

# asian-mena Counsel

Volume 14 Issue 10, 2017

## In-House Community Counsels of the Year Awards & Celebration 2017



**Trevor Faure wins  
In-House Community  
Achievement Award**



**Plus:  
*The thing about ...*  
Michael Hickman**

**In-House Insight:  
Hema Latha  
Sinnakaundan**



**What to do when a  
director gets arrested  
Inaugural Legal Inno'  
Tech Forum**

*Crème*

*de cassis* &

chilled  
champagne

served amidst  
generous

WOOD PANELING.

A perfect  
pale blush of  
bubbles.

And the ingredients  
to a very  
curious  
evening.

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legal advice, and do not necessarily reflect the  
views of the publishers.

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# Feature contributor

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### About the IN-HOUSE COMMUNITY

A mutually supportive community of In-House Counsel helping In-House Counsel and Compliance Professionals meet their ethical, legal and business commitments and responsibilities within their organisations.

The In-House Community comprises over 21,000 individual in-house lawyers and those with a responsibility for legal and compliance issues within organisations along the New Silk Road, who we reach through the annual IN-HOUSE CONGRESS circuit of events, ASIAN-MENA COUNSEL magazine and WEEKLY BRIEFING, and the In-House Community online forum.



*Empowering In-House Counsel along the New Silk Road*



## In-House Community Counselors of the Year

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Asian-mena Counsel is grateful for the continued editorial contributions of:



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## INDIA



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## RBI granted powers to act on the resolution of stressed assets

By way of a circular dated May 5, 2017 (Circular)<sup>1</sup>, the Reserve Bank of India (RBI) amended the *Framework for Revitalising Distressed Assets in the Economy — Guidelines on Joint Lenders' Forum (JLF) and Corrective Action Plan (CAP)* dated February 26, 2014 (Framework)<sup>2</sup>. Upon receiving presidential assent to the Banking Regulation (Amendment) Ordinance, 2017 (Ordinance), the RBI issued the instant Circular.

This Ordinance introduced two new sections, ie Section 35AA and Section 35AB, which provide certain additional powers to the RBI. Firstly, the RBI (after receipt of an order from the Indian government) can now issue directions to a banking company to initiate insolvency resolution proceedings as provided under the Insolvency and Bankruptcy Code, 2016, against defaulters. Secondly, in addition to the above, the RBI can issue any other directions, as it deems fit, to a banking company for resolving the stressed assets issue and, thirdly, the RBI can also constitute authorities/committee(s) for advising the banks on resolution of stressed assets. The RBI has assumed new functions which put it in the category of a decision-maker as well as a regulatory authority.

Moreover, what needs to be highlighted here are the key features which have brought about a sea of change in the Framework. (1) The decisions agreed upon by a minimum of 60 percent of creditors by value and 50 percent of creditors by number in the JLF would now be considered as the basis for deciding the CAP, and will be binding on all lenders. This has been done with a view to make the decision-making process in

the JLF quicker. (2) Any no-adherence to timelines or instructions of the Framework by the banks shall attract the monetary penalties on the concerned banks. (3) The nature of obligations of the banks comprising of the JLF is now mandated to be unconditional, ie there is absolutely no scope left for any lender to seek for alteration in the CAP, where a bank may very much exit the JLF if it dissents with the final decisions, by selling

“The Indian government and RBI are taking every step possible to tackle the issue of bad debts. However, the question is whether the RBI will be able to handle such intricate and demanding responsibilities which the Ordinance establishes on it alongside its existing responsibilities”

their exposures to another lender within the stipulated timelines. However, if a bank is unable to substitute itself then it is bound to abide by the decision of the JLF. (4) The boards of the banks are now supposed to empower their executives to implement the JLF independently without seeking their further approval, hence reducing intervention

from the board and thus de-cluttering the already elaborate procedure.

It is now established that the Indian government and RBI are taking every step possible to curb and aggressively tackle the issue of bad debts. However, a question which would answer itself at a later stage is whether the RBI will be able to handle such intricate and demanding responsibilities which the Ordinance establishes on it alongside its existing responsibilities.

The introduction of the Ordinance has been termed as “credit positive” by the credit rating agency Moody’s, however it has further elaborated that the Ordinance does not address the key structural issues which are present in the banking industry such as the lack of capital in the state-owned banks to bring down the Non-Performing Assets (NPAs) to more realistic levels which raise doubts with regard to the level of success this change would bring in. Further, the applicability of Section 35AA & 35AB seems to be restricted to “banking companies” only and does not apply to non-banking financial companies. Also, the chance of a parallel claim being initiated by the member exiting the JLF due to its dissent with regards to the decision is yet to be resolved.

This grant of power and authority to the RBI for the resolution of stressed assets will act as a precedent in the future for handling NPAs efficiently. However, the performance and outcome of this Ordinance and further the Circular would be tested only upon actions taken by the RBI over stressed assets in the near future.

1. RBI Circular No. DBR.BP.BC. No.67/21.04.048/2016-17  
2. RBI Notification No. DBOD.BP.BC. No. 97/21.04.132/2013-14

# Stand Out With Hughes-Castell



## In-house

### Chief Legal Officer | 10-15 yrs pqe | Beijing REF: 14065/AC

This lead role in the subsidiary of a Fortune 500 company requires a talented lawyer with proven experience in overseas work. Based in the Beijing HQ, you will be responsible for providing advice and support on all legal matters affecting its worldwide business operations including M&A, contract negotiation, corporate governance and legal training. You must be a PRC-qualified lawyer with at least 10 years' PQE, preferably gained in a mix of MNCs and public corporations. An LL.M. degree and experience in the agrochemical sector are highly desirable but not essential; however fluent English and Mandarin are mandatory.

### Senior Legal Counsel | 10+ yrs pqe | Shanghai REF: 14059/AC

A global leader in cutting edge chip technology, our client is looking for a proactive Senior Legal Counsel with business acumen to lead its regional legal team based in Shanghai. You will provide legal advice to senior management and business units on corporate, regulatory and policy matters in North Asia, in addition to working on investment and M&A projects. You ideally have a JD/Law degree with over 10 years' PQE at a top-tier international or PRC law firm, as in-house and international experience is highly desirable. You must have experience in managing complex deals and large projects independently. Strong commercial legal background and experience in independently managing complex deals and large projects preferred. Fluency in spoken and written English and Mandarin is essential.

### Senior Legal Counsel, ASEAN | 10+ yrs pqe | Singapore REF: 13969AC

This global biochemical conglomerate is seeking a mature and talented qualified lawyer with a strong Asian background to be based in Singapore to support their

operations throughout ASEAN. This role covers a wide range of corporate and commercial issues. Working with subject matter experts in the APAC HQ, you will be managing a team of 3 in-country lawyers and being lead counsel for all legal matters in the SEA region. You must have over 10 years' PQE ideally gained in a leading law firm and an MNC plus experience handling issues and advising business in emerging markets and managing complex and ambiguous legal jurisdictions. Regular travel within the region will be required. Asian language ability is highly advantageous.

### Senior Legal Compliance Manager | 7+ yrs pqe | Bangkok REF: 14017/AC

One of the Asia's largest retailing groups is seeking a seasoned compliance lawyer to join its Bangkok office. You will primarily be providing advice on all compliance matters and managing legal risks whilst also implementing compliance policies, reporting regulatory updates, performing compliance investigations and maintaining healthy relationships with regulators. Ideally, you are Thai qualified with at least 7 years' PQE in international law firms or in MNCs. Fluency in written and spoken English is mandatory.

### Legal & Compliance Counsel | 6+ yrs pqe | Hong Kong REF: 14060/AC

A global market leader in its industry is seeking an APAC Legal and Compliance Counsel to provide support and advice on legal, compliance and ethical issues and programs. Based in Hong Kong, you will also be responsible for providing advice on commercial and R&D agreements, labour issues, competition law, plus ensuring compliance with regulatory bodies. You must have at least 6-10 years' PQE in commercial and corporate work at MNCs. Experience in implementing ethics and compliance programs is essential plus an excellent command of English and fluent spoken Chinese language skills.

## Private Practice

### Senior IP Lawyer, China | 5+ yrs pqe | Hong Kong REF: 14032/AC

Highly regarded global law firm is seeking an experienced Intellectual Property Lawyer with solid China experience to join its market-leading Hong Kong team. You will focus specifically on IP law in China and as such will have at least 5 years' PQE in China IP work including trademark and copyright. Fluent written and oral English and Mandarin skills are essential.

### Corporate Associates | 3-5 yrs pqe | Beijing REF: 14034/AC

This Magic Circle law firm is seeking a junior to mid-level Corporate Associate for its Beijing office. Ideally, you hold 3-5 years' PQE in M&A or private equity gained at a top-tier international or PRC law firm. The ideal candidate will be a PRC-qualified lawyer with a law degree from a top law school in PRC plus further legal education or overseas working experience. You should also have excellent English drafting skills and fluency in English and Mandarin languages skills both written and oral.

### Junior Corporate Associates | 3-5 yrs exp | Shanghai REF: 14043/AC

Excellent opportunity for a junior corporate lawyer to have further career development in this Magic Circle firm in Shanghai. You must be a PRC-qualified lawyer with at least 3-5 years' PQE gained at leading international or PRC law firms specializing in merger & acquisition or private equity work. You should have proven English drafting skills and fluency in English language skills both written and oral. Overseas legal education or working experience is highly desirable.

### Anti-Trust Lawyer | 2-3 yrs pqe | Hong Kong REF: 14074/AC

This Magic Circle law firm is seeking a mid-level Anti-Trust Lawyer for its Hong Kong office. The role will work on sophisticated anti-trust matters with an elite group of lawyers in a vibrant practice. You will have at least 2-3 years' experience in antitrust work at an international law firm, ideally in Hong Kong. Fluency in English is a must and Mandarin language skills are highly preferred.



To find out more about these roles

& apply, please contact us at:

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Your privacy and the privacy of others are important. By you supplying us with your personal data, which includes your CV and/or details of your referees, you have agreed to our collection, use and disclosure of such data to assist you in finding a job now or in future, as well as for marketing purposes. You agree that you have obtained appropriate consent to provide to us data from other person(s).



INDONESIA



By Dini Retnongsih and Indra Aditya Pambudy

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## New draft bill on the restriction of hard-cash transactions

The Indonesian government and the House of Representatives are currently in the process of drafting the Draft Bill on the Restriction of Hard-Cash Transactions. The objective of the restriction is to support the national non-cash policy and the national inclusive financial strategy, and more importantly to prevent and eradicate criminal acts and money-laundering activities. If the Draft Bill of 2017 is enacted, it will revoke and replace Law No. 18 of 1946 on the Obligation to Deposit Money in Banks.

### Scope of restriction

The Draft Bill of 2017 restricts "hard-cash transaction", defined as the withdrawal, disbursement, purchase, payment, gifting, sales and other activities using banknotes and coins, whether in rupiah or other currencies. Under this bill, unless otherwise exempted, any person (individual or corporation) may undertake hard-cash transactions in a maximum of amount of Rp 100 million or its equivalent in one day, whether under a single or multiple transactions. The bill further prohibits hard-cash transaction in excess of the Rp 100 million limit – any transaction exceeding this limit must be undertaken through a financial service provider that facilitates payment services (see Articles 3(3) and 4(1)).

Under Articles 5 and 6 of Draft Bill of 2017, any person, must also refuse hard-cash transaction exceeding 100 million rupiah or its equivalent in foreign currency. All public officials must also refuse to draw up deeds that accommodate the hard-cash transaction which violates such limitation. Violation of the above provisions will be subject to sanctions in accordance with the

prevailing laws and regulations. Any agreement, which involves hard-cash transaction that violates the said limit, will be void by law (see Article 7).

For foreign currency, Bank Indonesia's middle exchange rate at the time of the transaction will apply.

### Exemptions

Article 9 (1) of the Draft Bill of 2017 exempts certain transactions from the limit. Hard-cash transactions that are exempted include transactions:

- a. that are undertaken by financial service providers with the government and the central bank;
- b. that are undertaken between financial service providers for the purpose of conducting their own business operations;
- c. that involve the withdrawal of cash from banks for the purpose of the payment of salaries, allowances and wages (including official bonuses, honorariums, remunerations and incentives);
- d. for the purpose of paying taxes and other obligations to the state;
- e. for the purpose of executing an official court decision;
- f. for cash-in-transit purposes;
- g. for medical expenses;
- h. for mitigation of the impact of natural disasters;
- i. for legal enforcement purposes;
- j. that are being placed or deposited with a financial service provider;
- k. that involve the handover of foreign banknotes for the purpose of foreign currencies trading; and
- l. that are being undertaken in areas where

a financial service provider that facilitates payment does not yet exist or lacks proper payment-system infrastructure.

The exemption above is subject to further KYC-related requirements being met. Under certain circumstances, the financial service provider is required to refuse such hard-cash transactions and report it to the Indonesian Financial Transaction Reports and Analysis Centre (Pusat Pelaporan dan Analisis Transaksi Keuangan/PPATK) as a suspicious financial transaction (see Articles 10 and 11 of Draft Bill of 2017).

### Restrictions on the carriage of foreign banknotes

The Draft Bill of 2017 introduces new provisions on restriction on the carriage of foreign banknotes, which were not featured in the Draft Bill of 2015. Article 18 of the Draft Bill of 2017 requires any person who carries foreign banknotes in certain amounts to or from Indonesia's customs territory to obtain an approval from Bank Indonesia. Aside from Bank Indonesia's approval, the carriage of foreign banknotes or other payment instruments with values above Rp100 million or its equivalent should now also be reported to the Customs and Excise Office as required under Government Regulation No. 99 of 2016 on the Carriage of Hard-Cash and Other Instruments of Payment into or out of Indonesian Territory.

### Transitional provisions

If the Draft Bill of 2017 becomes law, agreements containing provisions on the settlement of payment of hard-cash transactions that were entered into before this law comes into force will remain valid and in-force until the period of the implementation of the agreement expires. The provision does not apply if there is an extension to the period of the agreement.

# The JLegal



Personality  
Questionnaire  
Experience

Every month, JLegal examines the PQE of a senior in-house counsel. This month we speak with Christopher Y. Chan and discover one of his favourite places to be is with family, celebrating Thanksgiving in the United States.

- What is on your mind at the moment?  
Running. Last year I had my second major knee surgery and it's prevented me from running. It's been really humbling as I patiently rebuild everything and deal with chronic pain.
- What secret talent do you have?  
I have a very high pain threshold.
- If you weren't a lawyer you would be a ...  
Diplomat.
- Where is the best place you have ever been to?  
While I like to discover new places, living abroad has made me really miss home and my family. The best place is my brother's house in San Diego where my family gathers once a year for Thanksgiving.
- What is your idea of misery?  
You know that feeling you get sometimes when you are in bed dreaming, and then you wake up, but you can't move your body. It's apparently called sleep paralysis. That's a pretty terrible feeling.
- What do you consider the most overrated virtue?  
Patience.
- What is your motto?  
"Try to live a life less ordinary." My other favorite motto is "nothing worthwhile is easy."
- If you could have one superpower it would be ...?  
The ability to understand any form of language and communicate with anyone or anything.
- What irritates you?  
I like to ask people when I meet them, what do they love to do (note: not "what they do"). It shouldn't bother me but I really hate it when people reply "shopping."
- Top 3 favourite movies of all time?  
The Motorcycle Diaries, Before Sunrise, Love Actually.
- What was your last Google search?  
Climbing Mount Merapi.
- Which of the Seven Dwarfs is most like you?  
I had to take one of those online quizzes to answer this question. According to the quiz, I'm most like Doc.

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**Christopher Y. Chan**

General Counsel & Head  
of Government Affairs  
at RedMart

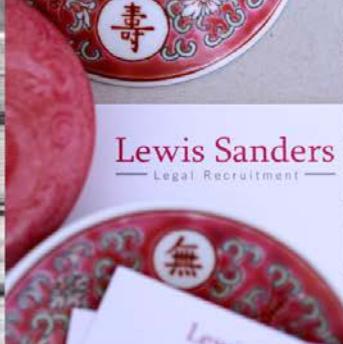


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**10<sup>th</sup> ANNIVERSARY** **Lewis Sanders**  
— Legal Recruitment —

**In-House**

**PRIVATE WEALTH HONG KONG 5-10 years**

Top tier investment bank seeks a mid to senior lawyer to cover a wide range of wealth management products. Candidates with a regulatory, funds, derivatives or broad banking background who are familiar with the SFO will be considered. Chinese skills are preferred. AC5073

**CORPORATE / M&A HONG KONG 5+ years**

Bio-medical technology company is seeking a lawyer with strong experience in commercial contracts, M&A transactions & familiarity with the listing rules. Prior experience with PRC companies & VIE structures advantageous. Fluent Mandarin & Cantonese skills are essential. AC5785

**BANKING / DCM HONG KONG 4-8 years**

Bulge bracket bank is looking for a US lawyer with banking & finance and/or DCM experience. Experience in leveraged acquisition finance would be ideal. US Securities experience would also be a strong advantage. Chinese skills not essential but would be preferred. AC6379

**MEDIA / COMMERCIAL HONG KONG 4-8 years**

In-house opportunity for a media/IP lawyer to join this HK conglomerate. You will work on a broad range of matters - media & entertainment, IP, commercial & regulatory. Prior exposure to media / commercial IP work preferred. Fluent English, Cantonese & Mandarin essential. AC6371

**CORPORATE / COMMERCIAL HONG KONG 3-5 years**

Listed technology company seeks a legal counsel with knowledge of the listing rules & general corporate experience from a reputable firm. A great opportunity for candidates who are keen on thriving in a young, vibrant & entrepreneurial environment. Mandarin skills essential. AC6497

**ED - FUNDS HONG KONG / SHANGHAI 9-12 years**

Asset management arm of top US investment bank seeks a senior legal counsel at ED level with strong experience in funds work, including authorized & private funds, as well as regulatory matters. Prior PRC-related experience is also essential. Business level Mandarin required. AC6212

**ASSISTANT DIRECTOR - REAL ESTATE HONG KONG 5+ years**

Professional association seeks a mid-level lawyer with experience in conveyancing practice. You will handle policy formulation, preparing reports & liaising with internal committees & external bodies. Strong communication & research skills and fluent English & Chinese required. AC6435

**COMMERCIAL HONG KONG 3-5 years**

HK-based retailer is looking for a mid-level legal counsel to advise on general commercial contracts & legal advisory work. You should have corporate & commercial experience gained in HK & Chinese language skills. Prior in-house experience is preferred. AC6491

**PRIVATE EQUITY HONG KONG 3-5 years**

Well known PRC financial institution seeks a mid-level lawyer with PE experience. You will advise on PE investment projects and M&A transactions in HK & China. Both HK & PRC qualified lawyers currently based in HK will be considered. Business level Mandarin is essential. AC6470

**CORPORATE / COMMERCIAL HONG KONG 3+ years**

British MNC seeks a PRC qualified lawyer to oversee the Group's legal and regulatory matters in China. Solid commercial experience gained from law firm/in-house, native Mandarin skills as well as strong communication skills are essential. Willingness to travel to China is required. AC6490

**Private Practice**

**TMT PARTNER/COUNSEL HONG KONG 10-20 years**

An established UK firm is seeking a Partner to join their top tier TMT practice in Hong Kong. The team advises across a genuine range of TMT work including fintech/digital banking. The ideal candidate should have strong TMT experience from a peer firm and strong regional experience. AC6287

**INSOLVENCY LITIGATION HONG KONG 5-8 years**

Global law firm seeking a mid to senior litigator with strong insolvency litigation experience at an international/HK law firm. Chinese skills preferred but not essential. Prior experience with business development and client-facing responsibilities will be viewed favorably. AC6438

**BANKING HONG KONG NQ-1, 2-8 years**

A reputable firm is looking to expand its banking & finance practice in HK. A junior and a mid-level associate with prior experience in banking matters with an international firm preferred. Fluent Mandarin & Chinese reading & writing skills essential. Competitive remuneration on offer. AC6091

**M&A PARTNER / COUNSEL HONG KONG 8-13 years**

Highly-regarded international firm seeks a Counsel/Junior Partner in HK. The ideal person will have extensive APAC M&A experience, fluency in English and top tier firm training. Excellent opportunity for a Counsel to step into a partnership role. No book of business needed. AC6390

**CORPORATE / COMMERCIAL HONG KONG 4-6 years**

Leading Hong Kong firm is looking for a corporate/commercial lawyer to join its legal team. Prior M&A or general commercial experience essential and a genuine interest in fintech matters is preferred. Chinese skills is not required. AC6496

**DCM HONG KONG 2-4 years**

Magic Circle firm seeks a junior to mid-level lawyer with DCM experience to join its team. Great opportunity to join a strong DCM practice with a collegiate working environment. Lawyers with UK qualification will also be considered. Fluent English & Mandarin skills are required. AC6331

This is a small selection of our current vacancies. Please refer to our website for a more comprehensive list of openings.

Please contact Emily Lewis, [elewis@lewissanders.com](mailto:elewis@lewissanders.com) + 852 2537 7408 or Eleanor Cheung, [echeung@lewissanders.com](mailto:echeung@lewissanders.com) + 852 2537 7416  
Karishma Khemaney, [kkhemaney@lewissanders.com](mailto:kkhemaney@lewissanders.com) + 852 2537 0895 or email [recruit@lewissanders.com](mailto:recruit@lewissanders.com)



# Lewis Sanders

Legal Recruitment

## In-House

### LEGAL DIRECTOR HONG KONG 10-15 years

Technology solution provider seeks a mid to senior level HK qualified lawyer with strong corporate in-house commercial experience. You will manage a team of lawyers in China & handle commercial contracts, M&A, IP & listing compliance matters. Fluent English & Mandarin required. AC6413

### SENIOR COMPLIANCE OFFICER HONG KONG 7-10 years

World's leading financial group seeks a senior officer to monitor & manage the business' regulatory compliance in Asia. You will be a relevant degree holder (law/finance/MBA) & have at least 6 years of compliance experience from other financial institutions. AC6088

### ACQUISITION FINANCE HONG KONG 5-10 years

PRC financial institution seeks a mid-level banking lawyer to sit with the business & advice on outbound M&A financing transactions. Strong banking experience gather from law firms/in-house as well as fluent English & Mandarin are essential. AC6300

### LITIGATION HONG KONG 3-6 years

Regulatory body seeks a junior to mid-level litigator. A good opportunity for someone who is looking to gain good contentious and non-contentious financial services/regulatory exposure. Competitive salary & good work/life balance on offer. Fluent written & spoken Chinese are essential. AC3767

### CORPORATE FINANCE HONG KONG 2-5 years

Well-known Chinese investment bank is looking for a mid-level lawyer with experience in corporate finance, M&A or asset management. Mandarin skills are essential. Attractive remuneration and collegiate working environment on offer. AC6429

### CORPORATE/REAL ESTATE HONG KONG 10+ years

A listed conglomerate seeks a HK qualified senior lawyer with experience in M&A, corporate finance & general commercial matters. Experience in commercial lending and exposure to the real estate market advantageous. Fluent English, Cantonese & Mandarin are essential. AC5357

### HEAD OF LEGAL & COMPLIANCE HONG KONG 10+ years

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## MALAYSIA



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## Fintech in Malaysia: Trends and recent legal developments

Financial technology (fintech) creates the possibility that financial services offered by traditional banking providers such as money transfer, lending, investment or payment can be done cheaper and more conveniently. To ensure they remain relevant in the market, financial services institutions in Malaysia have made aggressive efforts to embrace and keep pace with fintech either by acquiring the technology offered by the fintech companies or coming up with their own fintech solutions. Similarly, the central bank (Bank Negara Malaysia or BNM) and the Securities Commission of Malaysia (SC) have actively responded with legal and regulatory frameworks to facilitate the use of fintech in relation to financial services in Malaysia.

### Key trends in Malaysia

#### Peer-to-peer (P2P) financing and equity crowd-funding (ECF)

The introduction of P2P and ECF enable fund-raising from individuals or retail investors via an internet platform without an intermediary such as a bank, as well as funding or investment by investors in exchange for shares in startup entrepreneurs and small and medium enterprises. SC has, in the year 2016, approved six P2P operators, namely B2B FinPAL, Kapital, FundedByMe Malaysia, ManagePay Services, Modalku Ventures and Peoplender, as well as six ECF providers, namely FundedByMe (Alix Global), Ata Plus, Crowdonomic, Eureeca, pitchIN and Crowdplus.

#### Mobile wallet

Malaysia's largest financial services providers such as Maybank and CIMB aggressively pro-

moting the cashless trend through mobile wallets and other products. Maybank launched Malaysia's first mobile payment platform, MaybankPay, in July 2016, allowing users to simply tap their smartphones on Visa payWave terminals to make payments, which was followed by CIMB Pay in December 2016. Both recently announced that they will also introduce support for Alipay mobile wallet in Malaysia by collaborating with China's Ant Financial Services Group.

#### Fintech development by local banks

Hong Leong Bank has introduced early this year its HLB LaunchPad, a three-month mentorship and developmental programme targeted at nurturing the next-generation of promising Malaysian technology and fintech start-ups specifically focusing on the area of simplifying banking, digitising customer journeys and experience, and re-imagining banking for tomorrow.

Maybank also has recently launched Maybank Sandbox, which provides a complete ecosystem having all the essential components for free, to fast-track the growth of fintech developers across the region.

### Legal developments in Malaysia

#### Amendment to the Guidelines on Recognised Markets

The SC has amended its Guidelines on Recognised Markets in May 2016 by introducing the new Chapter 13, which set out the requirements for the registration and obligations of a P2P operator. The new Chapter 13 of the Guidelines requires, among other things, that P2P operators must pass the "fit and proper" test and disclose

information related to the issuer and the risk assessment and credit-scoring parameters adopted by the P2P operator. Further, the new Chapter 13 of the Guidelines states that the rate of financing cannot be more than 18 percent. In addition, the new Chapter 13 of the Guidelines provides the type of issuer and investor who can participate in the P2P.

The P2P framework introduced in the new Chapter 13 of the Guidelines enables eligible businesses and companies to access market-based financing to fund their projects or businesses via an electronic platform.

#### Fintech regulatory sandbox framework

BNM issued the Financial Technology Regulatory Sandbox Framework on October 18, 2016 to allow fintech companies to experiment with innovative solutions in a live environment, within specified parameters and timeframes. The Framework sets out the requirements as well as the eligibility criteria to be fulfilled by the stakeholder to participate in the said regulatory sandbox. The Framework aims to provide an environment that is conducive for the deployment of financial technology to foster innovations in financial services that can contribute to the growth and development of Malaysia's financial sector.

#### Digital Investment Management Framework

In May 2017, the SC introduced the Digital Investment Management Framework, which sets out the licensing and conduct requirements for the offering of automated discretionary portfolio management services to investors. Companies that wish to offer digital investment management services may apply for the new licence with SC effective May 9, 2017. The DIM Framework aims to provide investors with a more convenient, affordable and accessible channel to manage and grow their wealth.

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## PHILIPPINES



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## Clarifying the role of contractors and subcontractors

Recent changes to labour laws in the Philippines attempt to clarify the status of contractors and subcontractors in certain industries.

It was a common query in the business sector whether firms or companies in the business process outsourcing (BPO) or knowledge process outsourcing (KPO), and in the construction industry were covered by the rules of contracting and subcontracting arrangements previously embodied in orders issued by the Department of Labor and Employment (DoLE).

The recent issuance of Department Order No. 174, Series of 2017 did not help, given that the DoLE made an express but solitary exclusion of contracting or subcontracting arrangements in the construction industry from the coverage of DO No. 174. Hence the DoLE, through Department Circular No. 1, Series of 2017, once again clarified the non-applicability of the new rules to BPOs or KPOs. In fact, the circular made additional delineations.

### Business process outsourcing

At the onset, DO No. 174 only applies to a contracting and subcontracting arrangements involving three parties: a principal, a contractor and the workers engaged by the latter to accomplish a service that involves a singular activity, eg, janitorial, security, merchandising and other specific production work.

Accordingly, it does not contemplate information technology-enabled services involving an entire or specific business pro-

cess such as business process outsourcing, knowledge process outsourcing, legal process outsourcing, IT infrastructure outsourcing and back office operations/support, among others. Such companies are governed by other applicable provisions under the Labor Code and the Civil Code.

### Construction industry

Licensing and the exercise of regulatory powers over the construction industry is lodged with the Philippine Contractors Accreditation Board (PCAB) of the Construction Industry Authority of the Philippines (CIAP), and not with the DoLE. In this regard, Department Circular No. 1, series of 2017 expressly provides that contracting or subcontracting arrangements in the construction industry under the licensing coverage of the PCAB shall be governed by Department Order No. 19, Series of 1993 (Guidelines Governing the Employment of Workers in the Construction Industry); Department Order No. 13, Series of 1998 (Guidelines Governing the Occupational Safety and Health in the Construction Industry); and the DoLE-DPWH-DILG-DTU and PCAB Memorandum of Agreement-Joint Administrative Order No. 1, Series of 2011 on coordination and harmonisation of policies and programmes on occupational safety and health in the construction industry.

However, it should be noted that contractors licensed by the PCAB, who are nonetheless engaged in contracting arrangements in addition to or other than construc-

tion activities, shall be required to register under DO No. 174.

### Private security agencies

Department Circular No. 1, series of 2017 expressly provides that except for registration requirements provided for in DO No. 174, contracting or subcontracting arrangements in the private security industry shall be governed by Department Order No. 150, Series of 2016 or the Revised Guidelines Governing the Employment and Working Conditions of Security Guards and Other Private Security Personnel in the Private Security Industry.

### Other contractual relations

In cases that involve a bilateral contract between a principal and an independent contractor, it is the Civil Code of the Philippines and other special laws that shall govern these contractual relations.

Indeed, given the right of an employer to use various processes that would ensure the continued viability of his business, it can be expected that other industries in the business sector will seek to lobby an outright exclusion from the rules of contracting and subcontracting arrangements. We may as well anticipate that certain industries using complex business processes will strive to rationalise an excepted status from the aforesaid rules. In any event, the rules on outsourcing, or any law for that matter, should accommodate measures of flexibility that would aptly cater to the realities and imperatives of management and the work force.

*The article was first published in Business World.*

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## SOUTH KOREA



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## Are shares donated to a foundation subject to gift tax?

**H**wang Pil-sang, the founder of Suwon Kyocharo, a Korean daily newspaper, decided to donate money earned through his newspaper business to help students of the university he attended. He funded a scholarship foundation in 2005 and donated 90 percent of his shares in the newspaper to the foundation, which was worth about ₩22 billion (US\$20m). In 2008, the foundation was assessed as owing both a gift tax and an additional tax amounting to ₩14.4 billion. This tax assessment was based on the foundation having received more than 5 percent of the total issued shares of the newspaper. The foundation filed suit, arguing that imposition of a gift tax was unfair under these circumstances.

The Korean trial court agreed with Hwang, holding that his donation of shares was purely for scholarship purposes. However, the Korean Court of Appeals decided otherwise. It viewed Hwang and the foundation he funded as having a special relationship under the Inheritance Tax and Gift Tax Act, requiring payment of the gift tax. The case then went to the Supreme Court.

Under the Korean Inheritance Tax and Gift Tax Act, property donated to a public corporation such as a foundation is not supposed to be subject to a gift tax. However, if the assets donated are shares of stock with voting rights, then the Act contains an exception. It provides that the portion of the donated assets exceeding five percent of the

total issued shares is subject to a gift tax. Such an exception was included in the Act out of concern that a donor might use a massive donation of voting stock to a foundation having a special relation with the donor, to enable the donor to continue to exercise his/her voting rights in his company, even though he transferred the voting rights without paying gift or inheritance taxes. The exception, however, does not apply if the

“Under the Korean Inheritance Tax and Gift Tax Act, property donated to a public corporation such as a foundation is not supposed to be subject to a gift tax”

donor does not have a special relationship with either the company issuing the stock or with the donee, such that the donation may be deemed to be a legitimate donation (see Articles 16(2), 48(1) of the Inheritance and Gift Tax Act).

Notwithstanding the above requirements for the exception to apply, the Supreme Court reversed and remanded the case in April 2017 (Supreme Court Decision 2011Du21447 Issued on April 20, 2017). The majority opinion of the Supreme Court

held that even if a donor was the largest shareholder of a company issuing the stock, once the donation was made to the foundation it deprived him of being the largest shareholder. At that point the donor theoretically could not influence the foundation because he would not control the stock-issuing company, nor could he use the foundation as a means to control that stock-issuing company. Effectively, this means that in order to be subject to gift taxation, a donor must be the largest shareholder by combining his own remaining shares and the shares of the foundation.

But the majority held that such a combination would not necessarily occur solely because the donor gave shares to the foundation. Something more is required. The donor would need to have exerted control in the establishment of the foundation, such as by preparing the articles of incorporation and by appointing directors of the foundation. In this regard, the majority found that the court below needed to further consider the evidence to determine whether Hwang had also controlled the establishment of the foundation.

The dissenting opinion took a different view. It believed that even if the donor was not involved with establishing the foundation, the donor still was likely to be able to control its executives after it was formed. Therefore, the foundation was subject to a gift tax.

A final decision in this case will be made after a retrial in which the trial court will determine whether the donation was legitimate without the donor having the ability to continue controlling the newspaper corporation through the foundation.

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Global commodities company is looking for a legal counsel based in Singapore. Reporting to the Regional Counsel, the legal counsel will be responsible for advising the business and support teams on all corporate commercial matters as well as any dispute issues across the region. The ideal candidate should be qualified to a common law jurisdiction and with experience in international trade or shipping litigation work in Singapore. (IHC 15296)

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Fast growing retail brand seeks a legal counsel to support their global operations. You will advise on a wide range of operational issues including commercial contracts, IP, employment, regulatory matters. The ideal candidate will have 4+ PQE in a law firm or in-house. Chinese language (Cantonese and Mandarin) required. They can offer flexible part-time arrangement. (IHC 15423)

**International Legal Advisor** **HK/China 4-8 PQE**  
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## New regulation on title retention in Vietnam

The retention of title, a legal concept recognised throughout the world, has now officially become one of the security measures for the performance of obligations in Vietnam. Civil Code No. 91/2015/QH13 dated November 24, 2015, effective from January 1, 2017 (Civil Code 2015) outlines the regulations.

The term “title retention” was mentioned in previous Civil Code No. 33/2005/QH11 dated June 14, 2005, but it is only now that this concept has earned a position as one of the security measures for the performance of obligations.

### Definition and purpose of title retention

Title retention may be a familiar legal concept in many legal systems outside Vietnam. The best generally accepted definition for title retention states that it is a provision in a sales contract of goods that cause the purchaser to fulfil its obligations, mainly relating to payment, otherwise the seller remains in ownership of the goods. The definition of title retention in Civil Code 2015 is essentially in line with the above.

Title retention also has the purpose to protect the benefits of the seller or supplier,

“The best generally accepted definition for title retention states that it is a provision in a sales contract of goods that cause the purchaser to fulfil its obligations, mainly relating to payment, otherwise the seller remains in ownership of the goods”

especially the transactions in which the payment is divided into several instalments. Such transactions contain risks for the seller and makes them a vulnerable party.

### Core contents of title retention

Title retention does not itself take effect automatically, except for the case of a contract with deferred payment or instalment payment clauses. Title retention is considered as a contractual provision. This is to say that it must be made in the sales contract or in separate documents. Such title retention as a security measure may be registered as

agreed by the contracting parties or provided by law, and once so registered, shall be enforceable against third persons as from the time of registration.

The breach in the payment obligation of the purchaser shall lead to the right of the seller to reclaim its property. The seller, in return, has to reimburse the payment already made by the purchaser with the deduction of depreciated value due to use. In case the property is lost or damaged, such loss or damage shall be incurred by the purchaser by way of compensation.

Under Civil Code 2015, the ownership right comprised of the possession right, the using right and the disposition right. The purchaser, as a transferee in a sales contract of goods, shall have the right to possess and use the property, which means that the yield or income derived therefrom shall be at the sole discretion of the purchaser. Since the full ownership right has yet to be transferred, the purchaser within the effective term of title retention, shall have no disposition rights.

The Civil Code 2015 provides three termination cases of the title retention, consisting of the case where the obligation to make payment to the seller has been discharged, or where the seller recovers the property of which the ownership right is reserved, or whereas agreed by the contracting parties.

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EVENT REPORT

# Annual In-House Community gatherings in Kuala Lumpur, Jakarta and Bangkok



A packed plenary in Kuala Lumpur

Aside from our Counsels of the Year Awards Celebration (see page 27) and the inaugural Legal InnoTech Forum in Hong Kong (see page 20), May and June proved to be a busy couple of months for the In-House Community with the thirteenth annual In-House Congress Jakarta, sixteenth In-House Congress Kuala Lumpur, and fifteenth In-House Congress Bangkok respectively bringing together over 500 of our in-house members between them.

Each of the gatherings opened with our themed discussion for the year: “The Path to Excellence: How to benchmark the In-House Team’s evolution”, drawing from our exclusive members’ survey data we also asked what role external counsel and other providers can play to assist the in-house team along this path, and how technology might assist in the provision of legal and compliance services.

At all three forums there followed a day of vital and topical workshops. Our thanks go to all the speakers and their co-hosting firms mentioned below, as well as our sponsors, *Hughes-Castell* and *Robert Walters* for their support of these important In-House Community gatherings.

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



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Partner, Head of UAE  
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Regional Head of  
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Herbert Smith Freehills



**Deepak Pillai**  
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“Thank you for making this such an enjoyable affair every year” – *In-House Congress Kuala Lumpur delegate*

“... a great event with interesting discussions and useful topics for the development of lawyers of the country” – *In-House Congress Jakarta delegate*

“A wonderful event for the Community!” – *In-House Congress Bangkok delegate*

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



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Partner, Dubai  
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**Matthew Gorman**  
Partner  
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**Noor Meurling**  
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Managing Partner  
Lubis Ganie Surowidjoko



**Ahmad Maulana**  
Partner  
Assegaf Hamzah & Partners



**Dewi Sawitri**  
Senior Associate  
Dewi Negara Fachri & Partners  
(in association with Hogan Lovells)



**Patrick Zheng**  
Partner, Beijing  
Clyde & Co

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



**Patrick Dransfield**  
Publishing Director ASIAN-MENA COUNSEL and Co-Director In-House Community



**Jackson Pek**  
Vice President and General Counsel, Asia Pacific  
Amadeus IT Group, S.A.



**Susumu Hanawa**  
Partner  
Chandler MHM Limited



**Supattra Sathapornnanon**  
Partner  
Chandler MHM Limited



**Foifa Tharaphan**  
Partner  
Chandler MHM Limited



**Richard Wilmot**  
Partner  
Stephenson Harwood



**Vira Kammee**  
Partner  
Siam City Law Offices Limited



**Jessada Sawatdipong**  
Senior Partner  
Chandler MHM Limited



**Chavalit Uttasart**  
Managing Partner  
Siam City Law Offices Limited



**Desarack Teso**  
Legal & Corporate Affairs Director  
Microsoft Thailand



**David Lawrence**  
Senior Legal Counsel  
Sri Trang Agro-Industry Public Company Limited



**E. T. Hunt Talmage, III**  
Senior Counsel  
Chandler MHM Limited



**Paul Westover**  
Partner  
Stephenson Harwood

EVENT REPORT

# Legal Inno' Tech Forum – Hong Kong 2017

For the longest time, the legal profession seemed immune to change — particularly in Asia. But the long overdue modernisation of the industry is now proceeding apace, creating a host of challenges and opportunities that are shaping the future of legal services.

In recognition of the rapidly evolving landscape, In-House Community hosted its inaugural Legal Inno'Tech Forum in association with Axiom in June. The event, which was also co-hosted by BlackBerry and Navigant, brought together legal decision-makers and innovators to discuss these disruptive changes and share ideas on how to avoid being left behind.

Kirsty Dougan, head of Asia at

Axiom, knows a thing or two about that. Welcoming the attendees, she shared her experience of pioneering a new, disruptive legal services model in Asia in 2010 — when she was told repeatedly that Asia wasn't ready and that Axiom's model couldn't work.

Such attitudes were not surprising from an industry that had not changed much in more than a century. Today, preservation is all about innovation. The forum's opening speaker, Mitch Kowalski, a Fastcase 50 Global Legal Innovator and author of *Avoiding Extinction: Reimagining Legal Services for the 21st Century*, explained that tomorrow's leading legal service providers will be those that take an enterprise approach to

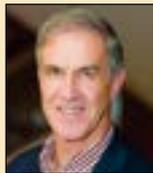


Kirsty Dougan of Axiom (right) opens up the discussion with Crystal Lalime

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



Mitch Kowalski, author of *Avoiding Extinction: Reimagining Legal Services for the 21st Century*.



Peter Connor, CEO and Founder of Alternatively Legal.



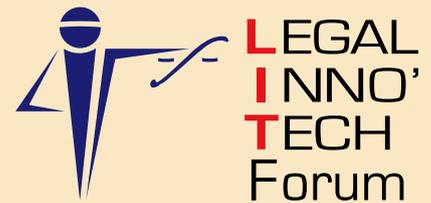
Kirsty Dougan, Head of Asia for Axiom, the world's leading provider of legal advisory services.



Fred Chan MBA, CPA, ACA, CFE, GCFE: Director for Disputes, Forensics and Legal Technology practice: Navigant.



Matthew J. Kendrick, General Counsel, Daimler Greater China, Ltd.



“The forum explored today’s state of the art with an emphasis on practical applications of technology in the industry and looked forward to what’s likely to come next. It was an enlightening afternoon”

– Inno' Tech delegate



Crystal Lalime, Managing Director and General Counsel of Credit Suisse Global Markets APAC division.



Nick Seddon, Director, Seddon And Co.



Michael Lin, US Patent Attorney Partner at Marks & Clerk.



Bill Novomisle, Founder and Chief Design Officer, In-Gear Legalytics Limited.



Ron Yu, Director, Gilkron and lectures on IP at the University of Hong Kong and Hong Kong Polytechnic University.



Rebecca Bradburne, Head of BlackBerry Workspaces, Asia-Pacific & Japan, BlackBerry.



Patrick Dransfield, Publishing Director, Asian-mena Counsel and Co-Director, In-House Community.



Rahul Prakash, Associate Publisher, In-House Community.

legal services — those who see law as a team sport.

“The current legal services delivery model is at the end of its natural lifecycle,” said Kowalski. “And the only people who don’t know it are members of the legal profession.”

That observation paved the way for the second session, which comprised a selection of the few legal professionals in Asia who not only recognise the mortality of the current model but are actively working to innovate new legal services.

The panel comprised Nick Seddon, director of Seddon And Co; Bill Novomisle, founder and chief design officer of In-Gear Legalytics; and Crystal Lalime, head of global markets legal for Asia Pacific at Credit Suisse; and was moderated by Dougan.

There was broad agreement that the traditional law firm model is no longer fit for purpose. As stock brokers and accountants recognised long ago, partnerships make it difficult to invest in technology and to be innovative, but law firms just can’t shake the habit. A big part of the problem, Novomisle argued, is that the billable-hour model means that inefficiencies are profitable.

Clients are not waiting for law firms to get their act together. Lalime and other



**Peter Connor introduces the array of alternative legal service providers**

in-house lawyers at major financial institutions, for example, are already investing significant sums in automation and technological solutions that can allow them to do more with less. As an added benefit, these innovations are also freeing in-house lawyers to spend more time with their internal clients, which means greater synergy and more added value.

However, it was not all doom and gloom for Big Law. In-House Community’s Patrick Dransfield cited the example of the music industry’s “Napster moment” as a potential source of optimism for law firms. Despite being completely oblivious to the

changing preferences of their customers, the big four music labels have remained dominant even as the industry has been turned on its head by digital disruptors — from the original peer-to-peer sharing platforms such as Napster to Apple’s iPod and modern streaming services such as Spotify.

Outlining a more proactive approach, Peter Connor, founder and chief executive of Alternatively Legal, argued that lawyers will need to learn a range of non-traditional skills to adapt and thrive in the future. These include process improvement, technology, risk management, design thinking, project management, business partnering and change management.

The final session of the day took a more detailed look at some of the specific technologies that are shaking up the industry, including artificial intelligence, regulatory technology, data protection and e-discovery, with panellists Fred Chan, director of Navigant; Michael Lin, US patent attorney and partner at Marks & Clerk; Matthew Kendrick, general counsel for Daimler Greater China; Rebecca Bradburne, head of BlackBerry Workspaces for Asia-Pacific & Japan; and Ronald Yu, director of Gilkron.

An  **In-House Community** event in association with

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“The current legal services delivery model is at the end of its natural lifecycle”  
– Mitch Kowalski

MOVES

The latest senior legal appointments around Asia and the Middle East

 AUSTRALIA

**Clyde & Co** has appointed **Jonathan Wyatt** as a partner in its insurance practice in Perth, Western Australia. He joins from Sparke Helmore, where he was also a partner. Wyatt grew up in Hong Kong and qualified in London before returning to Hong Kong, where he worked at Clyde & Co. Since 2000 he has developed a practice in Perth, primarily focusing on professional indemnity, directors' and officers' (D&O), general liability and marine. He is being joined by special counsel Paul Graham and two senior associates, Trent O'Neill and Alen Sinanovic, all from Sparke Helmore.



Jonathan Wyatt

 CHINA



Wu Man

**JuneHe** has hired two new lawyers. **Wu Man** is joining as counsel in the Shenzhen office. She joins from the China Securities Regulatory Commission, where she worked for 13 years, and will mainly advise on issues relating to securities compliance and asset management. **Zhou Xianfeng** is joining as a partner in the firm's Beijing office. He joins from Hesent, the Chinese

alliance firm of Pinsent Masons, where he advised clients on construction matters, primarily in relation to infrastructure projects.

 HONG KONG

**FitzGerald Lawyers** has added **Hans Lee** as a partner in its Hong Kong office, as head of the firm's IP practice. A chartered patent attorney (UK) and Hong Kong qualified lawyer, Lee works extensively in patents, trademarks, copyright, designs and trade secrets. He has particular experience in telecommunications, semiconductors, electronic devices, power tools, biotechnology, anti-counterfeiting technology and software. Lee was previously a partner in the IP practice at Nixon Peabody CWL and a member of the patent team at Bird & Bird Hong Kong.

**Orrick** has added **Mark Lehmkuhler** as a partner in the M&A and private equity group, resident in the firm's Hong Kong office. He focuses on M&A and private equity transactions, debt restructurings and other complex cross-border transactions. Lehmkuhler is deeply experienced in the technology, energy and infrastructure, and private equity sectors, having advised some of the most sophisticated companies and investors in inbound and outbound activities in Greater China and Southeast Asia. He previously practised in Asia for nearly two decades with Davis Polk, where

he was a partner. While at Davis Polk, he led the firm's corporate team on a number of high-profile and groundbreaking transactions, including CITIC Capital's US\$890 million going-private buyout of AsialInfo-Linkage, DLF's sale of the Aman luxury resorts chain, and Kerry Group's US\$950 million sale of its QGX coal mine to Mongolia Mining.

 INDIA

**Economics Law Practice** has added **Stalwart Devnath** as an equity partner to further grow and expand its tax and litigation practice. A highly regarded name within the litigation practice and Indian legal circles, Devnath has 22 years of experience and is an AOR, while also regularly appearing in matters before the Supreme Court of India. He joins the firm with his expert team of **Vivek Sharma** and **Abhishek Anand** from the litigation sector, as partner and associate partner, respectively.

 SINGAPORE

**Dechert** has added Singapore and English qualified **Siew Kam Boon** as a corporate partner based in Singapore. She was previously a partner at K&L Gates, focusing on M&As, private equity and emerging growth and venture capital. Boon focuses on M&As, with a significant background in cross-border transactions, and on private equity and emerging growth, with an emphasis on Pan-Asian matters. In addition to private equity funds, she has extensive experience working with venture capital funds, sovereign wealth funds and corporate clients across multiple industries. Throughout her career, Boon has been involved in some of the largest high profile M&A, private equity and venture deals in the Asia Pacific region. Her experience spans across various sectors, including technology, healthcare and life sciences, outsourcing, media, telecommunications, FMCG, energy, infrastructure and resources.



Siew Kam Boon

**Duane Morris & Selvam** has added **Gerard Hekker** as a director in its Singapore office and as a partner in San Francisco. Previously a partner in Sidley Austin's Singapore office, Hekker has worked in Asia for more than two decades and is also a former counsel with Skadden Arps in Singapore. Hekker concentrates on cross-border capital markets, M&A and telecommunications, media and technology transactions, and has particularly deep experience in Indonesia and other Asean markets. His capital markets experience includes representing issuers and underwriters on Rule 144A and Regulation S global offerings, as well as US-registered offerings of debt and equity securities. Hekker has advised public and private companies in Asia, the US and Europe on transactions

in a wide range of industries. Hekker is admitted in California and England and Wales, and is a qualified foreign lawyer in Singapore.

**Stephenson Harwood** has strengthened the arbitration practice of its Singapore alliance with the addition of **Timothy Cooke** as a partner. Cooke's practice is focused on international commercial arbitration, based predominantly in Southeast Asia. He brings more than 17 years of experience advising clients in the region in a broad range of disputes, often involving complex, cross-border matters and particularly in the fields of energy and infrastructure, construction and finance, as well as joint venture and other investment disputes. Cooke joins from Morgan Lewis Stamford.

### THAILAND

**DFDL** has appointed **Audray Souche** as the managing director of DFDL Thailand, succeeding Angus Mitchell in the role. Souche has been working in the region since 2002 and has more than six years of experience in the Thai jurisdiction, including five years as deputy managing director of DFDL Thailand. As deputy head of the regional energy, mining and infrastructure practice group, she has led teams on numerous energy, project development, financing and technical assistance matters in Laos, Cambodia, Myanmar, Thailand, Vietnam, Bhutan and Nepal, and launched the development of a dedicated regional renewable energy division.

**Weerawong, Chinnavat & Partners** has added **Khemajit Choomwattana** as a capital markets partner. A leader in capital markets and corporate acquisitions, he advises public and private companies on strategic transactions and has extensive experience in domestic and international offerings, capital increases and real

estate investment trusts. He obtained an LLB at Chulalongkorn University and an LLM in securities and financial regulations from Georgetown University, USA.

### UK

**Matthew Seligman**, called to the UK bar in 1994 after a career in music that included playing bass with David Bowie at Live Aid in 1985, is returning to London in July 2017 to resume his human rights practice. After 10 years as a tenant specialising in personal injury at 39 Essex Street in London (cases included the Marchioness/Bowbelle Formal Investigation, 2000-1),



Matthew moved to Japan with his family in 2005, but retained his tenancy. A return to London in 2008 saw him make a switch, and he developed a human rights practice as in-house Counsel first with Steel & Shamash and then Scott Moncrieff & Associates. Matthew was involved with some important decisions in the mental health field during this period (TTM v. LB Hackney [2011] HRLR 14, 1 WLR 2873, R(Sassay) v. SLAM [2011] All ER(D) 159). Matthew made a sudden return from London to his family in Sendai following the earth quake and tsunami in March 2011 (see A journey into the danger zone). He remained in Sendai until this summer. Now Matthew is returning once again to London and human rights, and next month will take up a position with Campbell Taylor Solicitors. Matthew will be based in their London offices in Dalston and North Kensington, scene of the recent tower block fire tragedy, where he will specialise in human rights, mental health, and also the firm's Court of Protection work.

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DEAL OF THE MONTH



asian-mena Counsel Deal of the Month

# WuXi Biologics' Hong Kong IPO

The trend of Chinese companies delisting from US stock exchanges was all the rage back in 2015, spurred by valuation envy as A-share prices skyrocketed and regulatory fatigue from the burden of US securities laws.

However, the expected flood of re-listings in Asia has not yet materialised. WuXi Biologics, a Chinese biotech services provider, became only the second company to have quit the US and re-listed in Hong Kong when it completed its US\$510 million initial public offering in June, after its parent company delisted from the New York Stock Exchange in December 2015 through a US\$3.3 billion management buyout.

The company offers discovery, development and manufacturing of biologics services to pharmaceutical and biotechnology companies.

Investors filled the order book more than 30 times over, allowing WuXi to sell the 17% stake at the top of its marketed price range — making it the biggest IPO in Hong Kong so far this year.

The attraction for investors is that WuXi offers a rare opportunity to buy into an Asian biotech player. It is yet to book any substantial profits, but the company's revenues soared 77 percent during 2016 and the IPO price valued the company at 30 times its projected 2018 earnings.

Shearman & Sterling advised **Bank of America Merrill Lynch, Morgan Stanley** and **China Merchant Securities** as joint sponsors, joint global coordinators and joint bookrunners. Hong Kong capital markets partners **Colin Law, Paloma Wang** and **Matthew Bersani** and Menlo Park tax partner **Laurence Crouch** led the transaction. **Wilson Sonsini Goodrich & Rosati** acted as Hong Kong and US counsel, and **Fangda Partners** acted as PRC counsel for **WuXi Biologics (Cayman)**, while **Maples and Calder**, led by partner **Derrick Kan**, acted as Cayman Islands counsel.

**Other deals during the past month:**

**Clifford Chance** advised **CVC Capital Partners Asia III** on the disposal of **SPi Global**, an outsourced service provider to education, science, technical and medical research publishers, for approximately US\$330 million. CVC is one of the world's leading private equity and investment advisory firms. Partner **Neeraj Budhwani**, supported by partner **Richard Blewett** (Beijing), led the transaction, which will complete CVC's exit from **SPi Global**.

**Gibson Dunn** represented **Goldman Sachs Private Equity** on its A\$1 billion (US\$749.5m) joint offer agreement to purchase a majority stake in **Icon Cancer Care**. Goldman Sachs is leading a consortium comprised of the **Queensland**

**Investment Corporation** and **Pagoda**. **Icon** is Australia's leading provider of radiation and medical oncology services. Hong Kong partners **Scott Jalowayski** and **Michael Nicklin** are leading the transaction.

**Herbert Smith Freehills** advised **Korea Gas (KoGas)** on its participation in the US\$11 billion **Coral Floating LNG** project in **Mozambique**. **KoGas** has a 10 percent interest in the project, which is led by **Eni** and also involves **China National Petroleum**, **GALP of Portugal** and **ENH of Mozambique**. The project marks the first floating LNG liquefaction project to be project-financed globally and is scheduled to begin production in 2022. All of the LNG to be produced from the field has been contracted to **BP** under a

take-or-pay LNG offtake contract spanning 20 years. Partner **Lewis McDonald**, assisted by partners **Martin Kavanagh** (London) and **Graeme Gamble** (Perth), led the transaction.

**WongPartnership** acted as Singapore counsel for **Tencent Holdings** on its investment in **Flipkart**, which operates India's leading e-commerce marketplace, as part of a consortium which includes **Microsoft** and **eBay**, in a US\$1.4 billion fundraising round. Partners **Low Kah Keong** and **Lau Kiat Wee** led the transaction.

For a full list of recent deals and their advisers, go to [www.inhousecommunity.com/deals/](http://www.inhousecommunity.com/deals/)



*Empowering In-House Counsel along the New Silk Road*



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 Legal Counsel, Technology** 5-8 yrs PQE, Singapore

A US organisation that is well-recognised in its area of expertise would like to hire a mid-level technology lawyer. You will be in a regional role and required to advise on a range of matters. The ideal candidate must be based in Singapore. Key responsibilities include structuring, reviewing, drafting and negotiating various IT contracts, including licence and reseller agreements; advising HR on employment matters; and reviewing tender proposals [Ref: JGB – IS 1725]

Contact: Benedict Joseph  
Tel: (65) 6818 9707  
Email: [benedict@jlegal.com](mailto:benedict@jlegal.com)

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### **Country Counsel, Biotech** 6-12 yrs PQE, Seoul

A leading global biotech company is seeking to appoint its first Korean legal counsel to manage the legal and compliance function for its growing operations in Korea. This dynamic position will provide broad-based legal support services to the company's commercial, medical and business functions. As the country counsel, this role serves as an adviser to the general manager and extended country management team. In addition, the role serves as the compliance officer for Korea and leads the compliance and business ethics programme for Korea. Prior experience in the pharmaceutical industry is essential. Fluent Korean and English are required. [Ref: 14092/AC]

Contact: Doreen Jaeger-Soong  
Tel: (852) 2520 1168  
Email: [hughes@hughes-castell.com.hk](mailto:hughes@hughes-castell.com.hk)

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### **Senior Legal Counsel, Insurance** 7+ yrs PQE, Hong Kong

A global insurance company seeks a senior legal counsel to join its well-established legal team. You will advise the business on a wide range of legal matters including issues relating to life insurance products and agency management. The ideal candidate will have a minimum of seven years' PQE in private practice or in a global insurance firm. Fluency in Cantonese (written/spoken) is required. [Ref: IHC 15444]

Contact: Claire Park  
Tel: (852) 2920 9134  
Email: [c.park@alsrecruit.com](mailto:c.park@alsrecruit.com)

### **Head of Legal and Compliance, Finance** 10+ yrs PQE, Hong Kong

A well-known PRC financial institution seeks a head of legal and compliance to join its Hong Kong office. The ideal person will have at least 10 years of experience in legal and/or compliance with significant exposure to IBD product compliance. Fluent English and Mandarin skills required. Competitive compensation package on offer. [Ref: PBP6515]

Contact: Karishma Khemaney  
Phone: (852) 2537 0895  
Email: [kkhemaney@lewissanders.com](mailto:kkhemaney@lewissanders.com)

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### **Senior Transactional Lawyer, Investment Banking** 5 yrs PQE, Hong Kong

A European Investment bank is seeking a senior transactional lawyer to join its global markets legal team in Hong Kong, focusing on strategic equity / corporate derivatives. The role itself will report directly into the Asia-Pacific head of equities legal. You will be expected to lead transactions from a legal perspective and support the corporate and wealth management business. Chinese language skills are preferred but not mandatory. Must have a minimum of five years' experience with strategic equity / corporate derivatives.

Contact: Lauren Pang  
Tel: (852) 2951 2123  
Email: [laurenpangtaylorroot.com](mailto:laurenpangtaylorroot.com)

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### **APAC Head of Legal, Fintech** 15 yrs PQE, Singapore

This is an Asia-Pacific lead role for one of the top players in the fintech industry, where you will be responsible for supervising lawyers in the region to support the legal agenda of the group. You will manage a team in handling all general corporate matters, from commercial contract reviews, data privacy, compliance and M&A to litigation support when needed. You will also help assess and proactively flag out any legal risks that may impact the business (development) regionally. Ideally you have spent at least the past four years in a supervisory or management role in a regional capacity. [Ref: JO – 1701]

Contact: Michelle Koh  
Tel: (65) 6407 1202  
Email: [michellekoh@puresearch.com](mailto:michellekoh@puresearch.com)



Kwek Chin Yong  
Associate Managing Director

# What should you do when a director gets arrested?

On December 6, 2016, Pacific Radiance Limited (PRL), a company listed on the mainboard of the Singapore Exchange (SGX) announced that an executive director had been arrested by the Singaporean authorities on suspicion that he had committed an offence under the Prevention of Corruption Act (Chapter 241). The announcement stated that the director had been arrested and placed on bail on December 2, 2016 and that he had not been charged in court. Following the announcement, the share price of PRL fell from \$0.155 to \$0.146. The next day, the share price of PRL fell further to \$0.14 amid relatively higher trading. This represents a fall of 9.6 percent in just two days.

It could be concluded from the above that the information regarding the arrest was material to the price or value of the shares in the market. However, this is but only one of the many concerns that a company should consider when a director is arrested for criminal investigations. There are also other risks that a company should consider.

First, such events present a significant legal risk to a company. SGX's listing rules appear to require that price-sensitive information be released on an immediate basis. Thus, if a listed company takes too long to release information regarding an arrest of a director, the company and its directors may fall foul of the SGX's listing rules, which in turn, may result in disciplinary proceedings by the SGX

“Such cases can take a long time to resolve, and the spectre of prosecution can result in substantial uncertainty and lead to staff attrition”

– or worse, prosecution for breach of the Securities and Futures Act (Chapter 289). Such proceedings are typically long-drawn, as shown from the case involving Airocean Group, which only concluded in 2012, even though the original incident took place in 2005, by which time the company ceased to be listed on the SGX.

Second, such incidents can present a significant operational risk to companies through a drain on manpower, as it is not uncommon for such cases to involve multiple employees from a single company and it is likely that employees may be repeatedly called up for investigations in the immediate or reasonably foreseeable future. Alternatively, employees allegedly involved in the event may have to be simultaneously placed on suspension pending the outcome of internal or external investigations, leaving the company with inadequate staff to operate. In addition, such cases can take a long time to resolve, and the spectre of prosecution can result in substantial uncertainty and lead to staff attrition. Hence, it may be prudent to conduct

internal investigations promptly (especially with the assistance of external professionals), with a view to making a definitive decision on the employment status of the employees before the investigations even conclude.

Lastly, arrests of employees and executives can severely impact the reputation of the company. This in turn can adversely impact business operations, for example if credit facilities are withdrawn. Also, customers and other stakeholders may turn away out of fear of being tainted by association with the company. As such, companies should consider conducting internal investigations with a view towards publicising key findings of such investigations, to assuage the concerns of the public and allow the business to move on.

The above risks are not exhaustive and differ from case to case depending on the nature of operations of a company. Also, such incidents do not frequently occur and companies are often ill-equipped to deal with them. Hence, should such situations arise, companies should not hesitate to seek professional advice, lest they be blindsided by issues which they failed to foresee.

[chinyong.kwek@kroll.com](mailto:chinyong.kwek@kroll.com)  
[www.kroll.com](http://www.kroll.com)



# The In-House Community Counsels of the Year Awards & Celebration 2017



Sixty-nine companies submitted teams to be considered for the In-House Community Awards this year – the Best Practice Awards; the Industry Awards; and the Best In-House Teams and Counsels of the Year 2017.

Guests from the UK, Korea, the United Arab Emirates, Hong Kong, Malaysia, Indonesia, Singapore, Vietnam, China, Thailand and the Philippines gathered at the Hong Kong Jockey Club Clubhouse on May 11th to celebrate excellence in legal service across the Asia-mena region.

Entertainment was provided by jazz geniuses Allen Youngblood and Scott Dodd, with a guest appearance from Hanım Hamzah, managing partner of Zico.

The In-House Community Counsels awards represent a comprehensive measurement of the performance and value-add of the in-house departments in Asia and the Middle East.

In-House teams are sharing data with us so that in time we can benchmark the in-house function against industry best practice.

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**■ BEST IN-HOUSE TEAMS/COUNSELS OF THE YEAR In-House Community Achievement Award**

**Winner:** Trevor Faure



Trevor Faure has been instrumental in changing the working dynamic between the in-house department and fellow stakeholders AND the in-house department and external counsel. The latter through, among others, the ground-breaking and award-winning relationship between Tyco EMEA, where he was general counsel, and Eversheds. His in-house counsel experience at Apple (EMEA), Dell (EMEA), Tyco International and most recently at EY Global has been instrumental in his authoring of *The Smarter Legal Model: More for Less*, the most comprehensive compendium of world-class business methodologies to maximise legal efficiency and effectiveness currently available.

**In-House Counsel of the Year 2017 Award**

**Winner:** Karim Fawaz – Cisco Capital

**Shortlisted:** Andrew Glendinning – PricewaterhouseCoopers Middle East Network  
Cherine Ghali – Dubai Group  
Debolina Partap – Wockhardt  
Deepa Tharmaraj – Dell FZ

Karim Fawaz is corporate counsel for Cisco Capital in the Middle East, Africa and Turkey, as well as being chairman of Cisco Capital in Dubai. He believes that in-house counsel need to innovate disruptive legal strategies and structures, and has demonstrated this in his role at Cisco Capital, where he represents the company on the Global Blockchain Council and is on the core team of Cisco’s Country Digitisation Acceleration initiative. This ground-breaking initiative is a long-term partnership to help countries around the world digitise their economies, creating the opportunity for the country to grow GDP, develop new jobs and provide innovation and education. The programme could not have been launched without the close partnership of Cisco’s legal team. Fawaz and his team have also initiated a comprehensive project automating all contracts for the Middle East region. Non-disclosure agreements are now

channelled through the company’s NDA Central, a no-touch tool that allows any account manager to produce an NDA in seconds that can be electronically signed by authorised signatories of both parties.

*Cisco Capital also won: International Legal Team of the Year – Middle East; Financial Services (ex-Banking) Team of the Year – Middle East; Knowledge Management Team of the Year – Middle East*

*I am honoured to recognise your amazing achievements, Karim. We are truly changing the digital world together — John Chambers, executive chairman, Cisco*

**International Legal Team of the Year – Asia**

**Winner:** AIG Asia Pacific Insurance

**Shortlisted:** 3M Asia Pacific  
ABB (China)  
Daimler Greater China  
Nike Sports (China)  
Sanofi (China) Investment

Navigating a complex regulatory environment across multiple markets, as well as staying at the cutting-edge of technologies that are impacting the insurance industry globally, AIG’s Asia-Pacific legal team has a challenging remit. In the face of the increasing workload and resource constraints, a legal support centre in Manila was established in January 2016 to serve as a shared services hub for the regional legal team. And one of the tools it has developed to help business units stay up-to-date on the diverse regulatory requirements applicable to AIG entities operating in different countries includes heat maps on privacy, outsourcing, and cyber security. AIG’s pro bono programme in the region has included partnering with DLA Piper on a major project to



Christine Tam and Peter Gregoire, AIG Insurance

provide a comparative review of statutory compensation schemes for victims of human trafficking across 20 jurisdictions.

**AIG also won: Insurance Team of the Year**

### Asian Legal Team of the Year

**Winner:** Sun Life Malaysia Assurance  
**Shortlisted:** Aboitiz Equity Ventures,  
Asian Development Bank  
CIMB Group  
Haier Group  
Ibiden Philippines,  
ITOCHU Corporation  
Melco Resorts & Entertainment  
Wockhardt

With just three lawyers, Sun Life Malaysia's legal team has helped the business identify, understand and comply with an increasingly challenging morass of laws and regulations affecting the insurance and takaful industry in the country, as well as rolling out local privacy guidelines. Armed with this experience, general counsel Hema Latha Sinnakaundan engaged with the government in the development of an industry code of privacy practice. She was also among a select few to be invited to provide input on the central bank's corporate governance guidelines. An impressively influential presence for such a small team.

**Sun Life Malaysia also won: Small Team of the Year**

### Middle East Legal Team of the Year

**Winner:** Dubai Group  
**Shortlisted:** Easa Saleh Al Gurg Group  
Dubai Group's US\$10 billion restructuring was extremely complex, with multi-layered intercreditor interests, diverse forms of funding and security issues, all requiring incredibly broad multi-jurisdictional finance and securities law knowledge. As if that wasn't challenging enough, the company reduced headcount at a critical point during the restructuring, leaving just two lawyers to manage a huge process that included more than 100 group companies. It was a steep learning curve for the team, requiring a high degree of creativity and innovation, but their efforts paid off when a comprehensive restructuring was finally signed with 100% of the company's creditors.

**Dubai Group also won: Change Management Team of the Year – Middle East**

## ■ BEST PRACTICE AWARDS

### Transactional Team of the Year

**Winner:** Melco Resorts & Entertainment  
**Shortlisted:** Haitong International Securities  
StarHub

Against a turbulent and challenging backdrop for the gaming industry, Melco's legal team helped ensure the successful opening and continuing development of Studio City, particularly through a senior secured notes offering and super senior revolving credit facility that raised a total of US\$1.2 billion, comprising one of the largest high-yield corporate bonds in Asia in 2016. The transaction involved complex intercreditor and security interest arrangements, as well as challenging legal and regulatory considerations. The legal team also worked on two very significant shareholder transactions conducted under time pressure and with execution substantially driven by the company.

*The dedication of Melco Crown Entertainment's legal team is evidenced by the team's willingness to work long hours on regular basis to complete deals with very aggressive timelines — Latham & Watkins*

### Change Management Team of the Year

**Asia winner:** Ibiden Philippines  
**Shortlisted:** Birla Sun Life Insurance

Ibiden's legal team was established in August 2014, focusing on contract review, legal advisory and management of external counsels, but soon expanded to include compliance, specifically on ethical and labour standards, and later immigration and Philippine Economic Zone Authority work. Three years from its establishment, the legal and compliance function is now an eight-member all-female team that has evolved from providing a strictly legal service to business problem solvers. In addition, the team provides has positively contributed to the bottom line by reducing external counsel fees by 60% and removing consultants that do not provide excellent performance.

### Innovation Team of the Year

**Winner:** Wockhardt  
**Shortlisted:** Hilti Asia  
Sanofi (China) Investment

Innovation is a core principle within Wockhardt, including in the legal department. As part of this, the legal team actively seeks to promote and encourage the flow of information and knowledge sharing, focusing on development, positive communication, leadership skills and team work. The team "combines a modern progressive approach, adapting



Debolina Partap (second from right) and the team from Wockhardt

innovation in systems and processes,” says Gautam Bhattacharyya, partner at Reed Smith. Handling a varied portfolio, the team is seen as a profit driver rather than a cost centre. Its remit includes safeguarding the company’s US\$1.5 billion intellectual property assets, providing solutions and risk mitigation in contract management, and representing the interests of the organisation in various regulatory and litigation fora.

### Knowledge Management Team of the Year

**Asia winner:** Daimler Greater China

**Shortlisted:** StarHub

Having taken leadership roles in Daimler’s Big Data project for China, several members of the company’s legal team are now coordinating the project with teams in six different countries and providing practical legal and ethical advice on the use of data from its many products and from multiple internal and external sources. The China legal team is often at the forefront of these issues globally, meaning it must be innovative and agile in its approach. With a relatively small team, Daimler has innovated a “swarm” concept where its lawyers will come together, crossing their departmental lines in order to get a project completed on time or ahead of schedule. As a result, the lawyers are viewed as problem solvers and valued business partners, not obstructionists.

### Corporate Social Responsibility Team of the Year

**Winner:** Asian Development Bank

**Shortlisted:** Aboitiz Equity Ventures

More than a dozen ADB lawyers volunteered to take additional projects under the organisation’s Law and Policy Reform programme. Thanks to this initiative, six supreme courts in the region have established “green benches” to specialise in environmental litigation. The LPR team also created programmes in Afghanistan, Pakistan and Tajikistan to raise awareness among men and society of the more liberal role of women under traditional Islamic teachings,



Ivy Lai of Reed Smith present the award to Manuel Alberto Colayo of Aboitiz Equity Ventures

working with imams, scholars and media. The team also created a “legal literacy” programme for women to be aware of their rights and available services, as well as helping the Maldives pass its Gender Equality Law.

### Diversity Team of the Year

**Winner:** Itochu Corporation

**Shortlisted:** 3M Asia Pacific  
Asian Development Bank  
Cisco Capital

Mitsuru Claire Chino is the first and only female executive officer not just within Itochu, but also in the industry in Japan. She was recently part of the Keidanren Women Executives Mission to Washington DC, where she spoke on the role of women in the economy. The company’s legal team is 30% women, which is much higher than the average of 10% found in the rest of corporate Japan. Across the broader corporate environment in Japan, just 3.4% of executive positions at listed companies are held by women. The country has a long way to go to meet its target of 30% of managerial positions being held by women in 2020, so Itochu is to be applauded for achieving that goal in such a conservative environment. The team also includes many foreign lawyers. With a team of 45, the legal division reviewed approximately 400 transactions and 2,000 agreements during 2016.

*Mitsuru Claire Chino has led the legal division and through her resilient and strong leadership has contributed greatly to the success of many transactions ... She is one of the most promising female executives of Japan — Takeshi Hachimura, CFO, Itochu*



Sarah Grimmer of HKIAC present the awards to Albert Wang of 3M China



Cherine Ghali, Dubai Group

### Business Integration Team of the Year

- Winner:** Nike Sports (China)  
**Shortlisted:** Daimler Greater China  
 Hilton Worldwide  
 JTI  
 Singapore Telecommunications

Nike's business has been growing dramatically in Greater China in recent years, with almost 9,000 employees, 179 stores and more than 6,000 partner stores across mainland China, Hong Kong, Taiwan and Macau. This pace of growth has posed a considerable challenge to the legal team, which responded with the creation of a "window lawyer" concept where each lawyer was assigned as the single-point-of-contact for certain business units. This has allowed the team to avoid last-minute legal requests and provide more effective and proactive legal support.

## INDUSTRY AWARDS

### Banking

- Winner:** CIMB Group  
**Shortlisted:** Asian Development Bank  
 RBL Bank

As part of CIMB's mid-term strategic initiative to recalibrate its businesses and strengthen growth, the group legal team has worked closely with key business units in reviewing new products and services, revamping commercial terms and policies, and improving turnaround time, among other things. In particular, the team has provided solutions for new technologies in the digital banking business, facilitated standardisation of documentation in the transaction banking business and helped with CIMB's new global procurement centralisation framework, including design of the strategic bid approach, RFP evaluation given by bidders and new group-wide template agreements.

### Conglomerates

- Winner:** 3M Asia Pacific  
**Shortlisted:** Dubai Group  
 Easa Saleh Al Gurg Group  
 Itochu  
 MMC Corp

Supporting a diverse conglomerate that covers industrial, healthcare, electronics, safety and consumer, with more than 20,000 products in the portfolio, 3M lawyers are kept busy. With around 40 legal professionals, the team works on deals that support the business as it seeks growth opportunities in the region, such as market expansion in Myanmar, major acquisitions or distribution agreements – guided by its innovative Growth Agenda Signature Moments programme. With such a broad business, the team also plays an important role in identifying key risks and protecting the company through both reactive and preventive law. It has focused on delivering value through the use of automation for high-volume, lower value-add contract review, and has established a global legal services centre in India that is staffed with more than 20 legal professionals.

### Energy & Natural Resources

- Winner:** ABB (China)  
**Shortlisted:** Golden Agri-Resources  
 Sino French Water Development  
 Company Limited

ABB's legal team has supported the business in a broad variety of M&A, restructurings and commercial projects, particularly on its Xiamen Hub project – ABB's biggest manufacturing hub worldwide, where it has invested Rmb2 billion in land acquisitions and consolidated eight local companies, two global R&D centres, 19 locations and 4,000 employees in Xiamen. The legal team has not only functioned as legal counsel on this project, but also acted as the leading focal point of ABB internal teams in resolving

numerous issues with local government agencies and external parties. Among its comprehensive CSR activities, ABB has contributed Rmb13 million to help more than 4,000 students go to university since 2005.

### Financial Services (ex-Banking)

**Asia winner:** Aboitiz Equity Ventures

**Shortlisted:** Haitong International Securities  
Principal International (Asia)

Catering to more than 130 companies, Aboitiz Equity Ventures' legal team needs a strong legal and compliance structure. To this end, it restructured in July last year to create two separate groups – Legal Management Services and Governance and Compliance – to better focus on supporting the business as it grows locally and regionally. As well as organising into cross-functional teams to improve efficiency and reduce costs, the contracts and commercial transactions team has also developed a keep-it-short-and-simple (Kiss) model, whereby more than 150 templates have been prepared for the various transactions the business units encounter in their day-to-day operations. CSR efforts have included disaster relief operations, tree planting and the Aboitiz Scholarship Programme.

*The LMS Team is a group of extremely dedicated, committed, hands-on, proactive, reliable and efficient lawyers, providing exceptional value and legal support to the different business units across the Aboitiz Group — Jose Vitug, Retired Associate Justice, Supreme Court of the Philippines*

### Life Sciences & Pharma

**Winner:** Sanofi (China) Investment

**Shortlisted:** DSM (China)  
Wockhardt

Sanofi's legal team has driven a shift in the way it integrates with its internal clients, changing its role from that of a goalkeeper to a business partner, with lawyers deeply involved in the company's innovative business model, from business negotiation to project implementation. This includes an important role in supporting the strategic partnerships with state-owned China Resources Sanjiu and JHL Biotech, as well as a strategic collaboration framework agreement with Alibaba. To drive efficiencies, the team's simple contract database has reduced the burden of contract formalities on the business units, allowing them to focus fully on their business responsibilities.



Michael Pepper of Reed Smith presents the award to Christine Zhuang of Sanofi China

### Manufacturing & Engineering

**Winner:** Hyundai Heavy Industries

**Shortlisted:** Corning  
Daimler Greater China  
JTI  
KONE Corporation  
Mahindra & Mahindra

The majority of HHI's business is conducted overseas, in diverse foreign jurisdictions. To enhance its ability to deal with a broad range of foreign-law issues and identify key legal concerns in a timely manner, the legal team has developed an innovative online system for compiling jurisdictional research, experience and know-how into an internal database that has reduced dependence on external resources. As part of its integration efforts, the team has developed standard forms and oversees standardised legal risk evaluations for projects to address recurring issues, including risk analysis checklists and negotiation strategies. The team also handled construction, labour and regulatory disputes with values exceeding US\$10 billion during the previous year, and has successfully negotiated settlements of more than US\$1 billion in claims.

### Property, Infrastructure & Logistics

**Winner:** MTR Corporation

**Shortlisted:** Cosco Shipping Ports  
MTR Corporation  
State Grid International Development

*They always brief us on legal developments relevant to our business – Terry Wong, deputy director, Australian business, MTR Corp*

During the past decade, MTR Corp has grown from a local Hong Kong railway operator to one of the world's leading railway enterprises, and the legal team – which consists of around 60 staff – has contributed significantly to this development. For example, the team is quick to identify changes of law that may translate into business opportunities, such as the relaxation of restrictions to certain businesses under the PRC Catalogue for the Guidance of the Foreign Investment Industries, and helped put together winning bids for London Crossrail, Sydney North West Rail Link, Stockholm Commuter Service and Beijing Lines 14 and 16.

### Retail & Healthcare

**Winner:** Haier Group

**Shortlisted:** AEON  
Aster DM Healthcare  
Nike Sports (China)

As Chinese consumer electronics group Haier has grown into an international brand, its legal team has similarly developed its capabilities, setting up a global platform for legal services, rules and data, covering legal services in 35 jurisdictions worldwide. Each year, the team handles about 34,000 commercial contracts, processes about 1,150 corporate matters and settles about 30 commercial disputes. During 2016, the team participated in several significant projects, with major partners such as Alibaba and Sinopec, and was instrumental in the US\$5.6 billion acquisition of GE Appliances by Qingdao Haier, a listed subsidiary. In terms of innovation, an in-house commercial legal cloud system facilitates standardised contracts and documentation, and the sharing of legal and compliance information across the group.

*The Haier team has always been incredibly dedicated, bridging commercial issues with legal solutions ... Their efficiency and business savvy allows external counsel to bring effective solutions — Vivian Tsoi, partner, White & Case*

### Technology, Media & Telecom

**Asia winner:** Singapore Telecommunications

**Shortlisted:** Ibsiden Philippines  
Infor (China)  
Intel Semiconductor (US)  
JTH Group  
Samsung Electronics Indonesia  
StarHub  
Viacom18 Media

As one of the most prominent brands in Singapore and a key player in the rapidly evolving information and



communication technologies sector, SingTel's legal team often finds itself at the forefront of the law, advocating for legislative changes to "old law" that is not technology neutral to new products or business structures. For example, the team contributed important input to the recent Copyright Amendment Act. Internally, it has also learned to change and adapt, revamping its knowledge management site, building a legal website to empower business clients to handle simple matters themselves and providing in-house legal education that uses humour and role-playing to communicate dry legal concepts. The team even provides legal awareness talks for staff on non-work matters such as consumer rights, wills and probates, real estate law and much more. Significant projects the team has worked on in 2016 include Singtel's acquisition of stakes in InTouch and Bharti Telcom, and the launch of cyber security initiatives with the National University of Singapore and internally.

### Middle East winner: Dell FZ

With aggressive plans to expand sales in the Middle East, Turkey and Africa, Dell's business leadership has relied heavily on regional counsel to support these ambitious goals within a less than mature legal system and alongside a unique set of challenges that makes up the macroeconomics of the region. Through education, coaching and open communication, the legal team has helped the business side to quickly recognise red flags so that workable solutions can be found. At the same time, costs have been driven down – by as much as 70% in Turkey – through the creation of self-help tools and a unique external counsel review that saw outside firms spend two days in the office to meet different clients and then assess the business risks. More savings were achieved by repurposing software for generating bid letters to generate statements of work, instead of reinventing the wheel. After a 12-month project, almost 100% of SOWs are generated from this tool in this region.



### Travel & Leisure

**Winner:** Melco Resorts & Entertainment

**Shortlisted:** Hilton Worldwide  
InterContinental Hotels Group  
The Hongkong and Shanghai Hotels

Though relatively small in the context of a listed company in a regulated industry, Melco Resorts & Entertainment’s legal team leans on the deep experience of its counsels in Hong Kong, Macau and the Philippines. The seniority of its team has been particularly valuable given the unprecedented challenges facing the nascent gaming industry in Macau and Asia generally – and has meant that costs have been controlled and the expertise of external counsel can be more efficiently brought to bear. It has also meant that the legal team is a valued partner that is included by the executive management team in all discussions on both operational and extraordinary transactions.

## EXTERNAL COUNSEL AWARDS

### Most Responsive Firm of the Year

**Winner:** Baker McKenzie

### External Counsel of the Year – South Asia

**Winner:** Yozua Makes of Makes & Partners

### Visionary Legal Services Provider – Non-Law Firm

**Winner:** KorumLegal

### Visionary Law Firm Asia

**Winner:** Yulchon

### Visionary International Law Firm

**Winner:** Eversheds

**Shortlisted:** Axiom  
Cyril Amarchand Mangaldas  
Jingtian & Gongcheng  
Rajah & Tann Singapore  
Trowers & Hamblins  
Yoon & Yang  
Zico Law  
Baker & McKenzie

*[Eversheds] has demonstrated that they are among the best lawyers in the world – Avis Budget Group*

## Our panel of judges



**Evangelos Apostolou**, President, EMEA SirionLabs. Formerly Asia-Pacific General Counsel for EY, BT and Fujitsu.

**David Miles**, Chairman of Asia Community Venture. Formerly Chair of Latham & Watkins’ Asia and Managing Partner of Latham & Watkins’ London office.

**Kirsty Dougan**, Head of Asia for Axiom. Formerly Regional Counsel for Diageo in Shanghai and law lecturer in the UK.

**Ginny Wilmerding**, Partner, Hong Kong, of Brunswick Group.

**Joanna Donne**, Director, Hong Kong at Brunswick Group.

**Patrick Dransfield**, Publishing Director, Asian-mena Counsel and Co-Director of In-House Community.

**Tim Gilkison**, founder and Managing Director, Pacific Business Press and the In-House Community.

## FULL LIST OF WINNERS:

### ■ Best Practice Team of the Year Awards

Small Team – Winner:	Sun Life Malaysia Assurance
Business Integration – Winner:	Nike Sports (China)
Transactional – Winner:	Melco Resorts & Entertainment
Change Management – Asia Winner:	Ibiden Philippines
Change Management – Middle East Winner:	Dubai Group
Innovation – Winner:	Wockhardt
Knowledge Management – Asia Winner:	Daimler Greater China
Knowledge Management – Middle East Winner:	Cisco Capital
Corporate Social Responsibility:	Asian Development Bank
Diversity:	Claire Chino, General Counsel of Itochu Corporation

### ■ Industry Team of the Year Awards

Banking Winner :	CIMB Group
Conglomerate Winner:	3M Asia Pacific
Energy & Natural Resources Winner:	ABB (China)
Financial Services (ex-Banking) – Asia Winner:	Aboitiz Equity Ventures
Financial Services (ex-Banking) – Middle East Winner:	Cisco Capital
Insurance Team Winner:	AIG Asia Pacific Insurance
Life Science & Pharma Winner:	Sanofi (China) Investment
Manufacturing & Engineering Winner:	Hyundai Heavy Industries
Property, Infrastructure & Logistics Winner:	MTR Corporation
Retail & Healthcare Winner:	Haier Group
Technology, Media & Telecom – Asia Winner:	Singapore Telecommunications
Technology, Media & Telecom – Middle East Winner:	Dell FZ
Travel & Leisure Winner:	Melco Resorts & Entertainment

### ■ External Counsel of the Year Awards

Deal Firm of the Year:	Clifford Chance
Most Responsive Firm of the Year:	Baker McKenzie
External Counsel of the Year – South Asia:	Yozua Makes of Makes & Partners
Visionary Legal Services Provider – Non-Law Firm:	KorumLegal
Visionary Law Firm Asia :	Yulchon
Visionary International Law Firm:	Eversheds

### ■ Best In-House Teams / Counsels of the Year

Middle Eastern Legal Team of the Year:	Dubai Group
International Legal Team of the Year – Middle East:	Cisco Capital
Asian Legal Team of the Year:	Sun Life Malaysia Assurance
International Legal Team of the Year – Asia:	AIG Asia Pacific Insurance

### ■ In-House Counsel of the Year 2017 Award

- Karim Fawaz – Cisco Capital

### ■ In-House Community Achievement Award

- Trevor Faure

# Indonesia revisits online taxi issue

By Zacky Zainal Husein of Assegaf Hamzah & Partners

Indonesia's previous attempt to regulate app-based online taxis, which came into force on October 1, 2016, clearly failed to resolve the tension with conventional taxi providers.

On one hand, conventional taxi providers argued that the rules effectively legalised the operation of online taxis, while on the other hand, the online taxi providers complained that the regulation adversely affected their business model through such things as the requirement that their vehicles have a minimum engine size of 1,300cc and that they provide car-pool facilities. These requirements, they argued, were akin to those applicable to conventional taxi providers. The intense competition to attract customers continued and even led to violence in several areas.

In responding to the deficiencies of Minister of Transportation Regulation No. PM 32 of 2016 on Unscheduled Public Transportation Services (MOTR 32/2016), the Minister has revoked and replaced it with Regulation No. PM 26 of 2017 on Unscheduled Public Transportation Services (MOTR 26/2017), which was issued on March 31, 2017.

The Minister presumably believes that MOTR 26/2017 is more accommodating to the demands of both parties. For example, MOTR 26/2017 introduces a new term, "Special Rental Vehicle (Angkutan Sewa Khusus)", which is defined as a door-to-door transportation service with driver, operating within an urban area, and reserved using an IT-based application. Through this term, MOTR 26/2017 attempts to accommodate online taxis and distinguish them from other forms of public transportation. An online taxi is no longer required to use a yellow number plate to indicate that it is a public transportation vehicle, but rather can use the black number plate used by normal private vehicles, subject to its being marked by a special sign indicating that

the vehicle is operating as an online taxi. Conversely, despite protests by online taxi providers, the Vehicle Registration Number Certificate / Surat Tanda Nomor Kendaraan of an online taxi must be in the name of a legal entity, and may not be in the name of an individual owner. This provision is in line with Law No. 22/2009, which states that public transportation services may be provided by state enterprises, local government enterprises, and/or other legal entities in accordance with the prevailing laws and regulation. This requirement purports to protect customers in the event of a dispute. The fact that the vehicle must be in the name of a legal entity provides some degree of comfort as to where a complaint or claim should be directed. In addition, this requirement is also aimed at facilitating the collection of taxes from online taxi providers.

It should be noted that MOTR 26/2017, as was the case with MOTR 32/2016, only applies to unscheduled public transportation services using vehicles with four or more wheels. Consequently, motorcycle taxis are not affected. This is somewhat surprising given that there have been a number of signals from the minister that the motorcycle taxis would be regulated as well.

One of the key, and most controversial, aspects of MOTR 26/2017 is the regulation of fares. Local governments have been given the authority to determine maximum and minimum fares for online taxis based on pricing mechanism as determined by the governor in the case of online taxi providers whose operations cover more than one regency (county) or municipality within a single province (outside Jakarta, Bogor, Depok, Tangerang, and Bekasi) or the head of Jakbodetabek Transportation Management Board, in the case of online taxi providers whose operations cover more than one



“One of the key, and most controversial, aspects is that local governments have been given the authority to determine maximum and minimum fares for online taxis”

*Zacky Husein*

province in the Jakarta, Bogor, Depok, Tangerang, and Bekasi (Jabodetabek) area. This may help discourage alleged predatory pricing among online taxi providers. In practice, the price war between online taxi providers has adversely affected drivers' earnings. As most of them acquire their vehicles through leasing, a “race to the bottom” in pricing terms could obviously affect their ability to pay their instalments and eventually lead to repossessions.

MOTR 26/2017 also provides authority to the governor or head of the Jabodetabek Transportation Management Board, as the case may be, to determine quotas for online taxis operating in their region for a period of five years. This provision is intended to create a balance between the number of vehicles on the roads and road capacity so that a headlong rush to get online taxis onto the road can be avoided.

While some argue that MOTR 26/2017 tends to favour conventional taxi providers, in reality it also accommodates the interests of online taxi providers by reducing the minimum engine capacity of online taxis from 1,300cc to 1,000cc, replacing the requirement to provide a car-pool facility to only providing a vehicle parking facility, and simplifying the requirement to own a maintenance facility (garage) so that it will now be possible to collaborate with other garages to provide maintenance facilities.

Article 50 of MOTR 26/2017 specifically

regulates the role of an app-based transportation provider (ATSP). In this regard, the new regulation is actually quite similar to the provisions of MOTR 32/2016. In order to conduct its business, an ATSP is required to collaborate with a public transportation company that holds a transportation licence. Given that an ATSP is prohibited from acting as a public transportation company, it is accordingly prohibited from:

1. Determining and collecting fares from passengers;
2. Hiring drivers;
3. Providing access to an app to an individual as a transportation service provider; and
4. Providing access to an app to a public transportation company that has not obtained a licence from the relevant authorities.

Moreover, an ATSP must be established as an Indonesian legal entity and must fulfil the following criteria:

1. Enters into contracts, and conducts sales and/or services delivery, and bill collection;
2. Has a bank account in Indonesia to accommodate the proceeds of sales or services conducted or provided in Indonesia;
3. Has or controls a server or data centre in Indonesia;
4. Conducts marketing, promotion and assistance operations; and
5. Provides a customer complaint service.

“The new regulation gives the impression that the government is at best lukewarm about the online taxi providers and the technological innovation that has spawned them”

The new regulation also requires an ATSP to provide dashboard access to the government for supervision purposes. This access shall at least include the following information:

1. The name, person in charge and address of the ATSP;
2. Information on all companies that the ATSP has entered into collaborative arrangements with;
3. Information on all vehicles and drivers that are registered in the ATSP system;
4. Access to operations monitoring in form of tracking the movement of vehicles and fares; and
5. Customer complaint service in the form of a dedicated phone number or email address for customer complaints. Lastly, while MOTR 32/2016 did not include specific sanctions for errant ATSPs, MOTR 26/2017 provides that an ATSP that does not comply with the regulation may be subject to sanctions, as determined by the Ministry of Communications and Informatics (MOCIT), in form of the temporary blocking of access to the relevant app until such time as the violation has been remedied. This vesting of sanctioning authority in the MOCIT is rather curious, given that it is not responsible for transportation matters.

### Conclusion

While the government attempted to create a level playing field for all players involved in public transportation, MOTR 26/2017 will not immediately resolve the conflict between conventional and online taxi providers. The new regulation has elicited a negative response from online taxi providers, especially Indonesia as regards the restrictions on setting fares, which the government clearly believes is necessary to even things up as between conventional taxis and their online competitors.

From the customer's perspective, MOTR 26/2017 gives the impression that the government is at best lukewarm about the online taxi providers and the technological innovation that has spawned them. While the government appears to have sided with the conventional taxi providers by intervening in the pricing mechanism, what the average customer wants is the freedom to choose the most convenient mode of transportation, taking into account all of the factors involved, including the fare, convenience and accessibility. The fact that online taxi fares will now be regulated is sure to be unpopular.

In light of the above, the government's task now is to explain why such regulation is necessary so that all of the stakeholders can be persuaded of its wisdom and efficacy. Otherwise, we can look forward to further regulatory twists and turns on online transportation going ahead.

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# Hema Latha Sinnak

We speak to the general counsel, chief compliance officer and company secretary of *Sun Life Malaysia* about her role and the changing nature of the in-house legal function.

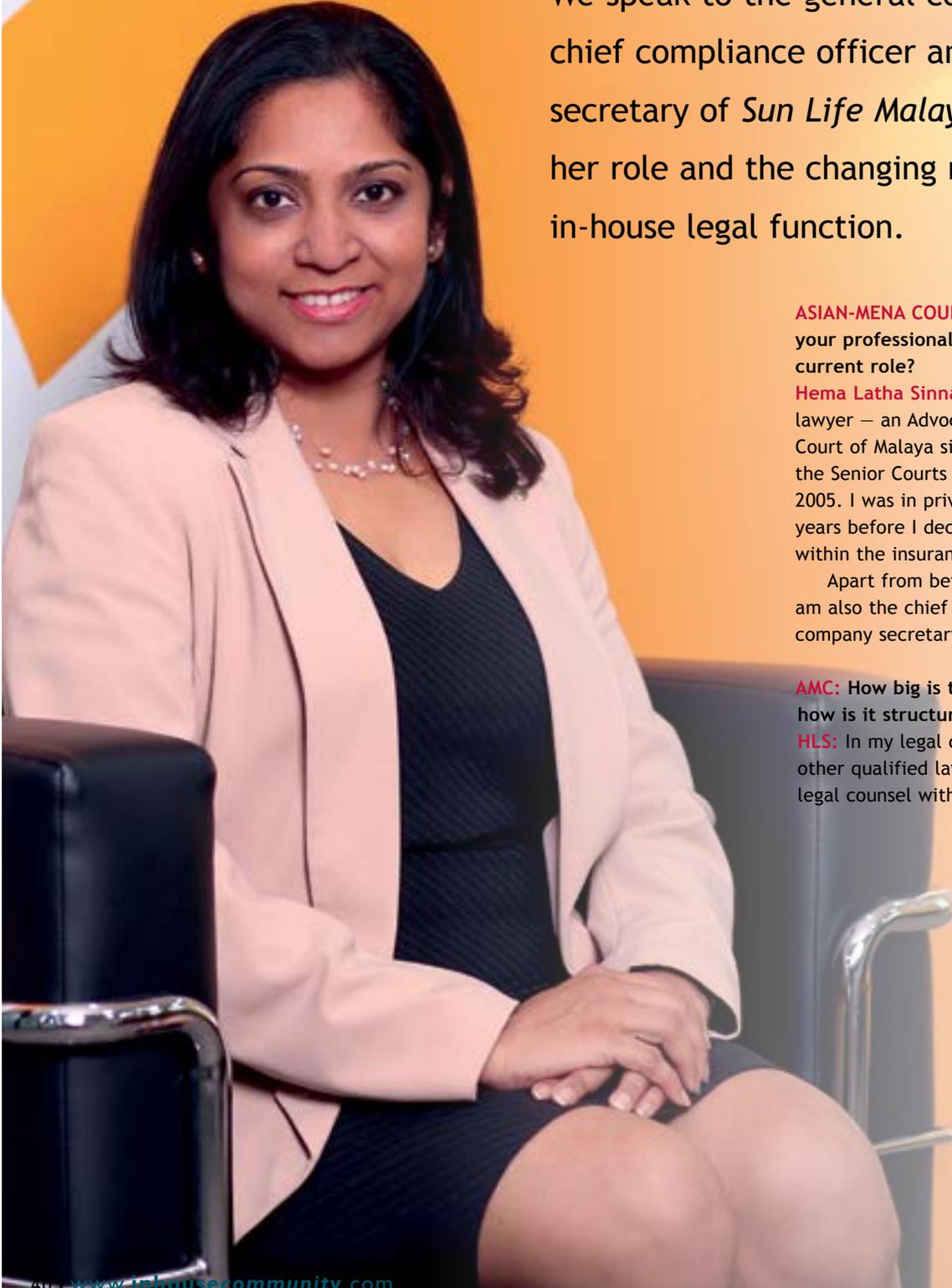
**ASIAN-MENA COUNSEL:** Can you describe your professional background and your current role?

**Hema Latha Sinnakaundan:** I am a qualified lawyer – an Advocate & Solicitor of the High Court of Malaya since 2000 and a Solicitor of the Senior Courts of England and Wales since 2005. I was in private practice for seven years before I decided to move in-house within the insurance industry.

Apart from being the general counsel, I am also the chief compliance officer and the company secretary of Sun Life Malaysia.

**AMC:** How big is the team you manage and how is it structured?

**HLS:** In my legal department, I have two other qualified lawyers – one is a senior legal counsel with 15 years of experience



# aundan — Sun Life Malaysia

while the other is a junior legal counsel with eight years of experience. Apart from the lawyers, I manage 9 compliance officers and 2 company secretarial officers.

**AMC:** What are the biggest challenges you face in this role?

**HLS:** Getting all stakeholders to feel comfortable that I'm a business partner and not the show stopper.

**AMC:** What are the most important qualities of a good general counsel?

**HLS:** The most important quality of a general counsel is to be a partner of the business. To be able to do this, they should understand the business and the business strategies of the company. It is essential that a general counsel understands the big picture of the business and the industry specifically.

Another important quality is to have excellent stakeholder management. A general counsel should always be humble and grounded, and try to understand the needs of the stakeholders and manage them accordingly — but, at the same time, should never compromise on legal risks, no matter what.

Needless to say, a general counsel must always demonstrate good judgment. There may be times when you would have to make the most unpopular decision, yet the best one for the business. In events of this nature, put your influencing skills to good use in convincing the stakeholders of your stand.

Finally, a general counsel should try to avoid using legal jargon and complex language when advising the business; and should aim to provide advice in a simple and comprehensible manner.

**AMC:** How is technology changing the way you work?

**HLS:** It makes everything faster. Conducting legal research is no longer a laborious event. Everything is now at the tip of the fingers.

**AMC:** How has the in-house legal function changed during your career?

**HLS:** We have gone from a legal adviser role to a business partner role.

**AMC:** What about the way you work with external firms and other providers of legal services — have you seen significant changes there?

**HLS:** Yes, in-house counsels are no longer regarded as the postmen between management and external firms. We are able to provide appropriate legal advice as we have the insights of the business, which external firms may not be privileged to have.

**AMC:** Looking forward, what changes do you foresee in the way that legal services will be provided in the future?

**HLS:** They will be e-based and instantaneous.

**AMC:** What skills should young lawyers today aim to acquire?

**HLS:** Stakeholder management and being open to discussions. Be humble and approachable. It is always easier to convince people of your stand when you've always been professional and cordial.

**AMC:** What is your hinterland — what are your interests outside of the legal profession?

**HLS:** Travelling and reading.

# The thing about ...

Asian-mena Counsel's Patrick Dransfield talked to and photographed **Michael Hickman** in his beloved Shanghai and put to him a series of questions on behalf of the In-House Community.

**ASIAN-MENA COUNSEL:** Michael, we have known each other for 20 years. Your career has taken you from legal practices of international law firms to Control Risks, by way of Chinese law firm Haiwen – could you share with us the strategic decisions shaping each major change in your career?

**Michael Hickman:** Two decades already? Actually, I have been in this market for over three decades now, and as the needs of business change, I've tried to keep up as best I can. Legal practice in this region started with risk assessment – back in the day when we only had a few laws and regulations that applied to foreign business in China, the advice was all about how to anticipate and mitigate risk. I've had the opportunity to ride along as the legal market grew, after landing here directly from Wall Street, taking a tour with Fleet Street and landing in Shanghai with Beijing-based Haiwen's

# Michael Hickman

“Identifying and containing risks to businesses in difficult operating and rapidly evolving markets is what we do every day. Being smart about risks builds resilience and sustainability — and makes for sound strategic growth”

office here. I have always sought challenges, and I thrive on complex situations. So it seems to me quite natural to move from private practice to risk management, with a healthy dose of crisis management – each situation is different, each circumstance is new.

**ASIAN-MENA COUNSEL:** Now that you have left private legal practice, do you think that the global legal industry is truly changing? And if so, are traditional law firms adapting fast enough?

**MH:** Yes, the global legal industry is changing along with the global economy. The law firms who are nimble are adapting to some extent, with technology in particular. The industry seems to have grown so large these days – I would think managing a professional practice across a global network is a daunting task, particularly for the largest of firms. Maintaining quality and consistency of service has to be a daily, if not hourly, challenge. And I think clients notice these things.

**ASIAN-MENA COUNSEL:** Frank Knight, the author of *Risk, Uncertainty and Profit*, defined risk as being present when future events occur with measurable probability, and uncertainty as being present when the likelihood of future events is indefinite. Do you agree with the above and how does it apply to the services provided by Control Risks?

**MH:** It seems a contextual definition. We live with risk every day, but with risk comes opportunity. Risk, in the sense of threats, can be obvious – the biggest challenges are the more subtle risks. And coping effectively with those risks is what Control Risks does well – from integrity risks through to regulatory, political, business continuity and security risks. Identifying and containing risks to businesses in difficult operating and rapidly evolving markets is what we do every day. Being smart about risks builds resilience and sustainability – and makes for sound strategic growth.

**ASIAN-MENA COUNSEL:** You have been advising clients regarding China since the 1980s. How has the in-house community evolved during the past 30 years?

**MH:** Well, to start with, there really was no in-house community. Back in the day, lawyers were somewhat suspect. There were a handful

of practitioners who had strong motivations to be here and help clients navigate what were then largely uncharted waters. Not really pioneers – rather, strategic advisers who could bridge linguistic and cultural divides.

**ASIAN-MENA COUNSEL:** Conversely, you have advised foreign investors regarding the China domestic market. How has this changed over the same period?

**MH:** Night and day. A common language for cross-border transactions now exists. It took a decade plus to develop and take hold, and now it is here to stay. Among many milestones, the early IPOs stand out. Accessing international capital markets rang in a new era in many respects – changing corporate structures, behaviours, reporting and accountability – adding a whole new set of external stakeholders with an interest in the business.

**ASIAN-MENA COUNSEL:** Given that Control Risks is headquartered in London, what footprint does the company have regarding North America? What differentiates Control Risks from other competitors?

**MH:** Control Risks has a global footprint – in North America, our offices are in New York, Washington, DC, Houston and Los Angeles. We also cover Canada and Latin America, where we have offices in Mexico City, Sao Paulo, Bogota and Panama City, not to mention our offices in Asia, Europe, Africa and the Middle East. Our global reach and the diversity of our professionals are key strengths – we know the markets in which our clients operate, and we are there with them side-by-side. And our team comprises people from all walks of life – law enforcement, diplomacy, journalism, accounting, technology, history, political science, economics – and from all over the world. Bringing the talent of that diverse pool of professionals together to create innovative solutions is how we do what we do.

**ASIAN-MENA COUNSEL:** Who has been your mentor – legal or otherwise?

**MH:** My earliest mentor was one of the first women to become partner in a major Wall Street firm – Marietta Poerio, formerly with Cleary Gottlieb. She had forged her own way in that world, and brought her unique perspective and style to the practice of law. She was known



**“My earliest mentor was one of the first women to become partner in a major Wall Street firm – Marietta Poerio, formerly with Cleary Gottlieb. She had forged her own way in that world, and brought her unique perspective and style to the practice of law”**

for her business acumen, particularly in complex project-based financings. If she took a deal on, it would close. I recall she even created a lease financing for a forest, not to mention for an entire automobile manufacturing facility. Learning from her was a formative experience – Marietta was all about getting it done, and getting it done right.

**ASIAN-MENA COUNSEL: What is your hinterland; what are your interests outside of Control Risks? How do you control your time so that you can pursue them?**

**MH:** I have become an avid reader – eclectic book grazing, I call it. I have many recent favourites – books on high frequency trading, cyber warfare, the singularity, the history of the oil industry, indigenous peoples’ history in North America and the Pulitzer Prize winning novels, just to name a few. Reading is something one can do every day – on the way to and from work, on planes, before sleep and over the weekend. The time is always there; it’s just a matter of taking advantage of it! And yes, electronic books are a marvellous tool – an entire library on a thin, portable device.

Michael Hickman is director of integrity risk consulting as Control Risks in Shanghai, where he focuses on anti-corruption and anti-bribery matters across a range of industries. He helps clients assess risk, analyse third-party risk, identify gaps, prepare bespoke policies and procedures, and deliver targeted training to senior management and front-line staff.

He started his legal career at Cleary Gottlieb in New York and became a partner after moving to the Hong Kong office. He began practising in China after joining Simmons & Simmons as a partner in 2002. He later headed the Shanghai offices of international law firms Fried Frank and Dechert, before a return to Simmons and a three-year stint with leading Chinese firm Haiwen & Partners – a move that he describes as the culmination of decades of watching the legal profession in China develop.

His transactional experience, both in China and internationally, has covered cross-border M&A transactions, joint ventures of all types, direct investments, corporate restructuring matters and other international transactions. He has also been actively engaged in compliance matters, including anti-corruption and anti-bribery advice and related investigations, for a number of major multinationals, particularly in China and other regional jurisdictions.

Your 'at a glance' guide to some of the region's top service providers.

**AMC** Indicates an ASIAN-MENA COUNSEL Firm of the Year. **2014** **2015** **2016**

**MR** An ASIAN-MENA COUNSEL Most Responsive Firm of the Year.

**MR** An ASIAN-MENA COUNSEL Honourable Mention Most Responsive Firm of the Year.

**●** One of this firm's five largest practice areas in this jurisdiction.

**FS** Indicates a full service firm in this jurisdiction.

Practice Area key:

**INV** Alt' Investment Funds (inc. PE)  
**COM** Antitrust / Competition  
**AV** Aviation  
**BF** Banking & Finance  
**CM** Capital Markets  
**CMA** Corporate & M&A

**E** Employment  
**ENR** Energy & Natural Resources  
**ENV** Environment  
**IA** International Arbitration  
**IP** Intellectual Property  
**IF** Islamic Finance

**INS** Insurance  
**LS** Life Sciences  
**LDR** Litigation & Dispute Resolution  
**MS** Maritime & Shipping  
**PF** Projects & Project Finance  
 (inc. Infrastructure)

**RE** Real Estate / Construction  
**REG** Regulatory / Compliance  
**RES** Restructuring & Insolvency  
**TX** Taxation  
**TMT** Telecoms, Media & Technology

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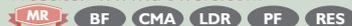
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