But from a personal perspective, Cooper cites how they have managed "to develop a great team, and the team has been with the firm for a long time."

However, despite the increase in work, the firm has chosen to not grow too quickly. "While we have grown from the very beginning, we remain agile and have deliberately tried not to grow too fast like other firms have done," says Cooper. "We have been pretty slow and steady."


He continues, "We'll expand, but not just purely for the sake of headcount. We recently hired a Vietnamese lawyer who studied in France and has

"When clients see us speaking their local language, it certainly does provide a boost, and they start to relax and open up in meetings and converse more freely. It creates a lot of trust with the government as well."

— Giles Cooper, Duane Morris

spent a lot of time in Russia. So he is good in dealing with French investors and can also speak Russian fluently. We are also looking at complimenting regional offerings."

For both Cooper and Massmann, the expectation for the next decade is the continued growth for both the firm and its work, as well as the Duane Morris brand in Vietnam. The work is expected to come from more free trade agreements, which in turn should lead not just to the further opening of the Vietnam market, but also more competition and heightened sophistication.

"We will need more specialisations and expertise, and the next 10 years will be defined by specialisations that the Vietnam legal market has never seen before," says Massmann. 



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NAGASHIMA OHNO, MHM  
SHINE AT...

ASIAN LEGAL BUSINESS

# JAPAN LAW AWARDS 2017

Nagashima Ohno & Tsunematsu was named the Japan Law Firm of the Year at the **ALB Japan Law Awards 2017**, apart from winning in four other law firm categories category. Mori Hamada & Matsumoto was named Japan Deal Firm of the Year, while Baker McKenzie won the International Deal Firm of the Year award.

Held at the Ritz-Carlton in Tokyo on June 7, the annual event – now on its 13th year – launched new categories such as Woman Lawyer of the Year, awarded to Setsuko Yufu of Atsumi & Sakai; Projects, Energy and Infrastructure Law Firm of the Year, won by White & Case; and Boutique Law Firm of the Year, which was won by Kubota.

"I think that I was largely able to do my job in a relaxed way thanks to the culture



"We want to thank all of our clients for trusting us with their most important projects. As Japanese companies continue to expand their business globally, we sense that our clients are increasingly in need of a 'one-stop' full service law firm that can effectively cater to their complex and diverse business needs."  
- Fumihide Sugimoto, Nagashima Ohno & Tsunematsu



"This has been a record year for the Tokyo office. The volume of cross border deals into and out of Japan remains high, and we have been able to help clients navigate the complex issues in executing deals and consolidating acquisitions."  
- Jeremy Pitts, Baker McKenzie



of respecting diversity at my law firm," said Yufu. "I think having a rate of nearly 30 percent of female partners at the firm is an invaluable asset for clients in Japan and from overseas."

"Our Tokyo team has worked on a tremendous pipeline of significant projects in Japan and globally in the past year. Among others, we have advised Saudi Aramco on RAPID project in Malaysia, JERA on the acquisition of EDF Trading Limited's coal and freight business and on the Mozambique LNG project," said Paul Harrison, a partner at White & Case.

For the full list of winners, please visit [www.legalbusinessonline.com/awards/japan-law-awards-2017](http://www.legalbusinessonline.com/awards/japan-law-awards-2017)

"We believe that our substantial experience and deep understanding of the shipping industry, combined with many years of sending secondees to shipping companies, enabled us to be awarded as Shipping Law Firm of the Year."

- Tatsuo Yamashima, Atsumi & Sakai



SHIPPING LAW FIRM OF THE YEAR - Atsumi & Sakai

L-R: Yusuke Miura, Saori Hanada, Yuko Nihonmatsu, Miho Niunoya, Shuji Koyama, Fumiko Oikawa, Setsuko Yufu, Hiroyuki Sanbe, Yutaka Sakai, Atsumi & Sakai; Junko Mukoyama, Avaya Japan (Presenter)

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### Asian Legal Business Japan Law Awards 2017



- SHIPPING LAW FIRM OF THE YEAR
- WOMAN LAWYER OF THE YEAR

### Committed to promoting Diversity

In addition to having both partners and associates who are registered foreign lawyers (gaikokuhou jimu bengoshi), our firm is notable for employing women in numerous roles throughout the Firm.

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## ASIAN LEGAL BUSINESS

HONG KONG  
LAW AWARDS  
2017

8 SEPTEMBER - CONRAD HONG KONG

Asian Legal Business will host the pre-eminent legal awards ceremony in Asia, **The Macallan ALB Hong Kong Law Awards on 8 September 2017** at the **Conrad Hong Kong**. The evening will be presided over by distinguished Guest of Honour, Wesley Wong, Solicitor General of the Department of Justice HSKAR. Now in its 16th year, ALB will hand out 46 awards to celebrate the success of Hong Kong's legal and business community.

The awards has seen great growth this year, reflecting the continued vitality of the legal community in the region. Leading the nominations for private practice are top international competitors Baker McKenzie, Deacons and Herbert Smith Freehills. On the in-house side, distinguished domestic and international companies such as Citigroup, COSCO Shipping Ports, Sun Hung Kai Financial and MTR Corporation have been nominated.

Some awards to keep an eye out for this year are Dispute Resolution Lawyer of the Year which garnered 11 outstanding nominations, Deal Firm of the Year with 15 nominations and Innovative In-House Team of the Year inclusive of cutting-edge legal teams in Hong Kong. ALB is also proud to present new awards in all areas; Withers Award Hospitality In-House Team of the Year and Retail and Luxury Brands In-House Team of the Year for in-house teams; and Dispute Resolution Lawyer of the Year for individual lawyers.

To reserve your seat/table at Hong Kong's biggest legal celebration, contact **Sardor Yangibayev** at [sardor.yangibayev@thomsonreuters.com](mailto:sardor.yangibayev@thomsonreuters.com).

THE  
SHORTLIST

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

## INDIVIDUAL CATEGORIES

## Dealmaker of the Year

- Martin Tam – Baker McKenzie
- Paul Chow – Davis Polk & Wardwell
- Ronny Chow – Deacons
- Simon Weller – Freshfields Bruckhaus Deringer
- Hilary Lau – Herbert Smith Freehills
- Hayden Flinn – King & Wood Mallesons
- Jeanette Chan – Paul, Weiss, Rifkind, Wharton & Garrison
- Katie Sudol – Simpson Thacher & Bartlett
- Chengfei Ding – Troutman Sanders

## Dispute Resolution Lawyer of the Year

- Matthew Gearing – Allen & Overy
- Elaine Chen – Clifford Chance
- James Wadham – Davis Polk & Wardwell
- Charmaine Koo – Deacons
- Ian Mann – Harney Westwood & Riegels
- Gareth Thomas – Herbert Smith Freehills
- Barbara Chiu – King & Wood Mallesons
- Chris Dobby – Hogan Lovells
- Vasu Muthyala – Kobre & Kim
- Heidi Chui – Stevenson, Wong & Co.
- Frederick Hui – Zhong Lun

## Art Futures Award

## Managing Partner of the Year

- Milton Cheng – Baker McKenzie
- Kristi L. Swartz – Bryan Cave
- Nick Gall – Gall
- Andrew Powney – Haldanes
- Julian Copeman – Herbert Smith Freehills
- Mark Chan – H.M. Chan & Co in association with Taylor Wessing
- Simon Powell – Latham & Watkins
- Gordon Oldham – Oldham, Li & Nie
- Jeanette Chan – Paul, Weiss, Rifkind, Wharton & Garrison

## The Macallan Fine Oak Single Malt Scotch Whisky Award Hong Kong In-House Lawyer of the Year

- Leiming Chen – Ant Financial
- Frederick Chan – Canon
- Andrew Kim – China CITIC Bank
- Yong Kai Wong – CITIC Capital
- Mark Hunsaker – Citigroup
- Michelle Hung – COSCO Shipping Ports
- Francis Chang – Fox Networks Group
- Stephanie Sheng – Goldman Sachs

- Fiona Phillips – HSBC
- Mark Agrasut – Melco Resorts & Entertainment
- Iris Cheng – Shanghai Real Estate (Commercial) Holdings
- Susan Wong – Standard Chartered Bank
- Maria Kiang – Wells Fargo
- Wai Zee – WeWork

## Woman Lawyer of the Year (In-House)

- Carmen Kan – Bank of China (Hong Kong)
- Jaclyn Jhin – CLSA
- Michelle Hung – COSCO Shipping Ports
- Stephanie Cheung – Melco Resorts & Entertainment
- Iris Cheng – Shanghai Real Estate (Commercial) Holdings

## Woman Lawyer of the Year (Law Firm)

- Naomi Moore – Akin Gump Strauss Hauer & Feld
- Anna-Marie Slot – Ashurst
- Karen Man – Baker McKenzie
- Kristi L. Swartz – Bryan Cave
- Angela Chan – Clifford Chance
- Bonnie Chan – Davis Polk & Wardwell
- Jane McBride – Deacons
- Carolyn Dong – DLA Piper
- Georgia Dawson – Freshfields Bruckhaus Deringer
- Andrea Randall – Gall
- Kathryn Sanger – Herbert Smith Freehills
- Hao-Ling Yau – Holman Fenwick Willan
- Minny Siu – King & Wood Mallesons
- Cathy Yeung – Latham & Watkins
- Ann Ng – Maples and Calder
- Gabriela Kennedy – Mayer Brown JSM
- Tracy Yip – Oldham, Li & Nie
- Jeanette Chan – Paul, Weiss, Rifkind, Wharton & Garrison
- Katie Sudol – Simpson Thacher & Bartlett
- Heidi Chui – Stevenson, Wong & Co.

## Young Lawyer of the Year

- Jini Lee – Ashurst
- Clinton Morrow – Charltons
- David Tsai – Clifford Chance
- Miranda So – Davis Polk & Wardwell
- Kevin Tong – Deacons
- Yan Chen – Freshfields Bruckhaus Deringer
- Felix K.H. Ng – Haldanes
- Paul Sephton – Harney Westwood & Riegels
- William Hallatt – Herbert Smith Freehills
- Jennifer Ng – H.M. Chan & Co in association with Taylor Wessing
- Eugene Low – Hogan Lovells
- Angie Lo – Holman Fenwick Willan
- Vivian Ji – Jeffrey Mak Law Firm
- Hao Zhou – King & Wood Mallesons
- Amy Beckingham – Latham & Watkins
- Sumit Indwar – Linklaters
- Venna Cheng – Mayer Brown JSM
- Jason R. Nelms – Morrison & Foerster
- Adam Scott Hugill – Oldham, Li & Nie



- Mimi Yang – Ropes & Gray
- Jonathan Chu – Stephenson Harwood
- Osbert Hui – Stevenson, Wong & Co.
- Frederick Hui – Zhong Lun

#### IN-HOUSE CATEGORIES

##### Construction and Real Estate In-House Team of the Year

- China Overseas Holdings
- Hongkong Land
- MTR Corporation
- Shanghai Real Estate (Commercial) Holdings

##### Financial Services In-House Team of the Year

- Bank of China (Hong Kong)
- Barclays Capital Asia
- CGN Huasheng Investment
- CITIC Capital
- Citigroup
- CLSA
- DBS
- HSBC
- State Grid Overseas Investment
- State Street Bank and Trust Company Group
- Sun Hung Kai Financial
- Wells Fargo

##### HFW Award Maritime

##### In-House Team of the Year

- Anglo Eastern Univan Group
- Asia Maritime Pacific
- COSCO Shipping Ports
- Gard Shipping
- Steamship Mutual
- The Swedish Club

##### Lewis Sanders Award Investment

##### Banking In-House Team of the Year

- CICC
- CITIC Capital
- Citigroup
- Goldman Sachs
- Morgan Stanley

##### Paul, Weiss Award Technology, Media and Telecommunications In-House Team of the Year

- Alibaba Group
- Canon
- Fox Networks Group
- Intel
- Microsoft
- Uber (Asia)

##### Retail and Luxury Brands

##### In-House Team of the Year

- Lane Crawford Joyce Group
- L'Oreal
- Starbucks

##### Withers Award Hospitality

##### In-House Team of the Year

- Hong Kong Jockey Club
- Hyatt International
- Melco Resorts & Entertainment

##### Innovative In-House Team of the Year

- Alibaba Group
- Canon
- CICC
- CITIC Capital

- COSCO Shipping Ports
- DBS
- HSBC
- Intel
- Sun Hung Kai Financial
- Uber (Asia)
- WeWork

##### Hong Kong In-House Team of the Year

- Canon
- China Overseas Holdings
- CICC
- CITIC Capital
- Citigroup
- CK Hutchison
- CLSA
- COSCO Shipping Ports
- DBS
- Fox Networks Group
- Goldman Sachs
- Hongkong Land
- HSBC
- Melco Resorts & Entertainment
- Microsoft
- Morgan Stanley
- MTR Corporation
- Prudential Corporation Asia
- Sun Hung Kai Financial
- Uber (Asia)

#### FIRM CATEGORIES

##### Civil Litigation Law Firm of the Year

- Baker McKenzie
- Bird & Bird
- Deacons
- Dentons
- DLA Piper
- Eversheds
- Haldanes
- Herbert Smith Freehills
- Latham & Watkins
- Mayer Brown JSM
- MinterEllison
- Oldham, Li & Nie
- Stevenson, Wong & Co.
- Zhong Lun

##### Construction Law Firm of the Year

- Berwin Leighton Paisner
- Clyde & Co
- Deacons
- DLA Piper
- Hogan Lovells
- Holman Fenwick Willan
- King & Wood Mallesons
- Mayer Brown JSM
- MinterEllison
- Pinsent Masons

##### Corporate Citizenship Law Firm of the Year

- Allen & Overy
- Baker McKenzie
- Boase Cohen & Collins
- Freshfields Bruckhaus Deringer
- Hogan Lovells
- Linklaters
- Mayer Brown JSM
- Pinsent Masons
- Stephenson Harwood

##### Criminal Litigation Law Firm of the Year

- Boase Cohen & Collins
- Deacons

- Haldanes
- Kobre & Kim
- Morley Chow Seto
- Stevenson, Wong & Co.

##### Deal Firm of the Year

- Baker McKenzie
- Cleary Gottlieb Steen & Hamilton
- Clifford Chance
- Davis Polk & Wardwell
- Deacons
- Freshfields Bruckhaus Deringer
- Kirkland & Ellis
- King & Wood Mallesons
- Latham & Watkins
- Linklaters
- Paul, Weiss, Rifkind, Wharton & Garrison
- Simpson Thacher & Bartlett
- Skadden, Arps, Slate, Meagher & Flom
- Stevenson, Wong & Co.
- Walkers

##### Dispute Resolution Boutique

##### Law Firm of the Year

- Boase Cohen & Collins
- Bryan Cave
- FitzGerald Lawyers
- Gall
- Morley Chow Seto
- Tanner De Witt

##### Energy and Resources Law Firm of the Year

- Baker McKenzie
- DLA Piper
- Herbert Smith Freehills
- King & Wood Mallesons
- Linklaters
- Pinsent Masons

##### Immigration Law Firm of the Year

- Baker McKenzie
- Harvey Law Group
- Lewis Silkin
- Oldham, Li & Nie

##### Insolvency and Restructuring

##### Law Firm of the Year

- Akin Gump
- Allen & Overy
- Baker McKenzie
- Clifford Chance
- Deacons
- DLA Piper
- Gall
- Hogan Lovells
- Kirkland & Ellis
- Kobre & Kim
- Linklaters
- Mayer Brown JSM
- Ropes & Gray
- Stevenson, Wong & Co.
- Tanner De Witt

##### Insurance Law Firm of the Year

- Baker McKenzie
- Clyde & Co
- Deacons
- Freshfields Bruckhaus Deringer
- Herbert Smith Freehills
- Holman Fenwick Willan
- Mayer Brown JSM
- RPC

##### Intellectual Property Law Firm of the Year

- Baker McKenzie

- Bird & Bird
- Deacons
- DLA Piper
- FitzGerald Lawyers
- Hogan Lovells
- Mayer Brown JSM
- Morrison & Foerster
- Oldham, Li & Nie

##### International Arbitration

##### Law Firm of the Year

- Allen & Overy
- Berwin Leighton Paisner
- Bird & Bird
- Clifford Chance
- Deacons
- DLA Piper
- FitzGerald Lawyers
- Freshfields Bruckhaus Deringer
- Herbert Smith Freehills
- Holman Fenwick Willan
- King & Wood Mallesons
- Latham & Watkins
- Mayer Brown JSM
- Minter Ellison
- Peter Yuen & Associates in association with Fangda Partners
- Pinsent Masons
- RPC
- Skadden, Arps, Slate, Meagher & Flom
- Stevenson, Wong & Co.
- Zhong Lun

##### Investment Funds Law Firm of the Year

- Akin Gump
- Baker McKenzie
- DLA Piper
- Jingtian & Gongcheng
- Kirkland & Ellis
- King & Wood Mallesons
- Morrison & Foerster
- Ropes & Gray
- Sidley Austin
- Simpson Thacher & Bartlett

##### Labour and Employment

##### Law Firm of the Year

- Baker McKenzie
- Bird & Bird
- Deacons
- Freshfields Bruckhaus Deringer
- Gall
- Herbert Smith Freehills
- Lewis Silkin
- Mayer Brown JSM
- Oldham, Li & Nie
- Pinsent Masons
- Tanner De Witt

##### Maritime Law Firm of the Year

- Bryan Cave
- DLA Piper
- Holman Fenwick Willan
- Mayer Brown JSM
- Reed Smith Richards Butler
- RPC
- Watson Farley & Williams

##### BDO Award Matrimonial and Family Law Firm of the Year

- Berwin Leighton Paisner
- Boase Cohen & Collins
- Gall
- Haldanes
- Stevenson, Wong & Co.
- Tanner De Witt
- Withers

## Offshore Law Firm of the Year

- Conyers Dill & Pearman
- Harney Westwood & Riegels
- Maples and Calder
- Ogier
- Walkers

## PRC Firm, Hong Kong Office of the Year

- Fangda Partners
- Guantao
- Han Kun Law
- Haiwen & Partners
- JunHe
- Zhong Lun

## Real Estate Law Firm of the Year

- Baker McKenzie
- Deacons
- DLA Piper
- King & Wood Mallesons
- Mayer Brown JSM

- Paul Hastings
- Stevenson, Wong & Co.

## Rising Law Firm of the Year

- FitzGerald Lawyers
- H.M. Chan & Co in association with Taylor Wessing
- Lewis Silkin
- RPC
- Sincere Wong & Co.

## Tax and Trusts Law Firm of the Year

- Baker McKenzie
- DLA Piper
- Herbert Smith Freehills
- Stephenson Harwood
- Withers
- Zhong Lun

## Technology, Media and Telecommunications Law Firm of the Year

- Baker McKenzie
- Deacons
- DLA Piper
- Freshfields Bruckhaus Deringer
- Haldanes
- Herbert Smith Freehills
- Hogan Lovells
- Mayer Brown JSM
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