

asian-mena Counsel

Volume 16 Issue 2, 2018



The Thing About ...
Carl Im, the brains
behind eYulchon

the
In-House
Community
Asian-mena Counsel
Firms of
the Year
2018

Investigative Intelligence
Infrastructure investment
in emerging markets

In-House Insights
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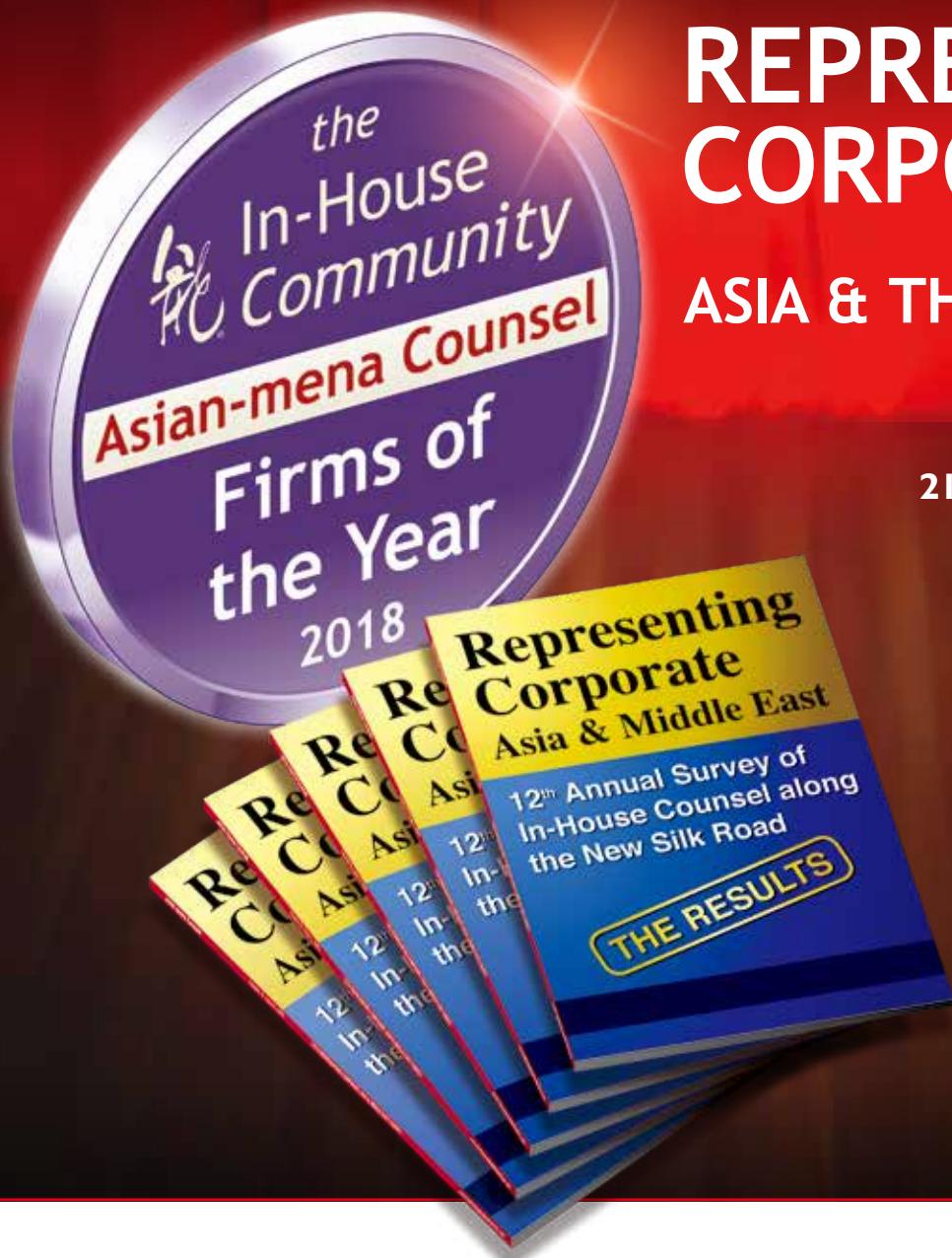
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We also present the winners of our **Firms of the Year**.

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Tanzanian government releases Microfinance Bill

- Informal lending/microfinance business to be regulated by BoT
- Four tiers of microfinance service providers
- Community financial groups including community-based organisations and individual money lenders must register
- Fine or jail term for those who undertake microfinance business without registration
- Provides for consumer protection including transparency on interest rates
- Service providers must comply with the Anti Money Laundering Act

In a bid to ensure proper licensing, regulation, monitoring and supervision of microfinance business in Tanzania, the Minister for Finance has issued a draft Bill on Microfinance to be tabled in the National Assembly very soon.

Microfinance business has been defined to mean the deposit and non-deposit taking business, which also includes savings, loans, transfer, payment services as well as financial education.

Below are the four tiers of microfinance service providers which have been stipulated under the Bill:

- Tier 1** Banks and microfinance banks.
Tier 2 Credit companies and financial organisations.
Tier 3 SACCOs
Tier 4 Community financial groups, individual money lenders and community-based organisations.

Microfinance business has been defined to mean the deposit and non-deposit taking business, which also includes savings, loans, transfer, payment services as well as financial education

The Bill makes it mandatory for all microfinance service providers to be issued with an approval by the BoT prior to the opening or closing of a place of business.

Additionally, the BoT has been vested with powers to supervise and regulate the informal microfinance business. Those powers include investigating, inspecting books of accounts, returns or records as well as demanding any information from the employee or agent of any microfinance business.

Further, the Bill prohibits individuals from carrying out microfinance business without being licensed, contravention of which will amount to an offence. The punishments for tier 1 and 2 is a fine of up to TZS100 million or to imprisonment for a term of between two to five years, or to

both. For tier 3 the punishment is a fine of up to TZS50 million or to imprisonment for a term of between 2 to 5 years or to both. In respect of tier 4, the general penalty is a fine of up to TZS50 million or to imprisonment of not less than 3 months and not exceeding five years or both. The Bill however provides for powers on BoT to compound offences at any time before the hearing commences.

Any foreign-owned microfinance service providers who desire to undertake microfinance business in Tanzania are also required to be registered by the BoT. Furthermore, these service providers are to adhere to the applicable laws on local content, which includes employment and training of Tanzanians.

The Bill demands service providers in the microfinance business to comply with consumer protection principles including vetting of standard contracts, transparency on interest rates, debt collection methods and debt recovery process.

Lastly, the Bill requires microfinance business to comply with the Anti-Money Laundering Act and establish internal control procedures for the purpose of identifying and reporting suspicious transactions.

To read the Bill please visit: <https://fbattorneys.co.tz/wp-content/uploads/2018/11/Microfinance-Bill-2018.pdf>

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M&A

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6-12 YEARS

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HONG KONG

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Private Practice

FUNDS PARTNER

HONG KONG

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M&A/PE

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2-5 YEARS

A Magic Circle firm is looking for an associate to join its successful M&A/private equity team. You will work for a range of clients on public and private M&A and PE transactions in Asia Pacific. You should have 2-5 years of experience from a top tier law firm. Chinese not a pre-requisite. AC7535

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Investments for the environment

"When the last tree has been cut down, the last fish caught, the last river poisoned, only then will we realise that one cannot eat money." - Native American saying

In a recent report released by the leading international body for assessment of climate change, the UN Intergovernmental Panel on Climate Change (UN IPCC), established a target global warming limit of 1.5°C. To maintain this global warming limit requires rapid and far-reaching transitions in energy, land, urbanisation and infrastructure, and industrial systems around the world. This is described as the largest clarion bell from the science community that hopes to mobilise people and dents the mood of complacency.

What was previously perceived as a political concession to small island states' vulnerability to rising water levels, the 1.5°C global warming limit is now seen as a necessity. Although it lies at the most ambitious end of the Paris agreement pledge to keep temperatures between 1.5°C and 2°C, the UN IPCC says that the target is affordable and feasible.

We are already experiencing the destructive consequences of the unprecedented rise in global climate. Therefore, measures to mitigate climate change should be implemented now more than ever.

Following an increase in global initiative to invest in green projects, the Green Bonds Principle was developed. Based thereon, the Asean promulgated its Asean Green Bonds Standards (GBS). These principles govern issuance of bonds to finance green projects and ensure that the proceeds are really used for that purpose.

In turn, the Philippine Securities and Exchange Commission (SEC) issued SEC Memorandum Circular No. 12, Series of 2018, "Guidelines on the Issuance of Green Bonds Under the ASEAN Green Bonds Standards in the Philippines", which took effect last September 2018.

With the increasing amount of global capital, the primary objective of the Asean GBS is to enhance transparency, consistency and uniformity of Asean Green Bonds, which will contribute to the development of a new asset class, reduce due diligence costs and help investors to make informed investment decisions.

The eligible green projects under the Asean GBS include but are not limited to renewable energy, clean transportation and climate change adaptation.

The primary objective of the Asean GBS is to enhance transparency, consistency and uniformity of Asean Green Bonds, which will contribute to the development of a new asset class, reduce due diligence costs and help investors to make informed investment decisions

The issuance of the said SEC Memorandum effectively supplements Section 8 and 12 of the Securities Regulations Code, which primarily governs the registration and non-financial disclosure requirements for securities prior to issuance.

The GBS requires that the issuer should disclose in the documentation for issuance the utilisation of the proceeds of the Asean Green Bonds and the project evaluation and selection process. The issuer is also required to make

publicly available the same information through an issuer-designated website.

Hopefully with the promulgation of the Asean GBS in our jurisdiction, local and foreign investors seeking green projects will be able to pour in needed capital to start and sustain green projects, at the same time allowing project proponents or issuers of green bonds to tap the capital market.

Apart from creating a market for investors of green projects, this recent development invites businesses to be actively part of the environmental advocacy community to mitigate climate change and its baleful effects.

Provided these Asean Green Bonds acquire high prominence and are used as intended, this could well address the demand for the rapid and far-reaching changes that are needed.

In the UN IPCC report, experts have shown that climate change can be mitigated within the laws of physics and chemistry. The final tick box is political will. The adoption of the GBS is an effort in the right direction.

There is a growing trend of investors interested in green projects. The Philippines is the perfect example of a small island state severely affected by climate change. Connecting both dots should encourage more businesses in the Philippines to take advantage of the Asean Green Bonds in generating green capital.

Will we keep climate change a mere "hot" topic, or is this a start of an arduous process to save a world we have neglected?

The views and opinions expressed in this article are those of the author. This article is for general informational and educational purposes, and not offered as, and does not constitute, legal advice or legal opinion.

(Note: This article first appeared in Business World, a newspaper of general circulation in the Philippines.)



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By Ha Yoo-Mi

Major amendments to the Product Liability Act

Since its introduction on July 1, 2002, the Product Liability Act has been enforced for the purpose of holding manufacturers, etc, liable for any damages caused to life, body or property resulting from defects of their products, according to the principle of absolute liability. However, there had been continuous criticism by some people that the law still had a long way to go to enable victims to receive fair compensation for the damages they suffered from product defects. In response to that criticism, the Act has been partially amended to increase the responsibility of manufacturers and suppliers, while easing the burden of proof required of plaintiffs. The amended Act has been in effect since April 19, 2018.

While the previous Act compensated for actual damages that occurred and that could be proved, the amended Act has newly introduced a "punitive compensation system for damages". These punitive damages will apply (i) if a manufacturer causes death or serious bodily injury to a person, (ii) as a result of not taking necessary measures against a defect in a product despite the manufacturer's knowledge of such defect. In such case (iii) the manufacturer shall be liable for up to three times the damage sustained by the person. Provided, however, that the above provision does not apply to suppliers; it relates only to intentional and unlawful acts by manufacturers.

The previous version of the Act did not have any provisions for easing the burden of proof for victims. In order to have a product manufacturer found liable for a defect, the plaintiff had to prove all of the related factors establishing the claim. These included the defect of the product; the details of the damage suffered; and the causal relationship

With the changes in the amended Act, the level of punishment for any intentional act will be greater and this may deter similar acts in the future

between the defect and the damage. In contrast, the amended Act contains a provision based on some existing case precedent which holds that if a plaintiff proves three types of facts: (i) that the plaintiff suffered damage at a time when the product in question was used in its normal operation; (ii) the damage that occurred relates to an aspect of the product that was practically controlled by the manufacturer; and (iii) such damage usually does not occur without a defect of the product in question, then it shall be presumed that the product had a defect and the damages were caused by such product defect. At that point manufacturers will have the burden of proving that there was no defect that caused the plaintiff's damages.

In addition, under the previous Act, for the plaintiff to hold a supplier liable for damages when the related manufacturer was not known, such plaintiff had to directly prove the fact that "the supplier knew or should know the identity of the manufacturer in question". To alleviate that burden, the amended Act specifies an obligation by the supplier to inform the plaintiff of information on the manufacturer in that situation, expanding the scope of responsibility of suppliers. Therefore, the plaintiff can now hold the supplier liable for damages caused by a defect of the product

by proving the fact that he or she has made a request to the supplier to provide that information about the manufacturer, etc, and the supplier failed to inform him or her of such information despite the request. However, in such cases the scope of liability for damages against the supplier will be limited to actual damages incurred. The punitive compensation system for damages introduced in the amendment will not be applied to suppliers.

Prior to the amended Act, there had been continuous criticisms of the previous version of the Act because the amount of compensation determined under prior court decisions was stated as not being sufficient to fully compensate victims of defective products. Furthermore, people complained that when intentional acts of wrongdoing occurred which caused small amounts of damage to many customers, the profits gained by the manufacturer from such illegal acts could be massive while the damages suffered by individual customers could be small. This created a disincentive for customers to seek redress, but a great incentive for some manufacturers to continue acting maliciously. However, with the changes in the amended Act, including the introduction of punitive damages, the level of punishment for any intentional act will be greater and this may deter similar acts in the future. It may also allow plaintiffs to receive more adequate compensation.

Also, given the eased burden of proof by plaintiffs under the amended Act, plaintiffs' difficulties in proving their case will now be ameliorated in product liability cases where technical features of products are typically at issue. Consequently, the number of product liability cases and the amount of compensation awarded in those cases in the future are expected to increase significantly. Manufacturers and suppliers should anticipate this by taking appropriate actions now to prepare for the new wave of suits that are likely to occur.

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M&A/Commercial

Hong Kong 12-15 PQE

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Regulatory and Compliance

Hong Kong 5-10 PQE

A major telecommunications company seeks a mid/senior level legal counsel for their team. You should be an experienced Hong Kong regulatory lawyer from in-house or private practice. Experience required in dealing with Hong Kong regulatory bodies. General commercial experience required. (IHC 17117)

Capital Markets and Corporate

Hong Kong 5-10 PQE

A major securities brokerage seeks a mid/senior level legal counsel to support the investment banking team. You should be an experienced Hong Kong capital markets/corporate lawyer from in-house or private practice. Experience in dealing with Hong Kong regulatory bodies with solid IPO experience gained in a law firm or in-house required. Mandarin is essential. (IHC 17143)

Medicolegal

Hong Kong 5+ PQE

Growing healthcare group seeks a lawyer with strong experience handling medicolegal matters including medical council cases. This person will have strong knowledge on the relevant legal procedures and regulatory/compliance issues in Hong Kong and be able to handle cases with external counsels. Cantonese language skills necessary. (IHC 17157)

Retail

Hong Kong 2-5 PQE

A global household name in the travel, retail & luxury goods sector is looking for an additional commercial lawyer. Ideal candidates will be commercial lawyers with strong supply chain backgrounds. Intellectual property/trademark infringement experience is an advantage. (IHC 17105)

IT & Commercial

Hong Kong 1-4 PQE

International professional services company is looking for a junior lawyer to support the in-house team on a range of IT and commercial legal matters. You will have some commercial IT experience gained within a law firm or in-house environment and have fluency in written and spoken Chinese (Mandarin) and English. (IHC 16389)

Corporate Commercial

Hong Kong 1-3 PQE

Global corporate services provider seeks a junior lawyer to support their GC on a wide range of commercial issues and transactions for their APAC businesses. This is a great opportunity for an M&A and/or commercial lawyer looking to work more closely with a growing company. Excellent spoken and written English language skills required. (IHC 17125)

Compliance Counsel

Beijing 10+ PQE

A leading technology company is looking for a senior compliance counsel to join its substantial and award winning legal team. You should have solid compliance experience gained from either in-house or private practice. FCPA or data protection experience is essential. (IHC 16418)

Commercial / Media

Beijing 8+ PQE

A well-known private company in China is looking for an experienced dispute resolution lawyer to lead its litigation team to handle a range of commercial disputes. Candidates should possess good communication and management skills. PRC Bar is essential. (IHC 13878)

General Corporate

Beijing / Hong Kong 7+ PQE

A leading PRC company with substantial assets overseas seeks an in-house counsel with M&A experience to support its global expansion. The position will support the company's most profitable business unit in China. This is a great opportunity to join a growing business that offers a stable and supportive working environment. (IHC 16073)

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Corporate Senior Associate

Singapore 4-8 PQE

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Regulatory Counsel

Singapore 3-7 PQE

Major investment company is looking for a corporate or regulatory lawyer to join their legal regulatory team based in Singapore. The ideal candidate should be legally qualified in Singapore, the UK, Australia or the US with solid foundation in general corporate law and experience in regulatory issues on cross border M&A or listing rules. (IHC 16869)

Competition Regulatory Counsel

Singapore 4-6 PQE

Major investment company is looking for a competition lawyer to join their legal regulatory team based in Singapore. The ideal candidate should be legally qualified with good working knowledge and understanding of the merger control regimes in Singapore, the UK, Australia or the US. (IHC 17054)

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By Joanne Collett and
James Gaden

Redeeming failures – Lessons from the Ardon Maroon case

The recent case of Ardon Maroon Asia Master Fund (In Official Liquidation) serves as a stark reminder that it is critical that investment funds are built on properly considered, and expertly drafted constitutional documents, including the mechanics for redemptions.

The Ardon case

Ardon, represented by Walkers, is a Cayman Islands company serving as a "master fund" in a typical master-feeder structure. An investor in one of its feeders sent in a request to the Feeder fund to redeem its shares. The Feeder purported to automatically redeem its shares in the Master. However, the Feeder never served a redemption notice on the Master. Subsequently, both the Master and the Feeder (and another feeder) were placed into voluntary, and then court supervised, liquidation.

As part of the liquidation process, the Feeder submitted a proof of debt to the liquidators of the Master, which was adjudicated by the liquidators in the usual way, and, given the lack of compliance with the Master's articles due to the lack of a redemption notice from the Feeder, was rejected by the liquidators. The Feeder appealed this adjudication. The importance of this decision, as described below, is that if the redemption notice was valid, then the US\$15 million redemption amount would be paid to the Feeder as a creditor of the Master (to the detriment of the other feeder fund). If the redemption notice was not valid, then this creditor claim to the monies would not arise and the US\$15 million would be shared between both feeder funds (as shareholders of the Master).

The main question for the Court was

whether a notice from the Feeder to the Master was in fact required in order for the redemption to be valid.

The Court concluded that, notwithstanding significant evidence as to industry procedure, and arguments about how the offering memorandum of the fund should be interpreted, based on the articles of association of the Master, a notice of redemption was required from the Feeder to the Master before the redemption could be validly processed such that the proof of debt was rejected.

The decision is currently the subject of an appeal, which has not yet been heard.

"Investors need to make sure that in investing in a master-feeder structure, the master fund's articles provide for feeder fund redemptions to be processed and paid in the manner that will actually be implemented"

Is my existing fund affected and what can I do?

There are many master-feeder structures in the market where, like Ardon, the master fund is required to receive redemption notices from the feeder in order for feeder redemptions to be

properly paid and the need for notice cannot be waived.

However, depending on the drafting of the offering memorandum, and possible issues caused by side letters, it should be possible to remedy any issues with the documents without disruption to business operations, or the need to bother ultimate investors. Critical will be how the articles of association have been drafted. These may need to be amended, but there are solutions.

I'm an investor — how do I know I can get my money out of the fund?

The ultimate victim in Ardon was the investor in the Feeder, which had thought that it had made a valid redemption from the Feeder that then would be paid first to the Feeder from the assets of the Master. Investors need to make sure that in investing in a master-feeder structure, the master fund's articles provide for feeder fund redemptions to be processed and paid in the manner that will actually be implemented. For most investors, at the very least they should confirm that the offering document makes it clear that where a redemption request is made at the feeder level, the master fund will process a back-to-back redemption to ensure feeder redemptions are completed.

Conclusion

What may be most surprising to the industry about the Ardon decision was the vigour with which the Court chose to shun arguments regarding broadly adopted market practice and seemingly singularly look to the construction of the documents in making its decision. However, given the need for commercial certainty, the Court was left with little alternative given the arguments made. Even though an appeal has been filed, what should come as no shock is that the Court indicated that documents drafted in a manner tailored to the operation of funds is absolutely essential.

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In-house

Chief Compliance & Ethics Officer | 10+ yrs exp | Tokyo REF: 14712/AC

International financial services company seeks a senior compliance leader with native Japanese skills plus strong team management experience to head up its Japan compliance function based in Tokyo. You will have responsibility for leading a compliance team handling all compliance issues and ensuring a robust ethics and compliance policy and culture thrives throughout the organization. You must have at least 10 years' experience of leading compliance or audit teams at major financial firms, definitive analytical and problem resolution capabilities plus good leadership and communication skills. Fluency in written and oral English is a must.

Senior Government Affairs Manager | 10+ yrs exp | Shanghai REF: 14775/AC

Fortune 500 multinational conglomerate seeks a Senior Manager to work in its Greater China government affairs department. Based in Shanghai, you will be responsible for managing government and public affairs in the region with a focus on Shanghai. The range of issues includes government liaison, policy monitoring, government and business events, crisis management and regulatory compliance. You must have over 10 years' experience in government affairs, gained in the public sector, an extensive network within local governments and trade associations, plus an in-depth understanding of government practices, policy processes and protocols. Strong negotiation and communication skills are required along with fluent English and Mandarin.

Regional Compliance Officer | 5-8 yrs pqe | Hong Kong REF: 14755/AC

Lead the compliance program for this European multinational industrial as they expand their operations in Asia-Pacific. Based in Hong Kong, the role will include responsibility for overseeing the design and implementation of compliance programs and processes and handling internal investigations. You ideally have at least 5 years' experience gained in a legal, compliance, audit or risk management function plus over 3 years' experience setting up and implementing compliance programs in the region. Regional experience of anti-corruption, antitrust and conflict of interest is highly desirable. PRC/HK/US/UK bar preferred. You must have fluent English and Mandarin skills for the role.

Legal Counsel | 5+ yrs pqe | Hong Kong REF: 14765/AC

European MNC is seeking a Legal Counsel to be based in Hong Kong to support its operations across APAC. You will be responsible for providing legal and corporate governance support on board meetings, general corporate issues, database management and vendor supervision. You must have a Hong Kong/PRC qualification plus 5 years' PQE in practicing corporate law. Strong knowledge of the Companies Ordinance (HK & China) and PRC foreign investment law is highly desirable. Fluency in English and Mandarin languages is required.

Compliance Manager | 5+ yrs pqe | Singapore REF: 14759/AC

Singapore-based fintech is urgently seeking an experienced compliance professional with strong business acumen to cover their expanding operations. Your main responsibility is to oversee all compliance operations within their ICO trading activities. You must have compliance experience in the fintech industry plus knowledge of ICO, KYC and AML/CAMS/ICA holders who are familiar with the rules and standards related to the fintech/startups are preferred. Immediate availability would be highly advantageous.

Private Practice

Capital Markets Partner | 7+ yrs pqe | Hong Kong REF: 14760/AC

This leading international law firm is seeking an Equity Capital Markets Partner, ideally with strong team management and client relationship skills, to be a senior addition to their thriving Hong Kong team. Hong Kong qualification, good market recognition, a client following (in particular from the PRC) and additional experience in Debt Capital Markets and public company M&A are all requirements for this role. Chinese language skills are preferred but not essential.

Senior Associate, Construction | 7+ yrs pqe | Hong Kong REF: 14749/AC

This leading international law firm is seeking an experienced lawyer to join their highly regarded back-end construction team based in Hong Kong. You will advise notable clients including developers, contractors and financiers large scale building and infrastructure development issues. You must have excellent academics plus a minimum of 7 years' relevant PQE at top-tier international or domestic law firms. A good team player with strong interpersonal skills is required, and Hong Kong qualification is preferred. Fluency in written and oral English and Cantonese/Mandarin is essential.

Corporate Associate | 5-8 yrs pqe | Hong Kong REF: 14740/AC

A seasoned corporate lawyer is sought to support an experienced team of partners at this fast-growing law firm in Hong Kong. Ideally, you are HK qualified with 5-8 years' PQE in corporate M&A and have good experience of HK listing work at top-tier local/international law firms. Fluent Mandarin and English skills are a must.

DR Associate | 4-6 yrs pqe | Hong Kong REF: 14754/AC

A leading dispute resolution practice is seeking a trilingual lawyer to join its Hong Kong office. You will handle complex commercial/financial regulatory disputes involving MNCs and banks. Candidates must be Hong Kong qualified with 4-6 years' PQE in financial services regulatory disputes at top-tier local/international law firms. Fluency in English, Mandarin and Cantonese is required.

Corporate Associate | 2-3 yrs pqe | Hong Kong REF: 14752/AC

This top international law firm with lengthy history in Asia is hiring a Hong Kong-qualified lawyer to join its highly regarded corporate practice. The ideal candidate will have 2-3 years' PQE in handling public M&A matters at a leading international law firm. Lawyers with a PRC background or relevant market experience are preferred. Native-level Mandarin Chinese is highly desirable.

US Associate, CM | 2-3 yrs pqe | Hong Kong REF: 14753/AC

This leading law firm is looking for a US-qualified lawyer with capital markets experience to work in its Hong Kong base. The scope of work on offer includes both debt and equity work. The ideal candidate will have a JD/LLM and have international law firm experience. Excellent English and Mandarin language skills are essential for this role.

Job Search



To find out more about these roles & apply, please contact us at:

T: (852) 2520-1168

E: hughes@hughes-castell.com.hk

W: www.hughes-castell.com

L: www.linkedin.com/company/hughes-castell/



MOVES

The latest senior legal appointments around Asia and the Middle East



AUSTRALIA

Gadens has added **Daniel Middleton** as partner in its property, construction and planning group in Melbourne. He joins the firm after more than 10 years at Baker McKenzie, having spent the formative years of his career at Simpson Grierson in New Zealand and at Lawrence Graham (now Wragge Lawrence Graham) in the UK. He worked at Blake Dawson Waldron (now Ashurst) before joining Baker McKenzie in 2007. Middleton's expertise spans the full spectrum of drafting and negotiating contracts relating to the procurement of major construction and infrastructure projects, and the subsequent operation, maintenance, leasing and sale of those assets. He has significant experience from working on a wide range of projects in a variety of environments and market sectors, including property development, universities, renewable energy, water infrastructure and public private partnerships.



Daniel Middleton

Jones Day has added **Adam Conway** as a partner to lead the firm's energy and resources transactional work in Perth. Conway has more than 20 years' experience working with the largest energy and resources companies throughout Australia and the Asia-Pacific region. He has advised clients on major projects in the mining and oil and gas sectors, on structuring, joint operating agreements and joint venture issues, as well as energy supply, commercial agreements, off-take arrangements, and field development. In the energy supply area, he has advised on the whole range of downstream energy issues, from gas sales, gas transportation, gas storage, gas swaps, interconnects, spot transactions, PPAs and renewable energy.



Nirangjan Nagarajah

White & Case will add **Nirangjan Nagarajah** as a partner in the Melbourne office. Nagarajah's practice is particularly focused on listed company takeovers and schemes of arrangement, and he has experience advising significant, high profile transactions in the Australian market. He also supports a range of listed companies on all matters relevant to listed entities, including listing rule compliance, corporate governance, capital management and takeover defence. Nagarajah joins from Gilbert + Tobin, where he was a partner in the corporate advisory group.



HONG KONG

Clyde & Co has added aviation specialist **Peter Coles** as a partner in its Hong Kong office. He joins from Holman Fenwick Willan, where he was also a partner. He has been supporting multinational clients in Asia for more than 22 years and handles a broad range of legal advice to airlines, general aviation and business jet operators, airports, manufacturers, MROs and ground handlers across the Asia Pacific,



Peter Coles

Europe and the Americas. This includes providing legal advice on investments, employment, acquisitions, procurement, marketing and sales in the aviation industry, carrier liability work, general commercial advice and associated aviation and health and safety regulations, competition law and other compliance requirements. He regularly advises on contingency planning; incident/accident response; government investigations, reports and public enquiries; coroner inquests and prosecutions; plaintiff and defence work in uninsured disputes including asset preservation and injunctions, debt recoveries and bankruptcy proceedings.

Debevoise & Plimpton has hired **Gareth Hughes** to join the firm's Hong Kong office as a litigation partner. He was previously at Ashurst, where he has been a partner and head of dispute resolution in Asia. Hughes has consistently been recognised as one of the foremost commercial disputes lawyers in the region, having spent more than 15 years working in Hong Kong. He has particularly deep experience advising financial institutions on litigation and contentious regulatory investigations.



Gareth Hughes



Antonia Croke

Hogan Lovells will be adding **Antonia Croke** as a partner in the global litigation practice, and will ultimately be based in the Hong Kong office. She will join from the London office of Ashurst, and will initially join the Hogan Lovells litigation team in London before transitioning to Hong Kong later in 2019. Croke has extensive experience in complex, cross-border litigation and investigations, including contractual, corporate, employment, insolvency, and fraud-related disputes. While at Ashurst, she worked for a number of leading companies on complex and high-profile commercial disputes and investigations in the financial services, automotive and TMT sectors. Prior to joining Ashurst in 2010, Croke worked at Clayton Utz and Gilbert + Tobin in Sydney.



INDIA

Cyril Amarchand Mangaldas has added **Sourav Kanti De Biswas** as a partner in its corporate practice in Delhi. He has extensive experience in advising domestic and international clients on mergers/demergers, share acquisitions, restructuring, joint ventures, foreign exchange laws, securities law, commercial contract structuring, secretarial compliance, interpretation of contracts, and employment law. He joined erstwhile Amarchand & Mangaldas & Suresh A Shroff, Delhi office in April 2008. His experience also includes in-house roles at Reliance Communications and Avaya in different capacities. He has authored various articles, which have been published in legal journals and publications.



Sourav Kanti De Biswas

The JLegal



Personality
Questionnaire
Experience

Throughout the year, JLegal examines the PQE of a senior in-house counsel. On this occasion we chat with Deborah Foo and learn if she could turn back time, she would land smack in the middle of the 80s.

▪ What is on your mind at the moment?

Getting home as I am responding to all these questions on a flight.

▪ What secret talent do you have?

Being able to manage my time such that I am in bed before 11 pm on most weekdays.

▪ If you weren't a lawyer you would be a ...
voice over artist or aesthetic doctor.

▪ Where is the best place you have ever been to?
Snowy Tromso, Norway in the Arctic Circle.

▪ What is your idea of misery?

Having to work in the office on a public holiday.

▪ What is the strangest thing you have seen?
Bare-chested man "walking" his pet parrot on his arm at East Coast Park.

▪ What is your motto?

Always do your best irrespective of whether it is a trivial or important matter.

▪ If you could have one superpower it would be ...?
Power to turn back time.

▪ Top 3 favourite movies of all time?

Dawn of the Dead, World War Z, Elvira: Mistress of the Dark (totally camp and so funny even after three decades).

▪ What do you consider the most overrated virtue?
IQ. It will certainly get you a long way but a lot more is needed to succeed.

▪ What irritates you?

Lazy, wilfully obtuse, incompetent people.

▪ What was your last Google search?
Hotels for my upcoming vacation.

▪ If you could time travel, where would you go?
Back to 1986 right in the middle of the 80s when new romantic music was at its height and life was gentler and just beginning.

▪ What's the one food you could never bring yourself to eat?
Dog meat!

▪ Which of the Seven Dwarfs is most like you?
None, humans are just too complex to fit only one character.

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Deborah Foo

Regional Legal Counsel,
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THE BRIEFING

MOVES

HSA Advocates has added **Apoorva Misra** as partner, and **Shreshth Sharma** and **Nitish Gupta** as associate partners, in the regulatory and policy and disputes practice. While the three partners will be based out of the firm's New Delhi office, their responsibilities will not be restricted by geography. Misra brings with him over 17 years of experience in regulatory and policy, with a focus on regulatory disputes in the power sector, oil and gas projects, mining and environment. He joins from Sterlite Power Grid Ventures. Prior to that, he has worked with J Sagar Associates and Trilegal. Sharma has over 15 years of experience in handling disputes, with a focus on civil and regulatory litigation. He joins from Jindal Steel & Power, prior to which he has worked with Interglobe Enterprises and J Sagar Associates. Gupta has over nine years of experience in regulatory litigation, as well as dispute resolution, service laws and public law remedies. He joins from DSK Legal.



JAPAN

Squire Patton Boggs has added **Moerk Murdock** as a corporate partner in Tokyo. He joins the firm after 14 years at Davis Polk, where he previously led the Japan M&A practice. He is fluent in Japanese and has considerable experience acting for Japanese multinationals in the manufacturing and industrial, pharmaceutical and life sciences,



Moerk Murdock

and financial and life insurance sectors. His practice focuses on cross-border M&As, strategic alliances and joint ventures. He has also advised on global securities offerings, corporate investigations and regulatory compliance matters. Recent transactions include advising Mitsubishi Tanabe Pharma on its US\$1.1 billion acquisition of NeuroDerm and assisting Valeo with its partial tender offer for shares of Ichikoh Industries. Murdock is admitted to practice in New York and is qualified in Japan as a foreign qualified lawyer.



SINGAPORE

Stephenson Harwood (Singapore) Alliance has strengthened its shipping and offshore finance practice with the addition of **Martin Brown** as partner. Brown joins from Ince & Co, where he was head of finance in Singapore. He specialises in cross-border ship finance and offshore maritime transactional matters. These include debt financings, leasing, international joint ventures and both conventional and Islamic private equity investments. He has extensive experience advising a range of clients involved in capital raising, debt restructuring and rescheduling, and distressed creditor and debtor advisory work. He has particular expertise in advising companies on their project investment activities in the marine and energy sectors, including structuring, acquisition and asset employment and chartering, and brings intrinsic understanding of the day-to-day operational challenges a maritime company faces.

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LEGALLABS

*Season's greetings
&
best wishes for 2019!*

EVENT REPORTS

A busy month for the Community in China and the Middle East, and our first gathering in Africa

The 18th annual In-House Congress Shanghai got off to a great start with a discussion on Women in Law: Women in In-House (seen right), chaired by Carol Yuan of Hughes-Castell with Lesley Li of Air Products and Chemicals, Jennifer Liu of Signify, Xinyi Chen of LawMars and Michelle Gon of McDermott Will & Emery. While the proportion of women are in the ascendancy in Shanghai, the problems of both conscious and unconscious bias still prevail, the panel concluded. There followed a day of engaging workshops covering a wide array of interest areas before the event closed with a succinct and honest discussion on In-House Development, moderated by Evangelos Apostolou of Major, Lindsey & Africa, who was joined by some very experienced lawyers, including Xi Zhang of Bayer, Martin Hu of Martin Hu & Partners and Samuel Yang of Anjie Law Firm.

Thanks to Anjie Law, Debevoise & Plimpton, Dorsey & Whitney, FTI Consulting, Herbert Smith Freehills, the Hong Kong International Arbitration Centre, JunHe, King & Wood Mallesons, Martin Hu & Partners, MWE China Law Offices, Hughes-Castell, Major, Lindsey & Africa, SSQ and Taylor Root for their support.

An excellent opening panel (pictured right) kicked off our first ever In-House Community Congress in Johannesburg, with Pieter Badenhorst, Mayuri Naidoo, Lynelle Bagwadeneen, Chris van der Walt, Cameron Dunstan-Smith and Pieter Steyn discussing with In-House Community managing director, Tim Gilkinson how they rise to their current challenges. The session was followed by a day of lively networking and engaging workshops on White Collar and Regulatory Enforcement, African Competition Law and International Arbitration between Africa and China. Thanks to our panellists, and all our co-hosts, including Herbert Smith Freehills, JunZeJun Law Offices, LEX Africa, Legal Interact and Taylor Root.

At the annual Abu Dhabi In-House Congress, Abu Dhabi Global Market's Emmanuel Givanakis set the tone for the first panel discussion (right), alongside Evangelos Apostolou of Major, Lindsey & Africa, Lena El-Malak of Microsoft, Maheen Pfeffer of NYU Abu Dhabi, Yasmine Afifi of Cisco Systems and Mark Gilligan of Squire Patton Boggs, who looked at how in-house lawyers must grapple with both AI and technology as demanded by their stakeholders. The Women In Law panel, with El-Malek, Pfeffer, Afifi, Danielle Lobo of Afridi & Angell, Dina Mahdi of Hadef & Partners, Rajwah Al Kuhaymi of Winston & Strawn and moderated by Patrick Dransfield, proved especially stimulating, with a general agreement among the panel (not shared by our moderator!) that quotas were not a good idea — and that the discussion of women in law often starts with the wrong premise. In fact, all workers should be responsible for family and work, and it is equality in the workplace that is the ultimate goal. Mohit Saraf of L&L Partners also provided a fascinating briefing on India. Along with the above, thanks also go to our speakers from Galadari Advocates and Bird & Bird for their insights.

The In-House Community was pleased to host the Meritas Law Firms Worldwide Personal Data Protection Forum in Hong Kong. Thanks to the excellent speakers and panellists, including Chrysilla Carissa Bautista of ACCRA Law Offices, Hongchuan Liu of Broad & Bright, Walter Lee of Gallant, Yao Rao of HHP Attorneys-At-Law, Jeffrey Lim of Joyce A Tan & Partners, Darcy Kishida of Kojima Law Offices, Toni Ostler of Amecke Sibeth Dabelstein, Dennis Unkovic of Meyer, Unkovic & Scott and our own Patrick Dransfield, as well as co-organiser Eliza Tan.

SHANGHAI



JOHANNESBURG



ABU DHABI



PERSONAL DATA PROTECTION FORUM



A special thanks on behalf of the *In-House Community*TM to all our speakers, which included:

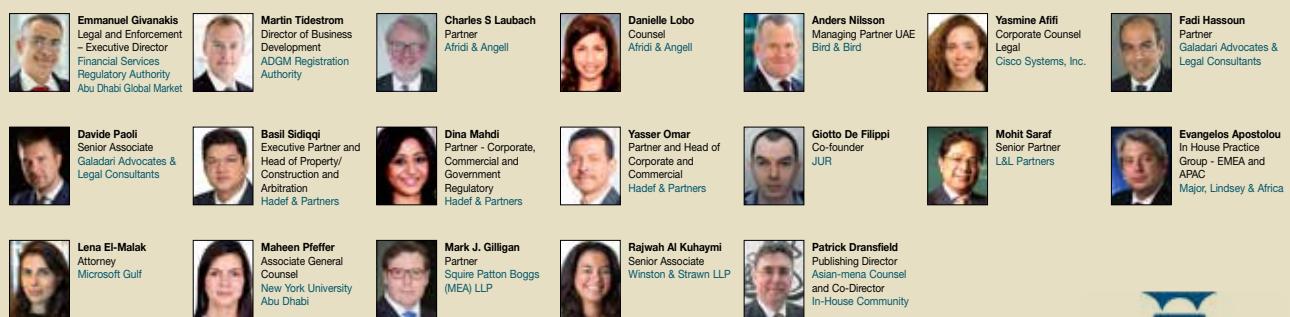
"The topics I was interested in were all covered. A great event. Thank you"



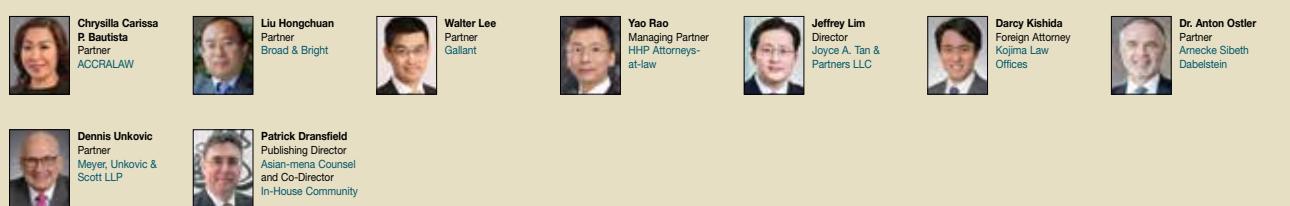
"The Africa In-House Congress exceeded my expectations. Great speakers, and great topics relevant to the industry"



"My gratitude to the In-House Community for organising such high-class events for the entire UAE in-house legal community"



"The structure of the event allowed for open discussion by what was a good cross-section of panelists"



DEAL OF THE MONTH



Asian-mena Counsel Deal of the Month

Vietnam's first healthcare dong bond

Private healthcare group Hoan My raises US\$100m in a rare dong-denominated bond from a private company.

Hoan My Medical Corporation has raised VND2.33 trillion (US\$100 million) in the first bond issuance from the country's healthcare industry and one of the first from a private, unlisted company.

Owned by the Clermont Group, Hoan My is the biggest private healthcare network in Vietnam, with an integrated healthcare network currently operating more than 3,400 beds across 14 hospitals and six clinics, and servicing over 3 million patients annually.

The fund-raising will help the group as it continues to expand its footprint both organically and through acquisitions of operating medical facilities across the country. The company says that it has a number of solid opportuni-

ties in the pipeline that will help accelerate its growth plans.

The bonds were subscribed by and successfully allocated to four investors from the insurance industry — Eastspring, Manulife, AIA and Chubb. The bonds comprise two tranches, one that matures in 2023 and another in 2025. The bonds are guaranteed by Credit Guarantee and Investment Facility (CGIF), a trust fund of the Asian Development Bank. Hoan My is providing different collaterals to CGIF in consideration of the guarantee. Standard Chartered is the placement agent and Ho Chi Minh City Securities is the registrar, payment agent and bondholders' agent.

The dong-denominated fixed-rate

bonds had a bid-to-cover ratio of 2.5, according to Standard Chartered, and pay an annual coupon of 6.64 percent for the five-year tranche and 6.74 percent for the seven-year.

There have only been a handful of private corporate bond issues in Vietnam, and Hoan My's issue is probably the largest to date.

Russin & Vecchi acted as lead counsel to the issuer, helping it to prepare, negotiate and issue the bond documentation with the investors, and an extensive set of guarantee and security documentation with CGIF. **YKVN** acted as co-counsel to Hoan My in the bond issue. **Freshfields** was counsel to CGIF, while **VILAF** acted for Standard Chartered.

Other recent transactions from around the region:

Baker McKenzie has advised **Spring Reit** on its successful defence against the HK\$5.7 billion (US\$730m) unsolicited takeover bid by Hong Kong-based private equity firm PAG Real Estate, who had sought to acquire a controlling stake in Spring Reit. Hong Kong partners **Milton Cheng** and **Christina Lee** led the firm's team in the transaction, which is a very rare example of a hostile takeover offer in Hong Kong and the first hostile offer for a Hong Kong listed Reit. **Ashurst**, with Hong Kong partner **Chin Yeoh** leading the firm's team, advised Japan-based private equity firm **Mercuria Investment and its concert parties**, the largest shareholding group and owner of the manager of Spring Reit.

J Sagar Associates has also advised **Hyundai Motor India** on an appeal before the Supreme Court, challenging an interim order passed by the National Company Law Appellate Tribunal (NCLAT). The matter relates to an order passed by the Competition Commission of India (CCI) penalising 17 car manufacturers for restricting supply of genuine spare parts in India. CCI imposed an approximately Rs4.2 billion (US\$59m) penalty on Hyundai, and other onerous behavioural directions. Hyundai appealed before the NCLAT, seeking a stay on the CCI order. After the NCLAT refused to grant a complete stay on the CCI order, Hyundai approached the Supreme Court, citing that CCI's penalty is erroneously computed and that the CCI directions are vague, impractical, irreversible in nature and, most importantly, jeopardise consumer safety. The Supreme Court granted a complete stay

on the CCI order, which also stayed the NCLAT order. Partners **Amitabh Kumar** and **Vaibhav Choukse** led the firm's team in representing the client.

Allen & Overy has advised **The Hongkong and Shanghai Banking Corporation, JP Morgan Securities** and **Morgan Stanley & Co International**, on the Rule 144A / Reg S US\$500 million 7.25 percent bonds due 2023, issued by The Development Bank of Mongolia (DBM). This was the first time DBM transacted a bond offering without a government guarantee, thereby setting an important price reference for other Mongolian borrowers. Despite being issued under challenging bond market conditions, the bonds were priced competitively. Capital markets partners **Alexander Stathopoulos** (Singapore) and **John Lee** (Hong Kong) led the firm's team in the transaction.

Kirkland & Ellis has represented **PAG Asia Capital** on the raising of its third flagship private equity buyout fund, with a focus on investment across major markets in Asia. PAG Asia Capital is the private equity arm of PAG, one of Asia's largest independent alternative investment fund managers. The fund closed at its hard cap of US\$6 billion, with commitments from leading institutional investors from the Americas, Europe and Asia. Investment funds partners **Carol Liu** and **Justin Dolling**, supported by investment funds partners **Jennifer Feng**, **Josh Westerholm** and **Michael Chu**, regulatory partner **Sarah Thompson**, tax partner **Marguerite Lombardo** and employee benefits partner **Elizabeth Dyer**, led the firm's team in the transaction.



Be it a case of wanting to spice things up or break the pattern, every now and then, it's nice to know there's something else. Whether you do so casually or stringently, take a look below to see what the legal sector can offer you.

Senior Counsel – Hospitality/Leisure, 12+ yrs PQE, Hong Kong

A hospitality and leisure MNC is looking for a senior corporate lawyer to join its team. The ideal person will have at least 12 PQE, be trained at a top-tier firm and have first-class academics. This is an excellent opportunity to join an established legal team and work closely with senior management on corporate policies and work with different business units on legal and regulatory issues. Excellent remuneration package on offer. [Ref: AC7561]

Contact: Karishma Khemaney

Tel: (852) 2537 0895

Email: kkhemaney@lewissanders.com

Senior Legal Counsel – Tech, 8+ yrs PQE, Hong Kong

Working for this world-renowned technology company requires a proven ability to manage business transactions and a wide range of commercial contracts efficiently in a fast-paced environment. Based in Hong Kong, you will oversee all legal and regulatory issues related to the business. The ideal candidate will be Hong Kong qualified with over 8 years' PQE gained from an international law firm and/or multinational company. Hands-on experience in handling general corporate and commercial matters is required and prior experience in the IT/technology sector is preferred. Proficiency in spoken and written English and Chinese skills is a must for the role. Ref: 14793/AC]

Contact: Kelly Zhang

Tel: (852) 2520 1168

Email: hughes@hughes-castell.com.hk

General Counsel – Fintech, 12 yrs PQE, Singapore

A leading financial services institution is looking for a senior lawyer to head up its global fintech trading platform. The role is based in Singapore and the ideal candidate would possess at least 12 years of experience and have experience in areas such as capital markets, investment banking and securities laws. Any exposure to financial services regulation in Singapore would be advantageous. This is a great opportunity to head a fintech platform that is wholly owned by an established financial institution. Competitive remuneration package is on offer for the right candidate apart from being part of the fintech revolution. [Ref: JO-1811-171846]

Contact: Krishna Jagaduri

Tel: (65) 6407 1203

Email: krishnajagaduri@puresearch.com

Senior Legal Counsel – Startup, 10+ yrs PQE, Singapore

Our client is a global startup, and they are looking to bring on-board a senior legal counsel. The ideal candidate must have a disputes related background, handling regional consumer related matters. This position will also include corporate advisory to internal stakeholders, and would cover employment and compliance matters as well. This role will be based in Singapore, and some travelling around the region would be required. Candidates who enjoy a vibrant environment, and with extensive in-house experience, are strongly encouraged to apply. [Ref: JGB — IS 1816]

Contact: Benedict Joseph

Tel: +65 6818 9707

Email: benedict@jlegal.com

Corporate Counsel – Energy MNC, 7+ yrs PQE, Singapore

A leading energy MNC seeks a legal counsel to provide legal support to its downstream and chemicals businesses within Asia, Europe, Middle East and Africa. The successful candidate will advise on a broad range of issues including corporate and commercial matters, projects and transactions, business initiatives and new business development activities. Other duties involve drafting, reviewing and negotiating contracts, developing contract negotiation strategies and managing legal and commercial risk. You should be an independent and highly motivated self-starter capable of working in a fast-paced team environment. [Ref: A43650]

Contact: Surene Virabhak

Tel: (65) 6214 3310

Email: resume@legallabs.com

Junior Lawyer – Professional Services, 1-4 yrs PQE, Hong Kong

International professional services company is looking for a junior lawyer to support the in-house team on a range of IT and commercial legal matters. You will have some commercial IT experience gained within a law firm or in-house environment and have fluency in written and spoken Chinese (Mandarin) and English. [Ref: IHC 16389]

Contact: Georgeanna Mok

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Oliver Stern
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Infrastructure investment in emerging markets – mitigating the risks

Developing a deep understanding of the local market means investors can advance with greater confidence and fewer surprises.

Infrastructure projects in emerging markets attract investors on the back of potential returns that can outstrip yields in mature markets. But with opportunity comes risk, particularly in the construction, engineering and infrastructure sector, which saw the largest year-over-year increases in fraud incidents (up seven percentage points to 83 percent), according to our data collected in the Global Fraud & Risk Report 2017/2018.

In this article, we explore the steps that investors can take to help identify and mitigate infrastructure investment risks in Sub-Saharan Africa and South Asia.

Delivering infrastructure projects in Sub-Saharan Africa

Successful infrastructure investment requires the integration of projects into the host jurisdiction's existing network of transport, power generation and distribution grids. This is not just an engineering challenge. It requires institutional capacity and a functioning legal and regulatory framework to accommodate large-scale, long-term investments.

Many Sub-Saharan Africa jurisdictions lack the planning capacity and resources to link existing infrastructure to new projects. Additionally, many new projects in this region tend to be politically significant and thus potentially vulnerable to non-transparent interference or influence. Unrealistic expectations about what the project can deliver can also undermine the

investment's commercial viability. For example, if investors in rail freight projects are expected to accommodate passenger transport, the economics of an investment can be distorted.

While investors should be aware of such red flags, they cannot often directly influence them. Pre-investment intelligence-gathering can help investors understand the regulatory environment and the implementation capacity of key government agencies in order to better assess the feasibility of a project.

Infrastructure investment remains a challenge in South Asia

Investors in infrastructure projects in South Asia face a similar set of challenges. For example, over the past three years, private sector infrastructure investment in India has slowed down due to a combination of stretched corporate balance sheets and rising non-performing assets for banks. The pace at which project-related decisions are being approved by various government departments also remains slow.

However, investment activity is still high in certain sectors in South Asia. One such example is the renewable energy sector in India, which has seen significant interest from domestic and international investors. While growth in renewable energy remains a key goal for the government of India, the aggressive push on the agenda has resulted in a sharp decline in uptake prices, mainly for solar energy, due to the entry of many players, most of whom have limited or no

experience in the sector. This puts immense pressure on local developers to deliver projects at low cost, which in turn affects the quality of material used and the sustainability of such projects. At the same time, companies still need to work with local governments and other stakeholders to ensure they obtain necessary approvals in a timely fashion, which means that the risk of corruption remains.

Investors often struggle to understand whether the costs and performance of a project reflect its true health. Given the relatively close nexus between companies, politicians and bureaucracy in India, businesses often get pushed into practices which are potentially inappropriate and that can directly impact financial reporting. The wide gap between what is reported in the books versus the actual performance of the project casts doubt on the overall integrity of the quality and financials of a project. Other South Asian markets like Bangladesh and Sri Lanka are also exposed to similar issues.

While these challenges pose a risk, the significance of the opportunity often outweighs the cost of the risk. By developing a deep understanding of all the dynamics in the local market, investors can advance with greater confidence and make investments in line with their expectations regarding returns with fewer surprises.

Kroll is the leading global provider of risk solutions with more than 45 years of experience in helping clients make confident risk management decisions about people, assets, operations and security. For more information, visit www.kroll.com.

**the
In-House
Community**

Asian-mena Counsel

**Firms of
the Year**

2018

An ASIAN-MENA COUNSEL survey for the
In-House Community™
OF IN-HOUSE LEGAL & COMPLIANCE PROFESSIONALS

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Representing Corporate Asia & the Middle East

We are pleased to present Asian-mena Counsel's 12th annual Representing Corporate Asia and the Middle East Survey.

SURVEY METHODOLOGY

ABOUT THE SURVEY

This year a record 2,376 in-house lawyers and buyers of legal services in 13 jurisdictions told us which firms had served them best across a range of practice areas and which have been the most responsive to their needs.

More than 20,000 pre-qualified in-house counsel and buyers of legal services were invited to participate in the survey directly while attending one of our annual In-House Community Congress and Symposium events across the region (some 2,500 in-house counsel attend at least one of the 18 In-House Community events each year) or through a controlled online process.

The survey was carried out in two parts. The first contained questions (multiple choice where appropriate) that gathered the views of the in-house communities of each jurisdiction with regard to their roles, pressures and concerns. Thoughts from China, Hong Kong, India, Indonesia, Japan, Malaysia, Myanmar, the Philippines, Singapore, South Korea, Thailand, the UAE and Vietnam have been collected and collated in order to find the trends in each region.

Firms of the year

The second part provided in-house counsel with an opportunity to recognise the law firms that have made a significant

impression on them during the past year.

Participants were asked, among other things, for their comments on the quality and value of service they received from external counsel in their jurisdiction and, where applicable, in other jurisdictions, as well as which firms they prefer to use for various activities.

In-house counsel were able to nominate any firm of their acquaintance – the survey does not lead their choices in any way whatsoever and hence is unique among legal polls in the region – with votes aggregated to select the winning firms in each category. As such, the results do not indicate which law firms have been the most active in any given area, but rather those private practice teams whose service has been of notable quality and which have been

responsive to their clients' needs beyond the norm.

The In-House Community Firms of the Year is not a ranking of firms, and a law firm's absence is no criticism of its capabilities – but it is to the great credit of the firms mentioned herein that their clients have voluntarily nominated them for recognition.

Where applicable, both domestic and international firms will be recognised as 'Winners', and where results are too close to call, joint category winners will be announced. In addition to the winning firms, 'Honourable Mentions' will be awarded to law firms that have also received notable in-house recognition.

Congratulations to all those who have played a part in the teams honoured herein.

Profile of participants

The respondents to the survey were mostly in-house, legal counsel/heads of legal (90% percent), while 3 percent were company directors and 7 percent were compliance managers. In terms of industries, 18 percent of respondents work in financial services, followed by manufacturing and TMT (technology, media, telecoms). While this once again represents a slightly smaller proportion of financial services respondents than last year, the overall spread of industries is broadly similar to last year.

The average size of legal teams is 12 people – slightly down from last year – with 65 percent saying that they include ethics and/or compliance in the legal department.

JURISDICTION BY JURISDICTION

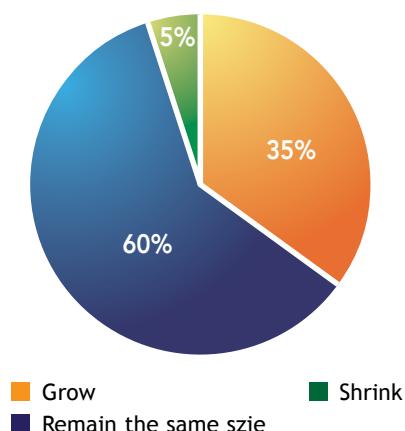
And now for a look at how things stand at a jurisdictional level.

CHINA

SURVEY RESPONDENTS:

Avg team size: 11
Dominant industry: Manufacturing
Ethics/compliance within legal team: 65%
Multinational/Local: 87%/13%

In the coming twelve months, do you think your in-house legal team will:



Overview

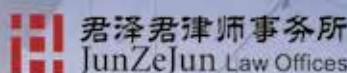
More than a third of legal departments in China say that they expect to grow in size during the coming 12 months, according to surveys conducted at our three Chinese events – in Beijing, Shanghai and Shenzhen. And while growth in some other jurisdictions is due to additional compliance or regulatory pressures, the consensus among Chinese counsel is that growth in the legal team is being driven by the needs of the underlying business.

It is not all good news, as the growing trade tensions with the US are undoubtedly affecting the willingness of businesses to invest given the uncertainty. This effect is not fully captured in our survey due to the timing of the events, but some respondents alluded to the Trump tariffs. “Changes in the external economic environment have led to

consolidation and changes in the industry, and new legal issues have emerged,” said one.

Even so, teams are already bigger than in many other jurisdictions, with roughly 15 percent of respondents saying that they work in teams of 20 people or more. However, some in-house lawyers report that management see the legal team as an internal law firm that should handle all legal work, rather than making more efficient use of external law firms and legal service providers. Close to two-thirds of respondents say that the majority of their work is handled in-house.

One respondent described their biggest challenge as “lack of knowledge about the legal department’s role among stakeholders and colleagues on the business side”.



JunZeJun Law Offices was founded in 1995 with its headquarters in Beijing. It is one of the earliest partnership law firms in China, as well as one of the largest, well-recognized law firms in China.

JunZeJun has a team comprised of about 90 partners and 600 professionals in total. By deepening specialisation and centralizing resources, JunZeJun is able to provide clients of different cultural and industrial backgrounds with cost-efficient and tailored legal services. JunZeJun's lawyers have been widely praised by clients for providing high quality, solution-oriented, creative and value-added services.

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Tel : +86-20-28016788



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Hong Kong

Tianjin

Nanjing

Chengdu

Changsha

Changchun

Zhuhai



REPRESENTING CORPORATE ASIA & MIDDLE EAST

CHINA

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in *italics*

Alternative Investment Funds (including private equity)

- **JunHe**
- Cleary Gottlieb
- Clyde & Co
- King & Wood Mallesons
- Ropes & Gray

Anti-Trust/ Competition

- **AnJie**
- JunHe
- Zhong Lun

Aviation

- **Grandall**

Banking and Finance

- Clifford Chance
- **King & Wood Mallesons**
- Clyde & Co
- Debevoise & Plimpton

Capital Markets

- **Fangda Partners**
- **King & Wood Mallesons**
- JunHe
- Sidley Austin

Compliance/ Regulatory

- **King & Wood Mallesons**
- Hogan Lovells
- Norton Rose Fulbright

Corporate and M&A

- Clifford Chance
- **King & Wood Mallesons**
- JunHe
- Simmons & Simmons

Employment

- **King & Wood Mallesons**
- AnJie
- Dentons
- JunHe
- Zhong Lun

Environmental

- CMS

Insurance

- Jincheng Tongda & Neal

Intellectual Property

- **King & Wood Mallesons**
- Osha Liang

International Arbitration

- **Latham & Watkins**
- Fangda Partners
- Jincheng Tongda & Neal

Litigation and Dispute Resolution

- Deheng
- **King & Wood Mallesons**
- **Zhong Lun**
- Fangda Partners
- Hui Ye
- JunHe
- Oldham, Li & Nie
- Taylor Wessing

Maritime & Shipping

- Ince & Co
- Dentons
- Reed Smith

Projects and Project Financing

- **King & Wood Mallesons**

Real Estate/ Construction

- Fangda Partners
- King & Wood Mallesons
- Li & Partners
- Zhong Lun

Restructuring & Insolvency

- JunZejun Law Offices
- **Zhong Lun**

Taxation

- **KPMG**
- Deloitte
- King & Wood Mallesons
- EY

Telecommunications, Media & Technology

- **Jingtian & Gongcheng**
- JunHe
- Taylor Wessing

MOST RESPONSIVE FIRMS OF THE YEAR, CHINA

INTERNATIONAL

Baker McKenzie **King & Wood Mallesons**

- Clifford Chance
- Clyde & Co
- DLA Piper
- Freshfields Bruckhaus Deringer
- Herbert Smith Freehills

DOMESTIC

Fangda Partners JunHe

- Tian Yuan Law Office
- Zhong Lun

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HONG KONG

SURVEY RESPONDENTS:

Avg team size: 14
 Dominant industry: Financial services
 Ethics/compliance within legal team: 51%
 Multinational/Local: 79%/21%

Of the work we outsource:



Overview

After several years of constrained operating conditions for legal departments in Hong Kong, our survey reflected a slightly more positive mood this year. Almost a quarter of respondents said that they expected to increase the size of their legal team during the coming 12 months, with some responses that could even be described as optimistic. “Future prospects are positive,” said one. Others described business expansion into new areas as a driver for additional headcount in the legal department.

However, the overall mood continues to reveal difficult conditions for many, as they continue to come under pressure to save costs and make better use of resources. In addition, the trade dispute between China and the US has grown more bitter during the course of 2018, creating uncertainty for some businesses in Hong Kong, with the result that decisions on further investment have in many cases been put on hold.

This is not surprising given the profile of survey respondents in Hong Kong. Almost 80 percent work within multinational companies

and more than 30 percent work within the financial services sector, which is particularly sensitive to the effects of the trade war, but has also been affected during the year by the strength of the US dollar and the flow of some investment back into the US. Real estate and tech comprised the next biggest sectors represented in our survey.

As a mature legal market, many in-house teams in the city are well-established, with 37 percent pre-dating the turn of the millennium, though a similar number are less than 10 years old. Hong Kong may be mature, but it is also dynamic.

And this dynamism is reflected in the fact that Hong Kong legal teams are relatively comfortable using non-traditional external providers of legal services, with roughly 21 percent saying they use a balanced mix of traditional law firms, new model firms and tech-driven service providers. Less than half say they exclusively use traditional law firms.

Most respondents said that their external legal spend comprises between 10 percent to 30 percent of their total legal spend.



HONG KONG

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **Baker McKenzie**
- **White & Case**
- Davis Polk
- Debevoise & Plimpton

Anti-Trust/ Competition

- **Baker McKenzie**
- Mayer Brown
- Stephenson Harwood
- Debevoise & Plimpton
- JunHe
- King & Wood Mallesons
- ONC Lawyers

Aviation

- **Bryan Cave Leighton Paisner**
- Pillsbury

Banking and Finance

- **Baker McKenzie**
- Clifford Chance
- **Deacons**
- Allen & Overy
- Linklaters

Capital Markets

- **King & Wood Mallesons**
- Freshfields Bruckhaus Deringer
- BPC Legal

Compliance/ Regulatory

- **Baker McKenzie**
- **Deacons**
- Davis Polk
- Debevoise & Plimpton
- DLA Piper
- King & Wood Mallesons
- Linklaters

Corporate and M&A

- **Baker McKenzie**
- Davis Polk
- King & Wood Mallesons
- Mayer Brown

Employment

- **Baker McKenzie**
- **Deacons**
- **Simmons & Simmons**
- DLA Piper
- Eversheds Sutherland
- Seyfarth Shaw

Energy & Natural Resources

- **King & Spalding**

Environmental

- **King & Wood Mallesons**

Insurance

- **Clyde & Co**
- Debevoise & Plimpton

Taxation

- **Deloitte**
- PwC
- **Woo Kwan Lee & Lo**
- Baker McKenzie

Intellectual Property

- **Baker McKenzie**
- Bird & Bird
- **Deacons**
- Wilkinson & Grist
- King & Wood Mallesons

International Arbitration

- **Herbert Smith Freehills**
- Pinsent Masons

Litigation and Dispute Resolution

- **Deacons**
- Pinsent Masons
- Clyde & Co

Maritime & Shipping

- **Clyde & Co**
- Norton Rose Fulbright

Projects and Project Financing

- **Herbert Smith Freehills**
- Sidley Austin
- Gibson Dunn

Real Estate/ Construction

- **Deacons**
- Pinsent Masons
- Mayer Brown

Restructuring & Insolvency

- **Baker McKenzie**

Telecommunications, Media & Technology

- **Baker McKenzie**
- **Deacons**
- Pinsent Masons

MOST RESPONSIVE FIRMS OF THE YEAR, HONG KONG

INTERNATIONAL

- Allen & Overy
- Baker McKenzie
- Clifford Chance
- Mayer Brown
- Davis Polk
- DLA Piper
- Eversheds Sutherland
- Herbert Smith Freehills
- King & Wood Mallesons
- Linklaters

DOMESTIC

- **Deacons**
- Li & Partners
- Oldham, Li & NIE
- ONC Lawyers
- WK To & Co
- Woo Kwan Lee & Lo



REPRESENTING CORPORATE ASIA & MIDDLE EAST

INDIA

SURVEY RESPONDENTS:

Avg team size: 10

Dominant industry: Financial services

Ethics/compliance within legal team: 86%

Multinational/Local: 71%/29%

Overview

Growth is firmly on the agenda for in-house teams in India, with 43% of respondents saying that they expect the size of their team to grow during the coming 12 months – a level of optimism that is among the highest of any jurisdiction we surveyed.

More than 57% of respondents to the survey conducted at our event in Mumbai said that they use a balanced mix of in-house and external providers to manage projects. Of the work that is outsourced, more than 80% of respondents said that they use a balanced mix of traditional law firms, new model

firms and tech-driven service providers, which is high relative to other markets in the region. This is no doubt driven by similar forces as in the Philippines – both countries are home to large legal process outsourcing industries. In addition, India also has a strong legal tech sector that affords in-house counsel with a good range of homegrown, affordable solutions.

In terms of their legal spend, three-quarters of respondents said that they spend 5 percent or less of annual company revenue on external legal services, with the remainder saying that external fees were 10 percent or less.



INDIA

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **Wadia Ghandy & Co**
- AZB & Partners

Anti-Trust/ Competition

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**
- Khaitan & Co
- Nishith Desai Associates
- Remfry & Sagar
- Shardul Amarchand Mangaldas

Banking and Finance

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**
- Argus Partners
- J Sagar Associates
- Khaitan & Co

Capital Markets

- **Cyril Amarchand Mangaldas**
- **Khaitan & Co**
- Argus Partners
- AZB & Partners
- L&L Partners
- Verist Law

Compliance/ Regulatory

- **Crawford Bayley & Co**
- Fox Mandal
- Hammurabi & Solomon
- Khaitan & Co
- Verist Law
- Wadia Ghandy & Co

Corporate and M&A

- **Cyril Amarchand Mangaldas**
- **Khaitan & Co**
- Argus Partners
- Crawford Bayley & Co
- Hammurabi & Solomon
- Rajani & Co
- Shardul Amarchand Mangaldas
- Wadia Ghandy & Co

Employment

- **SUNDEEP PURI ASSOCIATES & ADVOCATES**
- Advani & Co
- Crawford Bayley & Co
- Nishith Desai Associates

Energy & Natural Resources

- **AZB Partners**
- Fox Mandal
- J Sagar Associates
- RS Prabhu & Co

Environmental

- **RRG & Associates**
- MDP & Partners

Insurance

- **Dua Associates**
- **Khaitan & Co**

Intellectual Property

- **Anand and Anand**
- Factum Law
- Jehangir, Gulabhai & Bilimoria & Daruwalla

- Khaitan & Co
- Khurana & Khurana
- Lall & Sethi
- Manilal Kher Ambalal & Co
- Scriboard

International Arbitration

- **Advani & Co**
- **Allen & Overy**
- Crawford Bayley & Co

Life Sciences

- **Nishith Desai Associates**

Litigation and Dispute Resolution

- **Crawford Bayley & Co**
- **Khaitan & Co**
- **Manilal Kher Ambalal & Co**
- Advani & Co
- Agarwal Law Associates
- Cyril Amarchand Mangaldas
- HSA Advocates
- Hariani & Co
- Trilegal

Maritime & Shipping

- **HFW**
- **Singhania & Co**

Projects and Project Financing

- **Bharucha & Partners**
- Cyril Amarchand Mangaldas
- ELP Law
- HSA Advocates
- Trilegal

Real Estate/ Construction

- **AK Singh and Co**
- Federal & Rashmikant
- Manilal Kher Ambalal & Co

Restructuring & Insolvency

- ANM Global
- Dua Associates
- MVKini

Taxation

- **Lakshmkumaran & Sridharan**
- **PwC**
- **ELP Law**
- **KPMG**
- **Pravin Shah & Co**
- **SK Attorneys**
- **Trilegal**

Telecommunications, Media & Technology

- **Bharucha & Partners**
- **Samvad Partners**

MOST RESPONSIVE FIRMS OF THE YEAR, INDIA

INTERNATIONAL

- **Allen & Overy**
- **Clyde & Co**
- **Baker McKenzie**
- **Norton Rose Fulbright**
- **Reed Smith**

DOMESTIC

- **Crawford Bayley & Co**
- **Cyril Amarchand Mangaldas**
- **Khaitan & Co**
- **AZB & Partners**
- **Dua Associates**
- **Wadia Gandy & Co**

INDONESIA

SURVEY RESPONDENTS:

Avg team size: 9

Dominant industry: Wholesale/ Retail Services

Ethics/compliance within legal team: 71%

Multinational/Local: 74%/26%

Overview

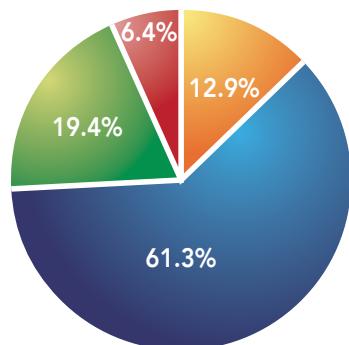
Indonesia's in-house lawyers consistently complain about uncertain and inconsistent regulation, as well as the government bureaucracy that implements and interprets these regulations. The value that in-house lawyers can add in such an environment is significantly diminished.

"The biggest challenge is the quality of drafting of legislation, which creates uncertainty for the business and makes our job as in-house counsel very difficult because our advice to management is based on a low-quality law product," wrote one respondent.

This is reflected in the profile of legal departments in Indonesia, which are small.

How large is your in-house legal / compliance team?

- | | |
|-------|--------------|
| ■ 0 | ■ 6-20 |
| ■ 1 | ■ 21-50 |
| ■ 2-5 | ■ 51 or more |



More than 60 percent employ between two to five people, and more than 90 percent employ 20 or fewer staff. Even so, they still do most of the legal work themselves. Around 84 percent of respondents say that they handle the majority (more than three-quarters) of legal work in-house, with counsel often being required to practise in court. "Most companies think that in-house lawyers should handle litigation matters on their own," said one respondent.

Some of these challenges could be more effectively remedied if the profession was better organised, but one respondent complained of an "unsteady bar association".

There are signs at least that corporate

counsel are becoming a more important resource for businesses in Indonesia, with more than 45 percent of respondents saying that they expect their legal team to grow during the coming 12 months.

Three-quarters of respondents said they work for multinational companies, with a broad range of industries represented, including energy, retail, transportation, financial services, tech and much more. Working for a global business can create additional difficulties for local in-house lawyers. One respondent described their biggest challenge as "reporting to expatriates who do not understand the legal landscape in Indonesia".

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REPRESENTING CORPORATE ASIA & MIDDLE EAST



INDONESIA

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- Hiswara Bunjamin & Tandjung (Herbert Smith Freehills)

Anti-Trust/ Competition

- **Assegaf Hamzah & Partners**
- Ignatius Andy
- Soemadipradja & Taher
- Suhardiman Kardono Swadiri Hazwar

Aviation

- **ABNR**
- **Mochtar Karuwin Komar**
- Fredrik J Pinakunary
- Lubis Ganie Surowidjojo

Banking and Finance

- **ABNR**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- **Wiriadinata & Saleh**
- Assegaf Hamzah & Partners
- Ginting & Reksodiputro (Allen & Overy)
- Hiswara Bunjamin & Tandjung (Herbert Smith Freehills)
- Makes & Partners

Capital Markets

- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- Hiswara Bunjamin & Tandjung (Herbert Smith Freehills)
- Makes & Partners
- Melli Darsa & Co (PwC)

Compliance/ Regulatory

- **Assegaf Hamzah & Partners**
- Hadiputranto Hadinoto & Partners (Baker McKenzie)
- Melli Darsa & Co (PwC)

Corporate and M&A

- **Assegaf Hamzah & Partners**

Hadiputranto Hadinoto & Partners (Baker McKenzie)

- **Melli Darsa & Co (PwC)**
- ABNR
- Andreas, Sheila & Partners
- Ginting & Reksodiputro (Allen & Overy)
- Makes & Partners

Kemalsjah & Associates

- ABNR
- BE Partners

Clifford Chance

- **Widyawan & Partners**
- ABNR
- Lubis Ganie Surowidjojo
- SSEK
- Suhardiman Kardono Swadiri Hazwar

Hadiputranto Hadinoto & Partners (Baker McKenzie)

- Mochtar Karuwin Komar

Hadi Pramono & Partners

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- Nah'R Murdono
- Soemadipradja & Taher
- Suhardiman Kardono Swadiri Hazwar

Norton Rose Fulbright

- Baker McKenzie
- Lubis Ganie Surowidjojo
- Saiful Anam & Partners
- Suhardiman Kardono Swadiri Hazwar

Baker & McKenzie

- Lubis Ganie Surowidjojo
- Lubis Santosa & Maramis
- Makarim & Taira S

Islamic Finance

- **Karim Syah**
- Hadiputranto Hadinoto & Partners (Baker McKenzie)
- Suhardiman Kardono Swadiri Hazwar

Lubis Ganie Surowidjojo

- Assegaf Hamzah & Partners

ABNR

- **Assegaf Hamzah & Partners**
- Amir Syamsudin & Partners
- Hadiputranto Hadinoto & Partners (Baker McKenzie)
- Lubis Ganie Surowidjojo
- Suhardiman Kardono Swadiri Hazwar

Lubis Ganie Surowidjojo

- ABNR
- Budidjaja & Associates

Erwin Kallo & Co

- **Makes & Partners**
- Leks&Co
- Pangestu & Hutapea Law Firm

Reconstruction & Insolvency

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- **Makarim & Taira S**
- **Wibhisana & Partners**
- Makes & Partners

- Suhardiman Kardono Swadiri Hazwar

Taxation

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- EY
- KPMG
- SSEK

Telecommunications, Media & Technology

- **Bahar**
- **Hanafiah Ponggawa & Partners**
- Adnan Kelana Haryanto & Hermanto
- Assegaf Hamzah & Partners
- IAB&F
- Suhardiman Kardono Swadiri Hazwar

MOST RESPONSIVE FIRMS OF THE YEAR, INDONESIA

INTERNATIONAL

- **Baker McKenzie**
- Allen & Overy
- Herbert Smith Freehills
- Linklaters
- Rajah & Tann

DOMESTIC

- **ABNR**
- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- Adnan Kelana Haryanto & Hermanto
- Lubis Ganie Surowidjojo
- Makes & Partners
- Roosdiono & Partners
- SSEK

JAPAN

SURVEY RESPONDENTS:

Avg team size: 22
 Dominant industry: Financial services
 Ethics/compliance within legal team: 67%
 Multinational/Local: 83%/17%

Overview

The profile of businesses represented at our event in Tokyo, and in most jurisdictions, has an obvious bias towards those with an international outlook – and this is evident in the responses to our survey this year, with two-thirds of respondents reporting that they expect to see their legal team grow during the coming 12 months.

One driver of that growth has become a common theme for Japanese businesses: “Our company is shifting from trading to a focus on acquisitions, which is more work-intensive (both to execute acquisitive transactions and manage our acquisitions post-closing),” said one response.

Cash-rich Japanese companies have turned to overseas acquisitions during the past few years as a way to escape slow growth in the home market, which is a result of the country’s ageing and shrinking population. While Japan has long been an export powerhouse, most businesses have

limited experience with international operations, meaning that in-house teams face a steep learning curve as they help their businesses to venture into new markets.

Perhaps as a result of this expansion, the respondents to our survey report high levels of external legal spend of at least 40 percent.

In common with many other markets, Japanese legal divisions are also facing a greater workload due to increasing regulation and associated compliance issues, partly in response to a number of high-profile corporate scandals. This has included the release of the Principles for Listed Companies Dealing with Corporate Malfeasance, changes to Japan’s Companies Act and the introduction of a Corporate Governance Code. Although not legally binding, they are increasingly being implemented by large Japanese corporations.



JAPAN

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- Jones Day

Anti-Trust/ Competition

- Morrison & Foerster – Registered Associated Offices of Ito & Mitomi

- TMI Associates
- Yabuki Law Offices

Aviation

- Clyde & Co

Banking and Finance

- Anderson Mori & Tomotsune

Capital Markets

- Linklaters

Compliance/ Regulatory

- Nishimura & Asahi
- Allen & Overy Gaikokuho Kyodo Jigyo Horitsu Jimusho

- Baker McKenzie (Gaikokuho Joint Enterprise)
- Morrison & Foerster – Registered Associated Offices of Ito & Mitomi
- Shimada Hamba & Osajima
- TA Lawyers GKJ

Corporate and M&A

- Nishimura & Asahi
- Nagashima Ohno & Tsunematsu

- Allen & Overy Gaikokuho Kyodo Jigyo Horitsu Jimusho
- Anderson Mori & Tomotsune

- Baker McKenzie (Gaikokuho Joint Enterprise)
- Herbert Smith Freehills

- Herbert Smith Freehills
- K&L Gates
- Morrison & Foerster – Registered Associated Offices of Ito & Mitomi
- Shimada Hamba & Osajima

Employment

- Anderson Mori & Tomotsune

TA Lawyers GKJ

- Endeavor Law
- Shimada Hamba & Osajima

Energy & Natural Resources

- Latham & Watkins

Insurance

- Shimada Hamba & Osajima

Intellectual Property

- Morrison & Foerster – Registered Associated Offices of Ito & Mitomi

International Arbitration

- Nishimura & Asahi
- Herbert Smith Freehills

Litigation and Dispute Resolution

- Nagashima Ohno & Tsunematsu
- Shimada Hamba & Osajima
- Nishimura & Asahi

Real Estate/ Construction

- Herbert Smith Freehills

Nagashima Ohno & Tsunematsu

Restructuring & Insolvency

- Nishimura & Asahi

Taxation

- Withers

MOST RESPONSIVE FIRMS OF THE YEAR, JAPAN

INTERNATIONAL

- Baker McKenzie
- Freshfields Bruckhaus Deringer
- Herbert Smith Freehills
- K&L Gates
- Linklaters

DOMESTIC

- Anderson Mori & Tomotsune
- Nagashima Ohno & Tsunematsu
- Mori Hamada & Matsumoto
- Nishimura & Asahi



REPRESENTING CORPORATE ASIA & MIDDLE EAST

MALAYSIA

SURVEY RESPONDENTS:

Avg team size: 8

Dominant industry: Financial services

Ethics/compliance within legal team: 55%

Multinational/Local: 51%/49%

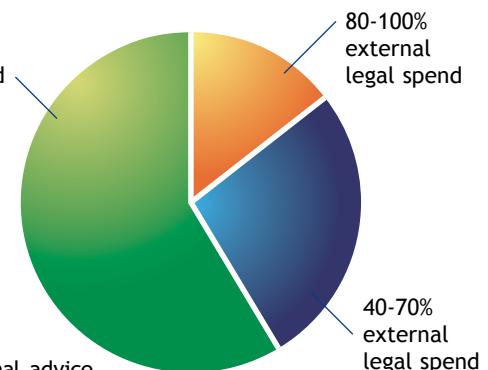
Overview

Legal counsel in Malaysia report many of the frustrations that are common to in-house teams in developing legal markets, such as being seen by the business side as a cost centre rather than an integral part of the company, while other challenges are common to the majority of markets, such as inadequate resources to cope with the workload and a growing compliance burden.

More than 60 percent of survey respondents said that they handle the majority of legal work (over 75 percent) in-house, which requires counsel to stay up to date on a broad range of legal issues – even though the average legal team is less than five people. As one respondent complained: “There is a perception that the in-house department is a one-stop legal centre, which means we are forced to provide legal advice on areas we are not familiar with, and with limited resources.”

Most companies said they spend less than 30

What percentage of your company's total legal spend does your external legal spend take up?



percent of their legal budget on external advice, though at least one respondent said that this was partly driven by a “lack of experienced local firms with the right level of exposure and experience, particularly in the energy sector”.

With the high workload, lack of resources and limited support from within the company, many legal teams report difficulty retaining talented staff. Even so, roughly a quarter of respondents said that they expect to grow the size of their team during the coming 12 months.

Other common challenges include the increasingly global scope of some regulations, particularly for financial institutions, but also more broadly thanks to wide-ranging legislation such as the EU’s General Data Protection Regulation. Technology is another bugbear, as legal teams that are already stretched are under pressure to deploy solutions that will reduce costs and improve efficiencies.



MALAYSIA
AS VOTED FOR BY
IN-HOUSE COUNSEL
Winners in bold,
honourable mentions
in italics

Anti-Trust/ Competition

- **Skrine**
- Christopher & Lee Ong
- Mohanadass Partnership
- Raja, Darryl & Loh
- Shearn Delamore
- Wong & Partners (Baker McKenzie)

Aviation

- **Abdullah Chan**
- **Rahmat Lim & Partners**
- Skrine

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Projects Infrastructure & Energy | Real Estate

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Our firm has the following well-established fields of legal practice, Capital Markets (ranked Band/Tier 1 for 2018 by Chambers Asia-Pacific, Legal 500 and IFLR 1000), Corporate M&A (rated ‘Highly Recommended’ in 2018 by Asialaw Profiles) and Projects (ranked Tier 1 in 2018 by IFLR 1000), and are deeply honoured to receive recognition in 2018 for the above practice areas by the Asian-mena Counsel & In-House Community.

We are experienced in advising local and international clients over a wide range of economic sectors and our achievements include advising on many significant and pioneering Malaysian and cross-border transactions.

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<p>Winner, IFLR Asia Awards 2014, 2007 National Law Firm Of The Year (Malaysia)</p>	<p>Winner, ALB Malaysia Law Awards 2017, 2018 West Malaysia Law Firm Of The Year</p>	<p>Winner, IFN Law Awards 2018 ESG, Green, SRI Firm Of The Year</p>
<p>Winner, ALB Malaysia Law Awards 2016 Malaysia Law Firm Of The Year</p>	<p>Winner, ALB Malaysia Law Awards 2016, 2017, 2018 Banking & Financial Services Law Firm Of The Year Islamic Finance Law Firm Of The Year</p>	<p>Winner, Asian-mena Counsel & In-House Community: Malaysia Firm of the Year, 2018 Capital Markets • Corporate and M&A • Projects and Project Financing</p>

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(a member of ZICO Law)**

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- Heiley Hassan Tan & Partners
- Kadir Andri & Partners
- Raja, Darryl & Loh
- Shook Lin & Bok
- Wong & Partners (Baker McKenzie)
- Zul Rafique & Partners

Capital Markets

- **Adnan Sundra & Low**
- Kadir Andri & Partners
- Zain & Co
- Zul Rafique & Partners

Compliance/ Regulatory**Lee Hishammuddin Allen & Gledhill**

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- Skrine
- Soon Gan Dion & Partners
- Wong & Partners (Baker McKenzie)
- Zaid Ibrahim & Co
- (a member of ZICO Law)

Corporate and M&A

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- **Lee Hishammuddin Allen & Gledhill**
- Kadir Andri & Partners
- Shearn Delamore

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- Zain & Co
- Zaid Ibrahim & Co
- (a member of ZICO Law)
- Zul Rafique & Partners

Energy & Natural Resources

- Skrine
- Insurance**
- Azim, Tunku Farik & Wong
- Intellectual Property**
- Shearn Delamore
- Wong & Partners (Baker McKenzie)
- Wong Jin Nee & Teo
- Joel & Mei
- KASS International
- Shahrizat Rashid & Lee
- International Arbitration**
- Skrine
- Jones Day

- Mohanadass Partnership
- Slaughter and May

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- Skrine

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- Fuzet Farid

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- Raja, Darryl & Loh
- Zain & Co
- Zaid Ibrahim & Co
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Restructuring & Insolvency

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- Chooi & Company + Cheang & Ariff

Taxation

- **Lee Hishammuddin Allen & Gledhill**
- EY

Telecommunications, Media & Technology

- **Lee Hishammuddin Allen & Gledhill**

MOST RESPONSIVE FIRMS OF THE YEAR, MALAYSIA**INTERNATIONAL**

- Baker McKenzie
- Allen & Overy
- Clifford Chance
- Clyde & Co
- Herbert Smith Freehills
- Hogan Lovells
- Trowers & Hamlins

DOMESTIC

- **Zaid Ibrahim & Co**
- (a member of ZICO Law)
- **Lee Hishammuddin Allen & Gledhill**
- Adnan Sundra & Low
- Raja, Darryl & Loh
- Wong & Partners (Baker McKenzie)

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Advocates & Legal Consultants



REPRESENTING CORPORATE ASIA & MIDDLE EAST

MYANMAR

SURVEY RESPONDENTS:

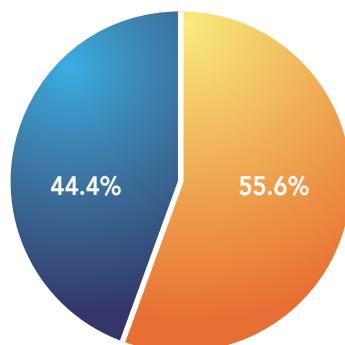
Avg team size: 7

Dominant industry: Manufacturing

Ethics/compliance within legal team: 78%

Multinational/Local: 67%/33%

**In the coming twelve months,
do you think your in-house legal
team will:**



- Grow
- Shrink
- Remain the same size

Overview

Myanmar has been Southeast Asia's fastest-growing economy since its first democratically elected leader took office in March 2016. Most of the in-house legal divisions in the country have been established since then, so it is unsurprising in such a young market that the most common challenge for legal teams in Myanmar is growth – either coping with the increasing demand for in-house legal services or recruiting the necessary staff to support the underlying growth of the business. More than 55 percent of respondents to our survey said that they expect the size of their legal team to grow during the coming 12 months.

The scope of opportunities in the country is reflected by the broad representation of industry sectors in our survey. There were responses from lawyers working in retail businesses, financial services, telecoms, energy, infrastructure, logistics, manufacturing and more.

However, growth is by no means a universal experience for Myanmar's legal teams. Foreign investors have largely taken a wait-and-see approach to the country, particularly since the widespread reports of violence against the Rohingya population, and this has affected the expansion of some businesses. As a result, some respondents described cost cutting and "tough market conditions".



In-House Community™



MYANMAR

AS VOTED FOR BY IN-HOUSE COUNSEL
Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- DFDL

Anti-Trust/ Competition

- Bryan Cave Leighton Paisner
- Kelvin Chia Partnership
- Mori Hamada & Matsumoto

Aviation

- ZICO Law

Banking and Finance

- Baker McKenzie
- Win & Cho Law Firm
- Allen & Gledhill

Capital Markets

- DFDL

Compliance/ Regulatory

- Luther
- VDB Loi
- Allen & Gledhill

Corporate and M&A

- **Kelvin Chia Partnership**
- Allen & Gledhill
- Baker McKenzie
- Bryan Cave Leighton Paisner
- DFDL
- Mori Hamada & Matsumoto
- VDB Loi

Employment

- Luther
- **Myanmar Legal Services**
- Kelvin Chia Partnership
- Lincoln Legal Services
- Rajah & Tann

Energy & Natural Resources

- DFDL

Environmental

- VDB Loi

Insurance

- **Kelvin Chia Partnership**

Intellectual Property

- **Kelvin Chia Partnership**
- Mori Hamada & Matsumoto
- U Nyunt Tin Associates

Litigation and Dispute Resolution

- Allen & Gledhill
- **Myanmar Legal Advisors**
- U Min Sein

Projects and Project Financing

- Baker McKenzie
- DFDL

Real Estate/ Construction

- **Kelvin Chia Partnership**
- VDB Loi

Restructuring & Insolvency

- **Allen & Overy**

Taxation

- DFDL
- Baker McKenzie
- EY
- KPMG
- PwC

Telecommunications, Media & Technology

- Allen & Overy
- Biz Law Consult Myanmar
- Kelvin Chia Partnership

MOST RESPONSIVE FIRMS OF THE YEAR, MYANMAR

INTERNATIONAL

- Baker McKenzie
- DFDL
- Luther
- Allen & Overy
- Bryan Cave Leighton Paisner
- Mori Hamada & Matsumoto
- VDB Loi
- ZICO Law

DOMESTIC

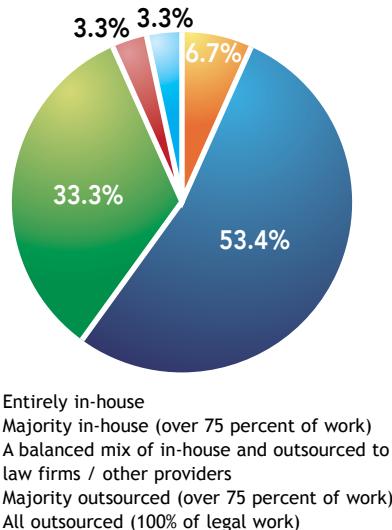
- Lincoln Legal Services
- U Min Sein
- Myanmar Legal Services

PHILIPPINES

SURVEY RESPONDENTS:

Avg team size: 13
 Dominant industry: Manufacturing
 Ethics/compliance within legal team: 77%
 Multinational/Local: 57%/43%

The way I am project managing legal work is...



Overview

As one of the world's leading providers of legal process outsourcing, the Philippines offers some advantages for in-house teams in the country. More so than any other emerging market we visited during the past year, counsel in Manila commonly report using external providers — and roughly 7 percent said they outsourced all or the majority of legal work, while more than half of respondents said that their external legal spend accounts for at least 40 percent of their legal budget.

However, legal teams are not kicking their feet up and relaxing. Even with the benefit of plentiful outsourcing capacity, counsel are still likely to report being understaffed and overworked, with challenges in sourcing and recruiting qualified lawyers with the necessary expertise to support the business. Some respondents also said that training was lacking.

As ever, increasingly complex regulations and business issues are a

burden on legal staff. "We're facing pressure to keep costs low and cope with increasing demand for support from internal customers," said one respondent.

Interestingly, some respondents also noted challenges related to a trend mentioned earlier in this report — Japanese expansion overseas. While lawyers in the Philippines are proficient in English, the management of Japanese-invested businesses are typically not, making it difficult to convey some technical issues or legal interpretations. "The communication barriers are significant, even with the use of in-house interpreters," said one respondent.

Cybercrime is also a growing issue for companies in the Philippines. While this is obviously a common issue around the region, the Philippines has faced a bigger issue than most, in part as a result of its proficiency in outsourcing (and the English language), which has exposed people to the possibilities of the internet and opportunities for crime.



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REPRESENTING CORPORATE ASIA & MIDDLE EAST

PHILIPPINES

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **SyCip Salazar Hernandez & Gatmaitan**
- **Quisumbing Torres (Baker McKenzie)**
- **Villaraza & Angango**
- ACCRALAW
- Paul Hastings
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Anti-Trust/ Competition

- **Quisumbing Torres (Baker McKenzie)**
- **Romulo Mabanta Buenaventura Sayoc & de los Angeles**
- ACCRALAW
- Puno and Puno
- SyCip Salazar Hernandez & Gatmaitan

Aviation

- **Quisumbing Torres (Baker McKenzie)**
- **SyCip Salazar Hernandez & Gatmaitan**
- Jones Day
- Ocampo & Manalo
- Platon Martinez Flores San Pedro Leaño
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Banking and Finance

- **Romulo Mabanta Buenaventura Sayoc & de los Angeles**
- **SyCip Salazar Hernandez & Gatmaitan**
- ACCRALAW
- Picazo Buyco Tan Fider & Santos
- Quisumbing Torres (Baker McKenzie)

Capital Markets

- ACCRALAW
- **Picazo Buyco Tan Fider & Santos**
- **Quisumbing Torres (Baker McKenzie)**
- **SyCip Salazar Hernandez & Gatmaitan**
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Compliance/ Regulatory

- **ACCRALAW**
- **Quisumbing Torres (Baker McKenzie)**
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

Corporate and M&A

- **ACCRALAW**
- **Quisumbing Torres (Baker McKenzie)**
- Cochingyan & Partners
- Picazo Buyco Tan Fider & Santos
- Platon Martinez Flores San Pedro Leaño
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

Employment

- **ACCRALAW**
- **Quisumbing Torres (Baker McKenzie)**
- **Viesca Dones and Malang**
- JGLaw
- Gatmaytan Yap Patacsil Gutierrez & Protacio
- Laguesma Magsalin Consulta & Gastardo
- Platon Martinez Flores San Pedro Leaño
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- Tan Acut Lopez & Pison

Energy & Natural Resources

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- **Puyat Jacinto & Santos**
- **Quisumbing Torres (Baker McKenzie)**
- **SyCip Salazar Hernandez & Gatmaitan**
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Environmental

- **Quisumbing Torres (Baker McKenzie)**
- Picazo Buyco Tan Fider & Santos
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

Insurance

- **Quisumbing Torres (Baker McKenzie)**
- **Romulo Mabanta Buenaventura Sayoc & de los Angeles**
- ACCRALAW
- SyCip Salazar Hernandez & Gatmaitan

Real Estate/ Construction

- **Poblador Bautista & Reyes**
- JGLaw
- Quisumbing Torres (Baker McKenzie)
- SyCip Salazar Hernandez & Gatmaitan

Restructuring & Insolvency

- **Quisumbing Torres (Baker McKenzie)**
- **Romulo Mabanta Buenaventura Sayoc & de los Angeles**
- SyCip Salazar Hernandez & Gatmaitan

Taxation

- **ACCRALAW**
- **BDB Law**
- **Quisumbing Torres (Baker McKenzie)**
- **SGV & Co**
- Baniquid Layug & Bello
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- Zambrano Gruba Caganda & Advincula

Telecommunications, Media & Technology

- **Quisumbing Torres (Baker McKenzie)**
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

Life Sciences

- **Quisumbing Torres (Baker McKenzie)**
- SyCip Salazar Hernandez & Gatmaitan

Litigation and Dispute Resolution

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- **Poblador Bautista & Reyes**
- **Quisumbing Torres (Baker McKenzie)**
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- Puyat Jacinto & Santos

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- SyCip Salazar Hernandez & Gatmaitan

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- Picazo Buyco Tan Fider & Santos
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

MOST RESPONSIVE FIRMS OF THE YEAR, PHILIPPINES

INTERNATIONAL

- **Baker McKenzie**
- Allen & Overy
- Clifford Chance
- Latham & Watkins

DOMESTIC

- **ACCRALAW**
- **Quisumbing Torres**
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan



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Ernesto R. Anasco
Regis V. Puno



REPRESENTING CORPORATE ASIA & MIDDLE EAST

SINGAPORE

SURVEY RESPONDENTS:

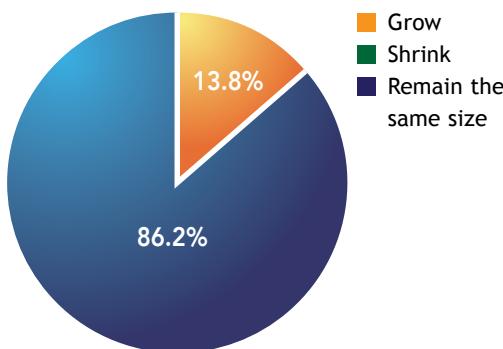
Avg team size: 21

Dominant industry: Manufacturing

Ethics/compliance within legal team: 59%

Multinational/Local: 76%/24%

In the coming twelve months, do you think your in-house legal team will:



Overview

In contrast to relatively high growth expectations in Hong Kong, just 14 percent of respondents in Singapore said that they expect to grow during the coming 12 months. As with Hong Kong, some teams in Singapore are very large, with more than a fifth of respondents saying that they work in legal departments of more than 50 staff, while around one-third employ five people or fewer.

Despite the low growth and relative maturity of Singapore's in-house community, more than 40 percent of teams are less than a decade old.

External outsourcing is still

dominated by traditional law firms, with more than 90 percent of respondents saying that all or most of their external work is passed to such firms. Less than 10 percent said that they used a balanced mix of traditional law firms and new model firms or tech-driven service providers. In terms of costs, the majority of respondents said that external legal spend is 10-20 percent of their total legal budget.

In terms of sectors, respondents work in a wide variety of fields, with the biggest being manufacturing, TMT, financial services, consumer goods and real estate.



SINGAPORE

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **Baker McKenzie.Wong & Leow**
- Clifford Chance
- Virtus Law (Stephenson Harwood)

Anti-Trust/ Competition

- Clifford Chance
- Rajah & Tann

Aviation

- Stephenson Harwood

Banking and Finance

- Allen & Gledhill
- Clifford Chance
- Baker McKenzie.Wong & Leow
- Reed Smith

Capital Markets

- Allen & Gledhill
- Clifford Chance
- WongPartnership

Compliance/ Regulatory

- Allen & Gledhill
- Jones Day
- Rajah & Tann
- Baker McKenzie.Wong & Leow
- CMS
- Drew & Napier
- Norton Rose Fulbright

Corporate and M&A

- **Allen & Gledhill**
- **Herbert Smith Freehills**
- **Jones Day**
- Allen & Overy
- Baker McKenzie.Wong & Leow

Employment

- **Allen & Gledhill**
- **Genesis Law Corporation**
- **WongPartnership**
- Bird & Bird ATMD
- PK Wong & Associates
- Rajah & Tann

Energy & Natural Resources

- **Rajah & Tann**
- **Reed Smith**
- HFW
- Ince & Co
- King & Spalding
- Norton Rose Fulbright

Environmental

- **Clifford Chance**

Insurance

- **Reed Smith**

Intellectual Property

- **Bird & Bird ATMD**
- **Drew & Napier**

- Amica Law
- Baker McKenzie.Wong & Leow
- Finnegan

International Arbitration

- **Providence Law**
- **Rajah & Tann**
- **Reed Smith**
- Allen & Gledhill
- Drew & Napier
- Herbert Smith Freehills
- Jones Day
- Dentons Rodyk

Litigation and Dispute Resolution

- **Drew & Napier**
- **Rajah & Tann**
- Allen & Gledhill
- Jones Day
- WongPartnership

Maritime & Shipping

- **HFW**
- Reed Smith
- Stephenson Harwood

Projects and Project Financing

- **Clifford Chance**
- **King & Spalding**
- Baker McKenzie.Wong & Leow
- Rajah & Tann

Real Estate/ Construction

- **Rajah & Tann**
- Allen & Gledhill
- Baker McKenzie.Wong & Leow

- Dentons Rodyk
- Reed Smith
- WongPartnership

Restructuring & Insolvency

- **Rajah & Tann**
- Baker McKenzie.Wong & Leow

Taxation

- **Allen & Gledhill**
- **Atlas Law**

Telecommunications, Media & Technology

- **Allen & Gledhill**
- **Clifford Chance**
- Baker McKenzie.Wong & Leow
- Rajah & Tann

MOST RESPONSIVE FIRMS OF THE YEAR, SINGAPORE

INTERNATIONAL

- **Baker McKenzie**
- Allen & Overy
- Clifford Chance
- Clyde & Co
- Herbert Smith Freehills
- Linklaters
- Reed Smith

DOMESTIC

- **Allen & Gledhill**
- **Rajah & Tann**
- WongPartnership

FINDING WAYS

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- Legal 500 Asia-Pacific 2016



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YOON & YANG
법무법인(유) 화우



REPRESENTING CORPORATE ASIA & MIDDLE EAST

SOUTH KOREA

SURVEY RESPONDENTS:

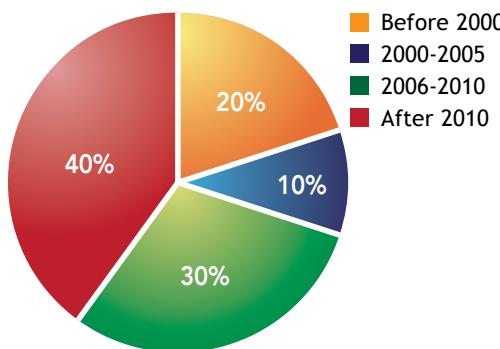
Avg team size: 9

Dominant industry: Manufacturing

Ethics/compliance within legal team: 47%

Multinational/Local: 67%/33%

When was your legal department first established in Korea?



Overview

Just 20 percent of respondents to our survey in South Korea said that they expect their legal team to grow during the next 12 months, which is perhaps not surprising for this relatively mature market – roughly 60 percent of respondents work in teams that were established before 2010, and 20 percent pre-date 2000.

Those that did report growth of the in-house legal staff cited compliance and regulatory demands as the motivating force, rather than growth in the underlying business. For example, one respondent complained that the Act on Governance of Financial Institutions that came into effect in 2016 contains too many grey areas, which has placed an additional

burden on the legal team as it tries to comply with the new requirements.

Adding to this, a large proportion of legal work is done in-house. Roughly 60 percent of respondents said that a majority of their legal work is retained within the company, and little of their external work is handled by new model legal providers or tech-driven firms, with 90 percent saying that all or most of their external work goes to traditional law firms.

The in-house community in South Korea is extremely broad, with the dominant industries being financial services, manufacturing and TMT, followed by energy and life sciences. Most legal teams employ five people or fewer, but roughly 13 percent have more than 20 staff.



SOUTH KOREA

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- Kim & Chang
- Yoon & Yang

Anti-Trust/ Competition

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

Aviation

- Yoon & Yang

Banking and Finance

- Kim & Chang
- Yoon & Yang

Capital Markets

- Kim & Chang
- Yoon & Yang

Compliance/ Regulatory

- Kim & Chang
- Yoon & Yang
- Bae, Kim & Lee

Corporate and M&A

- Lee & Ko
- Yoon & Yang

- Bae, Kim & Lee
- Paul Hastings

- Yoon & Yang

Energy & Natural Resources

- Herbert Smith Freehills
- Lee & Ko
- Yoon & Yang

Environmental

- Bae, Kim & Lee
- Yoon & Yang

Insurance

- Somyoung
- Yoon & Yang
- Yulchon

Intellectual Property

- Yoon & Yang

International Arbitration

- Herbert Smith Freehills
- Yoon & Yang
- Bae, Kim & Lee
- White & Case

Islamic Finance

- Yulchon

Life Sciences

- Yoon & Yang

Litigation and Dispute Resolution

- Lee & Ko
- Sheppard Mullin
- Shin & Kim
- Yulchon
- Bae, Kim & Lee
- HMP Law
- Jipyong
- Kim & Chang
- Yoon & Yang

Maritime & Shipping

- Cho & Lee
- Yoon & Yang

Projects and Project Financing

- Latham & Watkins
- Shin & Kim
- Yoon & Yang
- Ashurst
- Lee & Ko
- Shearman & Sterling

Real Estate/ Construction

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

Restructuring & Insolvency

- Bae, Kim & Lee
- Yoon & Yang

Taxation

- Yulchon
- CMS
- Yoon & Yang

Telecommunications, Media & Technology

- Lee & Ko
- Shin & Kim
- Yoon & Yang

MOST RESPONSIVE FIRMS OF THE YEAR, SOUTH KOREA

INTERNATIONAL

- Allen & Overy
- Baker McKenzie
- K&L Gates
- Herbert Smith Freehills
- Paul Hastings
- Sheppard Mullin

DOMESTIC

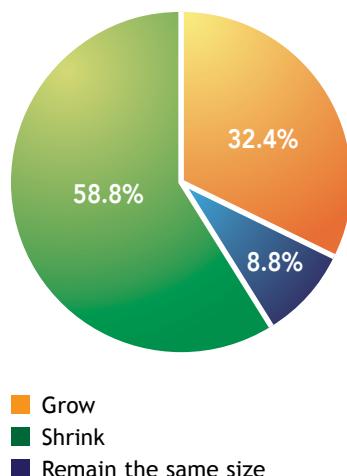
- Bae, Kim & Lee
- Kim & Chang
- Lee & Ko
- Yoon & Yang
- Yulchon
- Jipyong
- Shin & Kim

THAILAND

SURVEY RESPONDENTS:

Avg team size: 16
 Dominant industry: Financial services
 Ethics/compliance within legal team: 71%
 Multinational/Local: 50%/50%

In the coming twelve months, do you think your in-house legal team will:



Overview

The growing maturity and sophistication of Thailand's legal market is reflected in our survey, with teams represented in the survey reflecting a good mix of age and size, and counsel reporting a set of concerns that demonstrate the country's increasing development and economic importance to the region.

For example, the proportion of legal teams that were established before 2000 is equal to the number founded after 2010. More than half of in-house departments are bigger than five people, with close to 9 percent employing more than 50. This is in stark contrast to neighbouring Malaysia or Indonesia, where most teams are small. Another difference is the prevalence of local companies at our event in Bangkok. While multinationals tend to make up the overwhelming majority in most jurisdictions, in Thailand the split is 50:50.

In terms of the issues that counsel are talking about, we notice more discussion

of challenges such as risk mitigation, for example, which is a step up from the more common issues raised elsewhere in Southeast Asia. Counsel in Thailand are more likely to be involved in the business's objectives and strategy, with responsibility to communicate the associated risks surrounding management decisions. "As time goes by, in-house counsel are becoming active commercial players, as well as enablers informing strategic business decisions," said one respondent.

This is further reflected in the way that legal work is project managed, with more than half saying that they either use of a balanced mix of in-house, law firms and other providers, or that a majority of work is outsourced. Likewise, more than half say that their external legal spend is at least 40 percent of their legal budget.

Respondents in Thailand are also among the most likely to work in growing legal teams, with 32 percent saying that their department is likely to grow during the coming 12 months.



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REPRESENTING CORPORATE ASIA & MIDDLE EAST

THAILAND

AS VOTED FOR BY IN-HOUSE COUNSEL
Winners in bold, honourable mentions in *italics*

Alternative Investment Funds (including private equity)

- Baker McKenzie
- Bangkok International Associates
- Chandler MHM
- Siam Premier

Anti-Trust/ Competition

- **Baker McKenzie**
- Allen & Overy
- Linklaters
- R&T Asia (Thailand)
- Siam Premier

Aviation

- **Baker McKenzie**
- Clifford Chance

Banking and Finance

- **Baker McKenzie**
- **Chandler MHM**
- Linklaters
- Siam Premier

Capital Markets

- **Baker McKenzie**
- DFDL
- Linklaters

Compliance/ Regulatory

- **Baker McKenzie**
- **Chandler MHM**
- DLA Piper
- Tilleke & Gibbins

Corporate and M&A

- **Baker McKenzie**
- **Chandler MHM**
- Linklaters
- Tilleke & Gibbins
- Weerawong C&P
- ZICO

Employment

- **Baker McKenzie**
- **Tilleke & Gibbins**
- Chandler MHM
- DLA Piper
- Siam Premier
- Sombat Legal
- ZICO

Energy & Natural Resources

- **Chandler MHM**
- Baker McKenzie

Environmental

- **Baker McKenzie**
- **Chandler MHM**

Insurance

- **Baker McKenzie**
- **DLA Piper**

Intellectual Property

- **Baker McKenzie**
- **Tilleke & Gibbins**
- ZICO

International Arbitration

- **Baker McKenzie**
- **DLA Piper**
- **Weerawong C&P**
- Watson Farley & Williams

Litigation and Dispute Resolution

- **Baker McKenzie**
- **DLA Piper**
- R&T Asia (Thailand)
- Siam Premier
- Tilleke & Gibbins
- Weerawong C&P

Maritime & Shipping

- Baker McKenzie

Projects and Project Financing

- **Chandler MHM**
- Linklaters
- Baker McKenzie

Real Estate/ Construction

- **Baker McKenzie**
- **Chandler MHM**
- Linklaters

Restructuring & Insolvency

- **Baker McKenzie**

Taxation

- **Baker McKenzie**
- PwC
- Deloitte
- EY
- Law Alliance

Telecommunications, Media & Technology

- **Baker McKenzie**
- **DFDL**
- Chandler MHM

MOST RESPONSIVE FIRMS OF THE YEAR, THAILAND

INTERNATIONAL

- **Baker McKenzie**
- Linklaters
- Allen & Overy
- Norton Rose Fulbright
- Watson Farley & Williams
- ZICO

DOMESTIC

- **Chandler MHM**
- **Weerawong C&P**
- BSA Law
- Tilleke & Gibbins

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EMPLOYEE BENEFITS 2018
ASIAN BUSINESS COUNSEL 2018
ASIAN BUSINESS COUNSEL FIRM OF THE YEAR 2018
THE LEGAL 500 ASIA PACIFIC 2018
THE PROFILE ASIA STANDING FIRM

UAE**SURVEY RESPONDENTS:**

Avg team size: 12

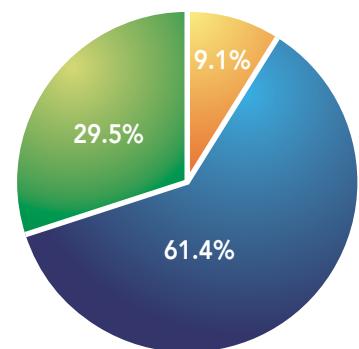
Dominant industry: Real estate/construction

Ethics/compliance within legal team: 71%

Multinational/Local: 67%/33%

The way I am project managing legal work is...

- Entirely in-house
- Majority in-house
- A balanced mix
- Majority outsourced
- All outsourced

**Overview**

Many businesses in the UAE are regional headquarters for Middle Eastern and even African operations, and this is reflected in the profile of respondents that we saw at our events in Dubai and Abu Dhabi. There is a relatively large number of teams that employ 50 or more staff, with a broad range of industries represented. In Dubai, the biggest number of teams work in real estate, followed by TMT, manufacturing and retail, while in Abu Dhabi we see a similar

profile, though with a greater representation of government-related teams, infrastructure, energy and financial services.

However, the overall legal market is still relatively under-developed, with roughly 70 percent of respondents saying that they manage most or all of their legal work in-house – and, of the work they outsource, most or all goes to traditional law firms, with less than 30 percent of respondents saying they use a balanced mix of traditional law firms, new model firms and tech-driven

service providers.

After some very challenging years, one-third of respondents in the UAE said that they expect their team size to grow during the coming 12 months, though there is a significant disparity in growth expectations between Abu Dhabi and Dubai, with more than half expecting growth in the capital, compared to just 27% in Dubai.

**UAE****AS VOTED FOR BY IN-HOUSE COUNSEL**
Winners in bold, honourable mentions in italics**Alternative Investment Funds (including private equity)**

- **Al Tamimi**
- Baker McKenzie Habib Al Mulla
- Dentons
- Hogan Lovells
- HFW

Anti-Trust/ Competition

- **Clyde & Co**
- BSA
- Hadef & Partners
- Morgan Lewis
- Norton Rose Fulbright
- Osborne Clarke
- Squire Patton Boggs

Aviation

- **Al Jallaf Advocates & Legal Consultants**
- Clyde & Co
- Kennedys

Banking and Finance

- **Allen & Overy**
- **Dentons**
- Baker McKenzie Habib Al Mulla
- Clifford Chance
- Clyde & Co

Capital Markets

- **Allen & Overy**
- Clifford Chance
- Clyde & Co
- Latham & Watkins
- Norton Rose Fulbright

Compliance/ Regulatory

- **Al Tamimi**
- **Clyde & Co**
- **Hadef & Partners**
- HFW
- Squire Patton Boggs

Corporate and M&A

- **Al Tamimi**
- **Clyde & Co**
- **Hadef & Partners**
- Afridi & Angell
- Bryan Cave Leighton Paisner
- Clifford Chance
- Dentons
- GLS
- Hogan Lovells
- Linklaters

Employment

- **Al Tamimi**
- **Clyde & Co**
- **Hadef & Partners**
- BSA
- DLA Piper
- Nasser Malalla
- Stephenson Harwood
- Taylor Wessing

Energy & Natural Resources

- **Clyde & Co**
- **Hogan Lovells**
- Baker McKenzie Habib Al Mulla
- CMS

Environmental

- **Clyde & Co**
- Fenwick Elliott

Insurance

- **Clyde & Co**
- **Ince & Co**
- **Al Tamimi**
- Galadari Advocates & Legal Consultants

Intellectual Property

- **Al Tamimi**
- **Clyde & Co**
- **Rouse & Co**
- Afran Consultancy & Administrative Services

- Baker McKenzie Habib Al Mulla
- Ince & Co
- Salih El Amin Intellectual Property

International Arbitration

- **Addleshaw Goddard**
- **Pillsbury Winthrop Shaw Pittman**
- ASAR
- **Clyde & Co**
- **Hadef & Partners**
- Ince & Co
- Quinn Emanuel

Islamic Finance

- **Dentons**
- Allen & Overy
- Clifford Chance
- Curtis
- Norton Rose Fulbright
- Simmons & Simmons

Litigation and Dispute Resolution

- **Al Tamimi**
- **Clyde & Co**
- **Hadef & Partners**
- **Prestige Advocates & Legal Consultants**
- Al Suwaidi & Co
- Baitulhikma
- Baker McKenzie Habib Al Mulla
- Nasser Malalla
- Pinsett Masons

Maritime & Shipping

- **Al Tamimi**
- **Hadef & Partners**
- **Ince & Co**
- **Clyde & Co**
- HFW
- Kennedys
- Stephenson Harwood

Projects and Project Financing

- **Hogan Lovells**
- Bryan Cave Leighton Paisner
- Latham & Watkins

Real Estate/ Construction

- **Addleshaw Goddard**
- **Clyde & Co**
- **Dechert**
- **Hadef & Partners**
- **Al Tamimi**
- Bryan Cave Leighton Paisner
- King & Spalding

Restructuring & Insolvency

- **Clyde & Co**
- **Hadef & Partners**
- **Al Tamimi**
- Beale & Co
- Prestige Advocates

Taxation

- **Argent Gulf Consulting**
- Dentons
- Rödl & Partners
- Squire Patton Boggs

Telecommunications, Media & Technology

- **CMS**
- **Pinsett Masons**
- Allen & Overy
- Clyde & Co

MOST RESPONSIVE FIRMS OF THE YEAR, UAE**INTERNATIONAL**

- **Clyde & Co**
- **Allen & Overy**
- **Baker McKenzie**
- **Eversheds Sutherland**
- **Hogan Lovells**

DOMESTIC

- **Al Tamimi**
- **Hadef & Partners**
- **Al Suwaidi & Co**
- **Galadari Advocates & Legal Consultants**



REPRESENTING CORPORATE ASIA & MIDDLE EAST

VIETNAM

SURVEY RESPONDENTS:

Avg team size: 7

Dominant industry: Financial services

Ethics/compliance within legal team: 82%

Multinational/Local: 88%/12%

Overview

Vietnam is by far the fastest-growing market in our survey for in-house legal teams, with more than 50 percent saying that they expect the size of their team to grow during the coming 12 months. The additional headcount is definitely needed, with some respondents complaining that they are stretched too thin and being asked to handle too great a diversity of work. "In-house counsel are required to cover all the legal issues of the company, from M&A, tax, customs, labour, IP and so on, even though in some cases they

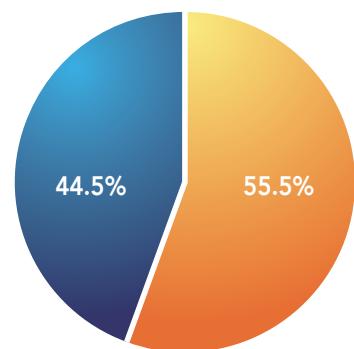
may not ever have handled such issues before," said one, echoing a sentiment that several counsel mentioned.

Even so, most legal teams still do most of their legal work in-house, with less than a quarter saying that they have a balanced mix and the majority saying that their external legal spend is between 10-30 percent of their total legal spend.

Finding qualified lawyers to handle the extra work may be the next challenge, as several respondents mentioned the difficulty of finding capable and competent in-house lawyers.

In the coming twelve months, do you think your in-house legal team will:

- Grow
- Shrink
- Remain the same size



VIETNAM

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds (including private equity)

- **Frasers**
- **Freshfields Bruckhaus Deringer**
- Mayer Brown (Vietnam)
- VILAF

Anti-Trust/ Competition

- **Baker McKenzie**
- **LNT & Partners**
- **VILAF**
- Rajah & Tann LCT Lawyers
- YKVN

Aviation

- **Baker McKenzie**

Banking and Finance

- **Baker McKenzie**
- **VILAF**
- Allen & Overy
- Hogan Lovells
- Lexcomm
- PwC
- Russin & Vecchi
- YKVN

Capital Markets

- **Mayer Brown (Vietnam)**
- **VILAF**
- Allen & Overy
- Hogan Lovells
- Indochine Counsel
- YKVN

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Compliance/ Regulatory

- **Phuoc & Partners**
- **Thang & Associates**

- Baker McKenzie
- Deloitte
- DIMAC
- Duane Morris
- LNT & Partners
- VILAF

Corporate and M&A

- **Freshfields Bruckhaus Deringer**
- **LNT & Partners**
- **VILAF**
- Allens
- ATS Law Firm
- DIMAC
- Duane Morris
- Hogan Lovells
- Indochine Counsel
- YKVN

Employment

- **Baker McKenzie**
- **LNT & Partners**
- **Phuoc & Partners**
- DIMAC
- Indochine Counsel
- Thang & Associates
- VILAF

Energy & Natural Resources

- **EP Legal**

Freshfields Bruckhaus Deringer

- Allens
- Lexcomm
- Mayer Brown (Vietnam)
- VILAF

Environmental

- **Allens Linklaters**
- **Lexcomm**

Insurance

- **Allens**
- Baker McKenzie
- VILAF
- YKVN

Intellectual Property

- **Baker McKenzie**
- **Pham & Associates**
- Ambys Hanoi Law Firm
- Indochine Counsel
- Tilleke & Gibbins
- Vision & Associates

International Arbitration

- **Allens**
- CMS
- Duane Morris

Life Sciences

- **Baker McKenzie**
- **LNT & Partners**
- Tilleke & Gibbins
- Vision & Associates

Litigation and Dispute Resolution

- **Baker McKenzie**
- **Rajah & Tann LCT Lawyers**
- Bizlink Lawyers
- Bross & Partners
- Phuoc & Partners
- VILAF
- YKVN

Maritime & Shipping

- **VILAF**
- YKVN

Projects and Project Financing

- **Allens**
- **VILAF**
- Allen & Overy
- Baker McKenzie
- Hogan Lovells

Real Estate/ Construction

- **Duane Morris**
- **VILAF**
- Indochine Counsel
- LNT & Partners
- Luat Viet Law Firm
- Mayer Brown (Vietnam)

Restructuring & Insolvency

- **Duane Morris**
- **Indochine Counsel**

Taxation

- **Baker McKenzie**
- **PwC**
- Deloitte
- KPMG
- DFDL
- VILAF

Telecommunications, Media & Technology

- **Allens**
- **Lexcomm**
- Allen & Overy
- Indochine Counsel
- Pham & Associates
- Vision & Associates

MOST RESPONSIVE FIRMS OF THE YEAR, VIETNAM

INTERNATIONAL

- Allen & Overy
- Baker McKenzie
- Freshfields Bruckhaus Deringer

DOMESTIC

- LNT & Partners
- Russin & Vecchi
- VILAF
- Rajah & Tann LCT Lawyers
- YKVN

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- » Energy and Natural Resources
- » Transportation & Aviation
- » Information Technology and Communication
- » Infrastructure
- » Merger and Acquisition and Privatization
- » Capital Market
- » Corporate and Investments

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Asian-mena Counsel
Firm of the Year
2018

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REPRESENTING CORPORATE ASIA & MIDDLE EAST

IN-HOUSE TESTIMONIALS ...

MALAYSIA

"In Malaysia, ZICO are highly competent in their key practice areas, they provide an excellent service level with a commercial mindset"

UAE

"Herbert Smith Freehills have the international arbitration experience to provide us top-notch legal services, even for our toughest cases"

VIETNAM

"The partners at Thang & Associates are always willing to work 24/7 with my company's counsel"

INDONESIA

"In the area of banking & finance, Wiriadinata & Saleh are really helpful, working on multiple complex contracts at a fastpace to meet critical deadlines"

MALAYSIA

"Deepak Sadasivan (at Adnan Sundra & Low) is the go-to-guy when it comes to capital markets in Malaysia"

PHILIPPINES

"Quisumbing Torres are a very trustworthy firm. Responsive, knowledgeable and professional"

VIETNAM

"We were impressed with LNT & Partners' activeness and positivity ... we would recommend their services not only in legal matters but also in negotiation"

THAILAND

"The most responsive firm in Thailand is Chandler MHM – the quality of their services is excellent"

SOUTH KOREA

"Yoon & Yang work closely with their clients when structuring their fees and the necessary staffing for matters"

INDONESIA

"Lubis Ganie Surowidjojo are responsive to our needs"

MALAYSIA

"Trowers & Hamlins in KL are quick to respond and give suggestions and options that are relevant to our business"

MYANMAR

"In Myanmar DFDL are responsive, providing fast, competent advice"

INDONESIA

"For M&A in Indonesia PwC benefits from the expertise of Melli Darsa"

SOUTH KOREA

"Allen & Overy try to respond asap, even if they don't have all the answers at the time, and they will always come back with answers"

HONG KONG

" Pinsent Masons has a very good team with excellent expertise in international arbitration"

VIETNAM

"For their business knowledge and acumen, Frasers standout in the alternative investment space in Vietnam"

MYANMAR

"U Min Sein understand how to navigate the current regulatory gaps and difficulties in Myanmar"

THAILAND

"Weerawong, Chinnavat & Partners are a 'solutions provider'we trust in their partners' legal knowledge and experience"

UAE

"Hadef & Partners are loyal and very hard working to achieving the client's aims in what is a very arduous litigation environment"

SOUTH KOREA

"Baker McKenzie provide everything a client really wants, and in a proper manner"

THAILAND

"Linklaters are extremely responsive. Willing to go beyond the planned scope of work (without charging us for every detail), and the shared knowledge among their local offices in different countries has been particularly useful to us when structuring our cross-border transactions"

INDIA

"AZB have the knowledge base and bandwidth to handle matters at all levels in India"

PHILIPPINES

"ACCRA are my choice of most responsive firm for the excellent technical and strategic legal advice given, as well as their good anticipation of risks and issues we may have overlooked ourselves"

TOP MULTIPLE CATEGORY WINNERS BY JURISDICTION

JURISDICTION	FIRM	CATEGORY WINS
CHINA	JunHe	3
	King & Wood Mallesons	9
HONG KONG	Deacons	8
	Baker McKenzie	10
INDIA	Cyril Amarchand Mangaldas	5
	Khaitan & Co	5
	Allen & Overy	2
INDONESIA	ABNR	5
	Hadiputranto Hadinoto & Partners (Baker McKenzie)	11
	Baker McKenzie	2
JAPAN	Nagashima Ohno & Tsunematsu	4
	Herbert Smith Freehills	2
MALAYSIA	Lee Hishammuddin Allen & Gledhill	6
MYANMAR	U Min Sein	2
	DFDL	6
PHILIPPINES	ACCRALAW	8
	Quisumbing Torres (Baker McKenzie)	19
SINGAPORE	Rajah & Tann	8
	Clifford Chance	6
S KOREA	Yoon & Yang	18
	Herbert Smith Freehills	2
THAILAND	Tilleke & Gibbins	2
	Weerawong C&P	2
	Chandler MHM	8
	Baker McKenzie	17
UAE	Al Tamimi	8
	Hadef & Partners	8
	Clyde & Co	12
VIETNAM	VILAF	8
	Baker McKenzie	9

Most responsive international firm of the year in most jurisdictions: Baker McKenzie



Legal innovation in BigLaw

Changing how high-quality legal advice is formulated and excellent service is delivered.



Vincent Connor

By Vincent Connor and Alison Laird of Pinsent Masons

For many people in the legal sphere, the word ‘innovation’ has become synonymous with ‘disruption’ — thought to be the next big tech offering that will change the legal world as we know it (robot lawyers come to mind). For others, the overuse of the word (and lack of subsequent implementation and change) has relegated it to just another corporate buzzword; a fad that will soon be forgotten.

However, innovation in law can simply be defined as implementing an idea, to address a specific issue, that delivers value for both the firm and client. And if that’s the case, legal innovation is here to stay.

At Pinsent Masons, we take great pride in the work we do with our clients to think differently. Innovation sits at the heart of our strategy. For us, it’s about more than finding ways to make an old model fit a new world. Innovation is about fundamentally changing how high-quality legal advice is formulated and excellent service is delivered. We partner with our clients to lead through innovation, rather than be disrupted by it.

We are a modern legal services business, transforming ourselves piece by piece from an expertise-based law firm, into a professional services firm, with law at its core. This means that we don’t just apply lawyers to solve

clients' problems; we deploy a wider range of professional disciplines, enabled by process and technology, to collaborate with our clients and others within the legal environment to develop solutions.

Innovative client solutions

Across Asia Pacific, our collaborative teams are working on and delivering a range of creative solutions to meet the diverse needs of our clients.

Our team in Hong Kong is currently developing a digital learning platform for an in-house legal team to help explain core concepts, legal risks in digital and to cut through legalese. The client brief required us to think outside of the box which led those involved in the proposal exploring alternative modes of delivery. The online delivery platform created will enable our lawyers to provide content for continuing client training.

Pinsent Masons has also developed a Procurement to Completion® (P2C) product, which is a legal risk management service for parties involved in infrastructure and energy projects. We have combined our knowledge, process and technology expertise to facilitate the service through a cloud portal: the P2C Platform. This is designed to be an easy, time and cost-efficient day-to-day tool that project teams can use to:

- aid their understanding of key legal risks and opportunities;
- access management strategies and tools which simplify the contractual process and increase the likelihood of compliance with contract requirements;
- develop management, reporting and record keeping procedures which comply with and enhance the position under the contract; and
- gain ready access to legal advice.

The platform also offers the protection of legal privilege (in common law jurisdictions) and confidentiality. The benefits are many, including in a recent client case involving a wall collapse where our Hong Kong team was quickly able to provide real-time practical advice using the P2C platform with all the relevant and up to date information easily to hand. In another case, the platform enabled

“Across Asia Pacific, our collaborative teams are working on and delivering a range of creative solutions to meet the diverse needs of our clients”

the team to provide timely legal advice avoiding a potential dispute delivering a win-win result for the client and the contractor.

Our online workflow platforms provide our lawyers with step-by-step guides presenting the firm's knowledge and materials in a user-friendly and accessible way to increase the efficiency and consistency in the work we do for clients. We use document automation technology to generate contract drafts and key documents and capture data about the work we do to help develop, improve and streamline the services we provide.

The best legal innovation comes when we collaborate with each other, with our clients and with other legal service providers to solve client issues in a creative and cost-effective manner. We look forward to collaborating with you soon.

Pinsent Masons thanks our valued clients across Asia Pacific and we are thrilled to accept the award of Asian-mena Counsel & In-House Community Hong Kong Firm of the Year 2018 for our work in International Arbitration, Litigation and Dispute Resolution, Real Estate/Construction, and Telecommunications, Media & Technology. We're very grateful to our clients for voting for us and look forward to our continued collaboration.



Netting arrangements made enforceable in the UAE

A new statute makes it clear for the first time that the netting and setoff provisions in qualified financial contracts are valid and enforceable under UAE law.

By Charles Laubach and Rahat Dar, Afridi & Angell



For decades, banks and other counterparties in the UAE have obtained financial services from foreign financial institutions. Industry bodies, such as the International Swaps and Derivatives Association (ISDA), the International Capital Market Association and the International Securities Lending Association, have developed standard documentation for these kinds of transactions. A new statute in the UAE makes it clear for the first time that the netting and setoff provisions in such documentation are valid and enforceable under UAE law. Among other matters, this clarity should reduce the cost to UAE counterparties of obtaining these financial services.

Federal Decree-Law 10 of 2018 on Netting (the Netting Law) was published in the UAE Federal Gazette on September 30, 2018 and took effect on October 30, 2018 (the Effective Date). It is a significant development to the derivatives framework in the UAE, in terms of

both the legal enforceability of such arrangements and the ability to implement close-out netting (ie, netting of obligations following an event of default or termination event), particularly following the bankruptcy of one of the parties. The Netting Law is closely modelled on the 2018 ISDA Model Netting Act and Guide (as published by ISDA) and applies to all qualified financial contracts, netting agreements or collateral arrangements entered into by a person or entity in the UAE (other than persons and entities located in financial free zones, ie, the DIFC and ADGM, which have separate netting regulations).

Netting

The Netting Law allows parties to enter into netting agreements for the purposes of netting off their payment and delivery obligations under qualified financial contracts (netting). A netting provision may include the following features:

SPECIAL FEATURE



Charles Laubach

- (a) any termination, liquidation and/or acceleration of payment/delivery rights or obligations under qualified financial contracts entered into under a netting agreement or to which a netting agreement applies;
- (b) calculation, estimation or adoption of an index of close-out or termination value, market value, liquidation value or any other relevant value, which may arise from a party's failure to enter into or perform a transaction under a netting agreement, where the rights and/or obligations of the parties under such netting agreement have been terminated, liquidated and/or accelerated under point (a), above;
- (c) conversion of the values calculated under point (b), above, into a single currency;
- (d) determination of the net balance of values calculated under point (b), above, as converted under point (c), above, whether by operation of setoff or netting; and
- (e) entry into an arrangement whereby the net amount calculated above becomes payable directly or as part of either the (i) consideration for a specific asset or (ii) damages for non-performance of such transaction.

“The potential exists – and UAE courts have held in some instances – that derivatives are unenforceable “contracts of risk,” even when used to manage risk”

The Netting Law currently identifies 23 categories of agreements as qualified financial contracts (which create either a right to receive or an obligation to make a payment or delivery or to transfer title to assets/commodities for consideration) including all types of swaps (in relation to currencies, interest rates, basis rates or commodities), forward rate agreements, currency or interest rate futures, currency or interest rate options, derivatives (relating to bonds, energy, bandwidth, freight, emissions and property index), securities contracts, collateral arrangements, commodities related contracts and any Shari'ah compliant equivalent of the above agreements. This list may be expanded by the Committee for Designation of Qualified

Financial Contracts (the Committee), which will be formed under a resolution issued by the UAE Minister of Finance (the Resolution).

Under the Netting Law, netting agreements include:

- (a) any agreement between two parties for netting of present or future rights to or obligations for payments or delivery, or transfer of title arising in connection with one or more qualified financial contract between the parties (a master agreement);
- (b) any agreement providing for the netting of amounts due under two or more master netting agreements (a master netting agreement);
- (c) any collateral arrangements relating to or forming part of a master netting agreement or master agreement;
- (d) any Shari'ah compliant agreement or arrangement which is intended to have a similar effect as an agreement under points (a) through (c) above or any other netting agreement; and
- (e) any agreements, contracts or transactions which fall within the definition of a qualified financial contract.

A netting agreement and all qualified financial contracts to which it applies will constitute a single agreement.

Legal recognition

Under UAE law, futures, margin trading and derivatives transactions generally have been viewed as potentially unenforceable due to perceived gharar, an unacceptable level of risk or uncertainty that undermines contract formation. For this reason, the potential exists – and UAE courts have held in some instances – that derivatives are unenforceable “contracts of risk,” even when used to manage risk (as in hedging contracts) rather than to create risk or to speculate. Even for Shari'ah compliant hedging products in the market (for example, the ISDA/IIFM Tahawwut Master Agreement), which are supported by fatwas confirming that such products are Shari'ah compliant and free of gharar, there was no certainty on how the courts would hold. The Netting Law has minimised, if not eliminated, these uncertainties by providing that qualified financial contracts shall not be void, unenforceable, or not final by reason of gharar under the UAE Civil Code.



Bankruptcy

Under the UAE Bankruptcy Law, a debtor and creditor may only set off obligations (i) if the conditions for exercising the setoff are satisfied before initiating procedures under the UAE Bankruptcy Law, (ii) if conducted as part of the implementation of a preventative composition or restructuring scheme or (iii) as approved by the court.

The Netting Law provides that the provisions of a netting agreement shall be deemed final and enforceable (including against a third party security provider, even if such third party becomes insolvent), even following the insolvency of one of the parties thereto. The arrangements under a netting agreement may not be suspended, delayed or made conditional merely by the appointment of a liquidator or the initiation of bankruptcy proceedings or under any other law applicable to insolvent parties. Insolvency and/or bankruptcy proceedings will not affect the netting arrangements under a netting agreement or a qualified financial contract (or any other financial contract) to which a netting agreement applies. Similarly, the provisions of a netting agreement shall not be affected by any limitations on setoff or netting imposed under any insolvency or bankruptcy laws.

“There is no definition of “clear and convincing evidence” but the concept would appear to present a higher hurdle than a mere preponderance of evidence”

In case of procedures under the UAE Bankruptcy Law, the liquidator or trustee of a party to a netting agreement (the insolvent party) may annul, stop or refuse the performance of a transaction constituting a preference to a non-insolvent third party (the third party). For example, such a transaction could be the transfer of cash, assets, property or collateral from the insolvent party to the third party under a netting agreement. However, the liquidator or trustee may do so only on the basis of clear and convincing evidence that such third party entered into the transaction with the intention to prevent, hinder or delay debt recovery by a current or future creditor of the insolvent party. There is no definition of “clear and convincing evidence” (a term that has no antecedent in UAE law), but the concept would appear to present a higher hurdle than a mere preponderance of evidence. Significantly, there are no other grounds in the netting law for a liquidator or trustee to fail to implement netting.

SPECIAL FEATURE

“UAE counterparties will now be able, more readily and presumably at lower cost, to take advantage of the full range of products that are available”



Rahat Dar

Multi-branch netting

In line with the 2018 ISDA Model Netting Act and Guide, the Netting Law has recognised multi-branch netting agreements (the MBNA) as netting agreements under which a party can enter into qualified financial contracts through its home office (ie, the office in its home country) and one of its branches or agencies in countries other than its home country (ie, the jurisdiction where such party is incorporated regulated or duly registered).

In the event of the insolvency of a foreign party's branch/agency (the branch), its liability (or the liability of its liquidator in the UAE) to the non-insolvent counterparty (the Counterparty) shall be calculated on the date of the termination of the qualified financial contract under the MBNA and limited to the lesser of (i) the foreign party's net payment obligations (as adjusted by any payments to the counterparty and the fair market value of any collateral provided by the foreign party under the MBNA) or (ii) the branch's net payment obligation. The foreign party's net payment entitlement from the counterparty (as adjusted by any payments made to the liquidator of the foreign party and the fair market value of any collateral provided by the counterparty under the MBNA) shall be netted against the counterparty's net payment entitlement from the foreign party. The counterparty may liquidate any collateral (provided under an MBNA) and apply the proceeds against settlement of sums due from the foreign party under any related qualified financial contracts. Any excess collateral shall be returned.

The Committee

The Committee shall undertake the following responsibilities in accordance with the mechanisms outlined in the Resolution:

- (a) providing opinions on topics relating to Qualified Financial Contracts;
- (b) designating any additional financial agreement, contract or transaction as a Qualified Financial Contract;
- (c) amending the list of Qualified Financial Contracts; and
- (d) any other function designated by the UAE Cabinet.

Conclusion

The introduction of the Netting Law is a sign of the UAE's desire to participate fully in international markets for financial services. UAE counterparties will now be able, more readily and presumably at lower cost, to take advantage of the full range of products that are available.

Nevertheless, it remains to be seen how the Netting Law will be implemented by the courts in specific cases. Financial contracts concluded before the effective date that qualify as netting agreements or qualified financial contracts should now be enforceable, even though enforceability might have been uncertain when the contracts were first concluded. Proceedings under the UAE Bankruptcy Law will be governed by the Netting Law as of the effective date, but trustee, liquidator or court actions taken before the effective date would presumably remain undisturbed even if inconsistent with the Netting Law. We will continue to report as these and other issues are addressed in the coming weeks and months.

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We speak to the general counsel at Orpic about her career, the development of the industry and her outlook.

By Tim Gilkison, In-House Community



Elina Mohamed



Tell us a little about your professional background and how you came to your current role with Orpic?

I graduated from Leeds University and did my Bar in London (admitted to the Lincoln's Inn). I immediately started practice with a law firm in Malaysia, Shearn Delamore, and joined MMC as its group legal adviser and company secretary after seven years of practice. MMC is an investment holding company with core businesses in ports and logistics, energy and utilities, and engineering and construction. MMC gave me great experience – more than 16 years – in understanding all the various sectors. Given their investments abroad, especially in the Mena region, I was also exposed to legal issues abroad. However, a door was opened in Oman and I thought “why not?” since I was always keen to work abroad, especially now my children are grown up. Orpic’s offer came at the right time.

What do you think are the biggest challenges facing in-house lawyers in the region today?

There is a lot of demand for speed and just getting things done. As an in-house counsel, it is important that documents are read properly and fully and allegations or claims, fully substantiated. Further, if you are reviewing technical documents or issues, it is important that the in-house counsel understands the business and takes the pain to understand the issues beyond legal to give a more comprehensive and commercial legal perspective of the matter.

What have been your own biggest challenges?

The mounting legal issues and complexity of each case, which require a quick turnaround.

How is technology changing the way you work?

Communication happens instantly. Gone are the days of faxes, letters or telex. This makes work challenging as you can receive emails from anyone, from everywhere and at any time. On the other hand, technology has also made us more efficient and effective. There are so many service providers in place that provide legal resources and templates for documentation. Reminders and key dates can be automated and meetings do not need to be physical.

What do you most look for in a law firm when outsourcing work?

Quality, promptness and sincere advice. It is important that we receive frank advice from lawyers albeit whether we can win a case, whether the claim has merits or even whether they are available and capable of doing the proposed tasks.

It has to be treated like a partnership rather than client-customer relationship.

Other than law firms, what sort of other service providers and tools help you most as a legal department?

Tracking system on outstanding work, shared folders on templates and agreements, as well as virtual resource centres.

What aspects of your job do you most enjoy?

I love the fact that I get to learn different things, which are not legal per se, and the marvellous people you meet with vast knowledge in their respective areas to give you a different perspective of things.

“It is important that we receive frank advice from lawyers albeit whether we can win a case, whether the claim has merits or even whether they are available and capable of doing the proposed tasks. It has to be treated like a partnership rather than client-customer relationship”

Looking forward, what changes do you foresee in the way that legal services will be provided in coming few years?

Legal services would need to advise beyond the legal scope and have to appreciate the non-legal aspects of the transaction. To survive, legal services are also expected to go beyond the standard advice and drafting as that can be obtained through the internet or via a legal tool or system.

What advice would you give to young lawyers starting out in their careers today?

Read, read and read. Widen your horizon, understand the law and the industry and non-legal issues. Work hard but smart. Communicate well, build relationships with stakeholders; both internal and external. Have the humility to learn and stand corrected. Be prepared to receive feedback from others, even those more junior than you. You have to love what you do to do well.

What is your hinterland (ie, what do you most like to do when away from work)?

I love swimming, meeting people, drawing and travelling. I am hoping to give more to society through teaching, public speaking or mentoring. Hopefully that can happen soon.

The thing about ...



Photo: Patrick Dransfield

Carl Im

The brains behind eYulchon talks to **Patrick Dransfield** about his algorithmic approach to corporate compliance.

How did AlgoCompliance come into being and how does it differ from other compliance software solutions in the market?

We at Yulchon had the idea of eYulchon from as early as 2014. It was to empower our clients to get more out of our services. How? By integrating the very technologies that our clients were already using every day into our service delivery. Then how to reformulate service delivery from the client perspective came trickling in. In 2015, I was at a Volcker Rule seminar and it was quite clear that what really mattered to the 80 front-office attendees was not the law, but the impact of the law on their business. It was all about how to operationalise the abstract advice. So when the anticorruption law was implemented in Korea, we made a Q&A mobile application that covered 4 million scenarios.

We have come a long way since then. We were awarded the In-House Community Visionary Firm of the Year along with numerous other international awards. AlgoCompliance was critical in winning this award.

AlgoCompliance helps companies operationalise the legal and regulatory advice from law firms. In-house lawyers put the relevant standard operating procedure (SOP) on LegalPad, drag and drop it onto the AlgoCompliance application, and the rest happens automatically, including the PC and the mobile applications for the rest of the organisation. For the majority of everyday compliance surveillance issues, these applications help the in-house lawyers to achieve scalability across language barriers and across regions.



Everybody says “build things from the clients’ perspective”, but clients find it difficult to articulate a perfect solution when everything is in abstract

Once set up, AlgoCompliance walks the user through each step of the SOP in natural language and tells the user in real-time whether each response is within the company policy. In one application, AlgoCompliance keeps track of the economic benefits each client receives in real-time, for example.

Because in-house lawyers have the option to update the regulatory changes directly, clients can fine-tune the system to get the local regulations just right. Because the fine-tuning process is virtually cost-free, in-house lawyers can create a what-if version and see the impact of the change as often as needed on their own. This solves the lost-in-translation problem and wait-for-global-roll-out issues.

This year, we have introduced AlgoCompliance to the international community. This past June, I had the opportunity to compare notes with other legal engineers in London and then in October I visited the ALFA group at MIT’s Computer Science and Artificial Intelligence Laboratory (CSAIL) to compare our technology to similar state-of-the-art technologies. It was gratifying to realise that our approach was well-received. As a result, we are currently collaborating with other law firms to develop various applications. With the folks at MIT CSAIL, I am collaborating in hopes of publishing a paper in the field of artificial intelligence on context-sensitivity in phenotypes.

Can you explain the “wait-for-global-roll-out” issue?
Currently, many multinational compliance systems are designed globally and distributed to regional offices. These systems often have a standard interface that works globally. By contrast, AlgoCompliance empowers the regional leadership to get the localisation right for each jurisdiction.

In-house lawyers can input local regulations on LegalPad in their own way, drag-and-drop it to AlgoCompliance and immediately see the final product as it appears to the rest of the organisation. Because adding local regulation is so simple, clients start by capturing the basic parts first, but then they feel that AlgoCompliance empowers them to make fewer compromises between the actual local regulation and what is feasible operationally or budget-wise.

Multilingual scenario-based audit trails make centralised oversight manageable. Firm-wide

collaboration for multinationals means, for example, that Korean sales can input their activities in Korean, but any regional control officer can double-click on the scenario and can understand it in English or in French, for example.

What other products can you share with us that will delight in-house counsel and their stakeholders?

As I mentioned, I just had the privilege of visiting MIT's CSAIL to focus on incorporating some of the latest AI techniques in the areas of labour law. Working together with Yulchon's HR team, we have created a sort of Google Map for HR Risk. Once an in-house counsel answers a survey question on where the company policy is at the moment, AlgoCompliance tells you the Policy Risk Score as well as a set of AI-recommended policy changes to get to a lower Policy Risk Score. Clients can take the recommended policy changes as a starting point to get the internal dialogue going. AI Decision-support will be big for us in 2019.

Why do you think the approach to legal software solutions you have implemented at Yulchon is different to similar attempts by other law firms?

One fundamental problem with the technology and related service associated with traditional law firms is that the deliverable, say a compliance system, once delivered, is very costly and difficult to re-configure. That is because the mindset behind the products always comes from the law firm perspective, not the client, so it is only to be expected that the first version is more about the law and less about the industry insight. We at Yulchon began with a very different approach: We developed a system that a non-programmer lawyer on the client-side can re-configure. Everybody says "build things from the clients' perspective", but clients find it difficult to articulate a perfect solution when everything is in the abstract. However, once the lawyers, either outside counsel or in-house counsel, are empowered to make incremental changes directly to the initial version, it empowers the client to use her imagination and ask: "Oh, that's possible?! If that is possible, then can you do this as well?" That allows her to create a more bespoke solution to her needs. Without this agile approach, many clients can tell that the deliverable is not quite useful yet (eg, scaling up

and operationalising the new Markets in Financial Instruments Directive or General Data Protection Regulation), but are not able to articulate how to get there. The virtuous circle is this: empowered client can envision a way to close the gap between the abstract legal advice and the industry domain-expertise; eYulchon empowers the client.

*I like to think
(it has to be!)
of a cybernetic ecology
where we are free of our labors
and
joined back to nature,
returned to our mammal
brothers and sisters,
and all watched over by machines of loving grace*

Richard Brautigan, All Watched Over by Machines of Loving Grace, 1967

Does your concept of the relationship between humanity and AI square with the optimistic vision of the Brautigan poem All Watched Over by Machines of Loving Grace?

It turns out that fact is stranger than fiction in the land of AI. What we have experienced so far is neural network-related results suffer from the risk of unintended biases. In fact, unbiasing AI is emerging as the new hot topic of the 21st century. We at eYulchon try to sidestep the whole issue by focusing on techniques that are bias-free. This was the reason for my visit to MIT.

I have coined the term AI Level 0, 1 and 2. Level 0 deals with optimising man-made systems, such as training a robot to get a perfect score in Mario-Kart, or even in the game of Go. This will all be done by machines very soon. Level 1 deals with asking man-made questions about stuff that are not man-made. An example is "Can you predict whether the bee will land on this flower or not?" It should be easy, right? After all, you just take videos of millions of flowers and feed the data to Alpha Go and you're done. Well, it turns out that the video data is meaningless because bees see flowers in ultraviolet and the data we just fed the machine was shot with a regular camera. Garbage-in, garbage-out. So we need to know if

the data we are about to feed to the machine is garbage or not. This is a pretty difficult task, it turns out. There are some indications that AI Level 1 problems may be exceedingly difficult. We at eYulchon aim to master AI Level 0, and try to champion AI Level 0.5, for example.

Your career spans the Asian financial crisis; how did it affect you and how did it change the business environment in Korea?

My career in fixed income can be characterised as a global legitimisation of Asian credit. As the Asian financial crisis of 1997 was beginning to catch fire, I got a call from my boss's boss in New York to shut down most of my positions with Asian counterparties. None of the counterparties mentioned went on to default. That experience became a data point for arguing that there should be a more localised approach to Asian business selection.

The crisis was a necessary step for South Korea to become a more mature market. It turns out that the amount of knowledge one needs to be a good risk manager is more than one can experience in a lifetime. You have to respect the market because the truth is that there is no neat way to control it. Suppose you get a report from your junior traders that all of your Greeks are flat. Guess what? You are still exposed to reputational risk, document mismatch risk, counterparty risk and so on. Market reform in Korea was accelerated because of that painful experience.

Who is your mentor?

Richard Feynman was still teaching at Caltech when I was an undergraduate there. He taught me that being a geek can be cool. Lloyd Blankfein, Richard Witten, Pete Gerhard and Danny Yee were my benchmark during my fixed income days.

What is your hinterland?

I am big on education as a vehicle for transmitting culture. Having an inspiring teacher or peer can change how you think and approach the world. Every employer is looking for young people who are going to make a difference. In order to make a difference, knowing what everyone else knows is less important than seeing what people don't know. There is not enough emphasis on this in the current environment of quick answers

Richard Feynman was still teaching at Caltech when I was an undergraduate there. He taught me that being a geek can be cool

Carl Im's company iolex.com, internet of law, makes augmented intelligence applications. As the founder and the CEO, he has developed and patented an algorithmic approach to corporate compliance risk management. As a senior adviser at Yulchon, he has been driving Yulchon's digital strategy, including the firm's new website based on the principles of "content-driven marketing" and "your business your way".

Carl combines over 20 years of sales and trading experience in fixed income, has a doctorate in physics from Stanford University and was a member of the Caltech Putnam team. His unique background as an academic, a banker and an entrepreneur has contributed to unique perspectives and approaches that have won numerous awards. His work has won the Asian Technology and Innovation Initiative of the Year, the Asia-Pacific Innovator of the Year and the In-House Community Visionary Firm of the Year.

Carl's work at Yulchon is published under the eYulchon label. The eYulchon team has recently delivered the first Universal Compliance Engine, which empowers in-house compliance and legal officers to produce, completely on their own, mobile compliance apps for firm-wide use. Under the Universal Compliance Engine paradigm, a compliance officer can modify a policy, drag-and-drop it, download the new compliance app, see it in action and modify again, closing the gap between the policy and the practice of compliance.

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