

# asian-mena Counsel

Volume 15 Issue 4, 2017



*Plus ...*  
The Thing About...

Stefan Gannon,  
commissioner of the HKMA's  
Resolution Office



*the*  
In-House  
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**2017**

**Philippines merger rules**  
Explaining the PCC's new  
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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.

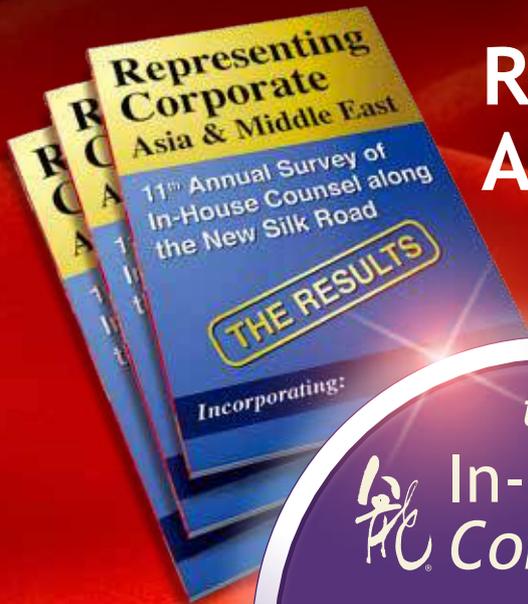
The In-House Community comprises over 21,000 individual in-house lawyers and those with a responsibility for legal and compliance issues within organisations along the New Silk Road, who we reach through the annual IN-HOUSE CONGRESS circuit of events, ASIAN-MENA COUNSEL magazine and WEEKLY BRIEFING,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



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

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## The tourism and hospitality sector 2017 – the year gone by

This year several policy decisions and judicial pronouncements affecting the tourism and hospitality sector were implemented. We have set out below some of the key developments and their effect on the sector:

Foreign direct investment (FDI) — As per the FDI Policy 2017 and subject to applicable regulations and laws, 100 per cent FDI is allowed on the automatic route in the tourism and hospitality sector and in tourism construction projects pertaining to development of hotels, resorts and recreational facilities. As per India Brand Equity Foundation (IBEF), tourism in India accounts for 9.6 percent of the GDP and is the third largest foreign exchange earner for the country. Further, IBEF has reported, the mid-hotel segment in India to expect investments of Rs66 billion (US\$990 million) excluding land over next five years, with major hotel chains like Marriott, Carlson Rezidor and ITC planning to set up upscale, budget hotels in state capitals and tier-II cities.

Supreme Court's ban on selling liquor on national and state highways — The Hon'ble Supreme Court of India in its order dated December 15, 2016 prohibited the sale of alcohol on national and state highways, including those stretches of national or state highways passing through city limits. The prohibition also curbed the visibility and accessibility of liquor sellers falling within 500 metres from the outer edge of the highway or service lane along a highway. This order of the Court, though in the

right direction, impacted the revenue and employability in the industry, on account of the establishments/liquor sellers falling within the ambit of the prohibition.

Subsequently, the Court through its order dated July 11, 2017 clarified that the prohibition was limited to the sale of liquor along and in proximity of highways which provide connectivity between cities, towns and villages and did not prohibit licensed establishments within municipal areas. The new clarification provided a big respite to the industry by lifting the ban within city limits.

**“The high GST rate charged on room tariffs was construed to impact the market share of hotels in the luxury category, yet global brands are upbeat about their Indian expansion”**

Good and services tax (GST) — GST is crowned as one of the most significant reforms of the Indian economy. However, considering the concerns put forth by the industry, the GST council reassessed the tax rates and revised the applicability of the highest tax rate of 28 percent, initially applicable on room tariffs of Rs5,000 and above to Rs7,500 and above, per day per room. Further, 18 percent GST was fixed for hotels charging room tariff of Rs2,500 and

above and less than Rs7,500 per day per room.

The highest tax rate of 28 percent GST charged on room tariffs of Rs7,500 and above is construed to impact the market share of hotels in the luxury category and impact global competitiveness. Yet, global brands are upbeat about their Indian expansion, based on the potential of the Indian market.

Demonetisation — The impact of demonetisation, the aftermath of which is still being grappled by the industry, pulled the brakes on spending (usually through cash) in the informal economy. The formal economy looks to be doing fairly better, where most of the hotel bookings are generally made through digital platforms and the primary clientele usually are the corporates.

Air India's disinvestment — The government has taken the decision to go ahead with the disinvestment proposal of Air India (AI, a wholly owned government airline), including its subsidiaries, and also intends to deliberate on the percentage of disinvestment. The privatisation of AI is hailed by many in the industry to put an end to the heavy cost incurred on the exchequer.

Disinvestment of India Tourism Development Corporation (ITDC) properties — The government is reported to have taken the initiative to disinvest three hotel properties held by ITDC. The properties will be returned to the states after fair valuation. The usage of the properties whether as hotels to be managed by private operators or for a different purpose will be deliberated by the states. The intent to disinvest being “it is not the business of the government to run or manage hotels”.

# Seasons Greetings from Pure Search

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By **Ahmad Jamal Assegaf**

## Technical provisions for the implementation of anti-money laundering and prevention of terrorism financing programmes within capital market sector in Indonesia

### Background

Indonesia's Financial Services Authority (Otoritas Jasa Keuangan/ OJK) has issued Circular Letter No. 47/SEOJK.04/2017 on the Implementation of Anti-Money Laundering and Prevention of Terrorism Financing Programmes Within Capital Market Sector (Circular No. 47/2017). This circular letter serves as the technical provisions for implementation of anti-money laundering and prevention of terrorism financing (AML-PTF) within the capital market sector as mandated in Article 68 of Regulation No. 12/POJK.01/2017 on the Implementation of Anti-Money Laundering and Prevention of Terrorism Financing Programs Within Financial Sector.

Circular No. 47/2017 applies to financial services providers within the capital markets sector, namely securities companies engaged in securities underwriting business activity, securities brokerage, investment management and commercial banking as a custodian with respect to the prevailing laws and regulations in the capital markets sector (hereinafter collectively referred to as Providers).

### Scope of Circular No. 47/2017

Development of products and services along with the growing use of information technology in the financial services sector has increased the risks of Providers being used as the medium for money laundering and terrorism financing. In regard to that, Circular No. 47/2017 aims to strengthen the quality of AML-PTF programme implementation, using a risk-based approach. This legal update will discuss about the implementation of the risk-based approach and the AML-PTF programmes within the capital markets sector.

### Risk-based approach

Under this circular letter, Providers are required

to implement AML-PTF programmes through a risk-based approach. In implementing the AML-PTF programmes, Section II. 1b Circular No. 47/2017 regulates that Providers in the capital markets sector should refer to and take into account the risks listed under the National Risk Assessment and Sectoral Risk Assessment. Pursuant to Section II. 2b of Circular No. 47/2017, Providers are also obligated to conduct a risk management process in order to comprehend, assess, administer and mitigate any identified risks prior to taking any decisions. It is important for Providers to differentiate inherent risks and residual risks in conducting the risk assessment process. Section II. 2c of Circular No. 47/2017 defines inherent risks as risks linked to an event that occurs in the course of doing business prior to the implementation of any risk-management measures. Meanwhile, residual risks are risks that remain after the risk management measures have been implemented.

In regards to AML-PTF, Section II.2d of Circular No. 47/2017 defines a risk-based approach as a process that consist of these following matters:

1. Identification of risks, which includes four risk factors namely:
  - a) customers;
  - b) state or geographical area;
  - c) product, services, or transactions; and
  - d) delivery channels
2. Management and mitigation of risks, which should be implemented through internal controls and suitable policies according to the identified risks.
3. Monitoring of customers, transactions and business relations in accordance with the assessed risk levels.

Moreover, Section II.3 of Circular No. 47/2017 provides that Providers should conduct six steps in implementing the risk-based approach,

namely:

1. Identification, comprehension and assessment of inherent risks;
2. Determination of risk tolerance;
3. Formulation of measures to minimise and mitigate risks;
4. Evaluation of residual risks;
5. Implementation of a risk-based approach; and
6. Review and evaluation of the implementation of a risk-based approach.

### AML-PTF Programmes

The risk-based approach as mentioned above is to be used as the underlying principle for the implementation of AML-PTF programmes. Section I.5 of Circular No. 47/2017 provides that implementation of a risk-based approach in AML-PTF programmes should at least cover:

- a) Active supervision by the Board of Directors (BoD) and Board of Commissioners (BoC);
- b) Implementation of policies and procedures;
- c) Internal controls;
- d) Information management system; and
- e) Improvements in human resources and training.

As for the implementation of policies and procedures as referred to in point b, Section IV Circular No. 47/2017 provides that such policy and procedure consists of these following activities:

- a) Identification and verification of prospective customer, customer and beneficial owner;
- b) Declination and termination of business relations with prospective customers who refuse to participate in AML-PTF programmes;
- c) Maintenance of accurate data in relation to transactions, the administration of customer due diligence processes, as well as policies and procedures;
- d) Data monitoring and updates, the proposal and realisation of data updates must be reported to the OJK;
- e) Reporting to senior officials, BoDs and BoCs regarding the implementation of AML-PTF programmes.

Circular No. 47/2017 has been in force since September 6, 2017.

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### Head Of Legal

Singapore 10-18 PQE

A leading regional investment firm is looking for a senior legal counsel to manage and oversee its legal affairs based in Singapore. You should be Singapore qualified with strong experience in M&A transactional work. (IHC 15957)

### Senior Disputes Counsel

Singapore 10-15 PQE

Major conglomerate with a substantial commodities trading company is looking for a senior legal counsel to join their team in Singapore. You should have good commercial and/or shipping litigation experience. (IHC 15705)

### Senior Compliance Lawyer

PRC/HK 10+ PQE

A reputable e-commerce company is looking for a regulatory/compliance talent to join their Hangzhou or HK office. You should have strong experience in antitrust/FCPA/internal investigation/ insider trading. Fluency in Mandarin and English is essential. (IHC 15940)

### Employment

Hong Kong 5-10 PQE

Global corporation with dynamic culture has an exciting opportunity to join their international HR legal team. You will advise on a full range of HR legal matters for the firm's global operations. Fluency in Mandarin is also required. (IHC 15973)

### M&A/Corporate

Hong Kong 5-10 PQE

Blue chip company with a strong global presence seeks a lawyer to support on their investment and M&A projects. You will advise the investment team on a full-range of legal aspects and lead negotiation of M&A and other investment projects. Extensive PE/VC and M&A experience is required. Fluency in English and Mandarin is also required. (IHC 15941)

### General Counsel

Beijing 8+ PQE

A listed education group is looking for a general counsel in Beijing. You should have experience in managing general corporate and commercial law matters. You will be responsible for corporate governance, general corporate and listing related issues. (IHC 15631)

### Commercial

Hong Kong 4-8 PQE

Leading insurance group seeks a commercial corporate lawyer to support a wide range of corporate projects and provide regulatory support. Great opportunity for a general corporate lawyer to join a dynamic and fast growing insurance business. Fluency in both spoken and written Cantonese is required. (IHC 16029)

### IP/Data Counsel

Hong Kong 4-8 PQE

Leading conglomerate seeks an IP counsel to join their well-established global legal team. You will advise on all IP and technology related legal issues globally. This includes, but is not limited to, drafting and negotiating IP licenses and IT outsourcing agreements and advising on patent/trade mark portfolio management. (IHC 15477)

### Commercial Counsel

Singapore 3-6 PQE

Global leader in insurance and risk management consulting is looking for a lawyer to join their team in Singapore. You should be Singapore qualified with a background in corporate commercial work or insurance litigation work. (IHC 15993)

### Senior Legal Manager

Hong Kong 5+ PQE

A well-known real estate development group seeks a mid to senior level lawyer with corporate experience. Work will involve providing legal advice on general corporate, M&A, joint venture, finance, commercial and fund transaction. Excellent communication skills in both written and spoken English and Chinese required. (IHC 16008)

### Senior Legal Counsel

PRC 5+ PQE

A well-known internet giant is looking for a senior legal counsel for their legal research center. You should have IT experience gained with either a reputable IT practice or in-house with a tech company. (IHC 16066)

### Regulatory Counsel

Singapore 2-5 PQE

Major investment company is looking for a corporate or regulatory lawyer to join their legal regulatory team in Singapore. You should be Singapore qualified with strong corporate finance or regulatory experience from a top tier law firm or financial institution. (IHC 15831)

### Legal Counsel

Hong Kong 2-4 PQE

Global corporation seeks an experienced corporate/commercial lawyer to work in-house within their supply chain operations (commercial, supply, sourcing, procurement, employment). This legal team will handle Asia Pacific commercial matters. (IHC 15178)

### Legal Manager

Hong Kong 5+ YRS

Global financial services provider seeks a senior paralegal to support legal and company secretarial initiatives. You will be a holder of law degree and have 5+ years' experience gained in financial services industry. Excellent command of spoken and written English and Cantonese is required. (IHC 16027)

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**By Rosinah Mohd Salleh**

## Sustainability reporting for PLCs in Malaysia

Back in 2015, Bursa Malaysia, the Malaysian stock exchange, reported that the Global Risks 2015 report by the World Economic Forum identified that 70 percent of the top 10 risks were sustainability-related, which in turn “raises new risks and opportunities for businesses to understand” and ultimately affects its value.

Against that backdrop, and recognising the “greater demand and expectation for non-financial information to be provided alongside the financial information” to a com-

pany’s stakeholders, Bursa Malaysia introduced a requirement under its Main Market Listing Requirement and ACE Market Listing Requirement (collectively referred to as “Listing Requirements”) for the issuance by listed companies (PLCs) of a Sustainability Statement in their annual reports.

This requirement was introduced to be in line with the Malaysian Capital Markets Services Act 2007 and replaced the existing statement on corporate social responsibility practices previously required to be disclosed

by PLCs. In essence, a Sustainability Statement is a narrative statement of a PLC’s management of material economic, environmental and social (EES) risks, including how they are identified, why they are important and how they are managed (see Paragraph 6.2(c), Practice Note 9).

All PLCs should ensure that the information in the Sustainability Statement is balanced, similar and important by referring to the sustainability reporting guide (Guide) issued by Bursa Malaysia. The implementation of the Sustainability Statement requirement for PLCs is done in stages as follows:

Applicability	Year to disclose Sustainability Statement in annual report
<b>GENERAL SUSTAINABILITY STATEMENT</b>	
(a) PLCs with market capitalisation (excluding treasury shares) of M\$2 billion and above	Financial years ending on or after <b>December 31, 2016</b>
(b) All other PLCs	Financial years ending on or after <b>December 31, 2017</b>
<b>DETAILED SUSTAINABILITY STATEMENT</b>	
(c) PLCs with market capitalisation (excluding treasury shares) of M\$2 billion and above	Financial years ending on or after <b>December 31, 2016</b>
(d) PLCs with market capitalisation (excluding treasury shares) of M\$1 billion and above, but below M\$2 billion	Financial years ending on or after <b>December 31, 2017</b>
(e) All other PLCs	Financial years ending on or after <b>December 31, 2018</b>

Under the Ace Market Listing Requirement, Sustainability Statements must be included in the annual report for financial year end on or after December 31, 2018.

This sustainability framework, which was launched in October 2015, comprises the Guide and is complemented by the sustainability toolkits (Toolkit) containing guidance to PLCs on embedding sustainability in their organisations and reporting it. In identifying the material EES risks and opportunities, PLCs should take into account the themes set out in the Guide, which covers the business care for sustainability, providing case studies, and includes example disclosures while the Toolkit includes, among others, the

method on how to collect and report sustainability data and information; the best practices in relation to sustainability data and disclosure; and examples of disclosures on themes and indicators.

The first round of Sustainability Statements has already been issued by some PLCs in its annual report for the financial year ending on or after December 31, 2016. The forms and depth of such first-time Sustainability Statements are understandably varied, as companies are still grappling over issues such as the “how to” and the “what”, as well as the diverse nature of material sustainability matters from company to company.

Although the initial reaction of PLCs on

such requirement ranges from treating it as a mere compliance exercise or just another cost to incur, to scepticism as to its need or value, here and there we could already see some conscious efforts to address sustainability matters. One of the more recent efforts seen is assistance given to a company’s supply chain partners in flood prone areas.

In conclusion, although the reporting side is still in its infancy, efforts to address sustainability matters are gaining traction, and it could just be a matter of time before sustainability practice, as well as its reporting, becomes part of the DNA of a company, with Bursa Malaysia and the PLCs spearheading the agenda.

# Stand Out With Hughes-Castell



## In-house

### **SVP, Legal | 10+ yrs pqe | Shenzhen REF: 14268/AC**

This highly regarded financial services institution is seeking a PRC-qualified lawyer with over 10 years' PQE in commodity trading to take on an important legal role for its Shenzhen office. You will be responsible for advising on legal matters affecting transactions and projects, plus managing legal risk. Training at a top PRC law firm is highly desirable. Native-level Mandarin and fluent English language skills are essential.

### **Transactional Lawyer | 10+ yrs pqe | Hong Kong REF: 14221/AC**

This global asset manager is seeking an exceptional lawyer with significant buy-side deal experience in private debt and equity investments to support its transactions in Asia. Based in Hong Kong, you will work closely with the deal team and you must have significant experience leading legal negotiations and driving deals forward. You must also have over 10 years' transactional experience at a top-tier international law firm or comparable financial institution, of which no less than 5 years gained in Asia. Fluent written and oral English is a must; an additional Asian language is a plus. You must be qualified in either US, UK or Australia. Travel within Asia is required.

### **Compliance Officer | 10+ yrs exp | Singapore REF: 14269/AC**

This global banking and financial services company is seeking an experienced AML compliance professional for a senior compliance officer role based in Singapore. You will report directly to the Head of Compliance in Singapore and be responsible for leading a small team of financial crime professionals to provide AML reports and to ensure appropriate risk management controls are in place. You should have at least 10 years' experience in AML, CFT,

Anti-bribery and Fraud, compliance, risk management or audit work at banks or financial services institutions. Strong knowledge of AML and sanctions regulation is essential. A good team player with an analytical mind plus excellent communication skills is sought.

### **Legal Compliance Manager | 6-10 yrs pqe | Bangkok REF: 14247/AC**

This multinational food production company is seeking a senior Commonwealth-qualified lawyer to take on the Legal and Compliance Manager role for its Asian operations. Based in Bangkok, you will primarily be responsible for providing legal and compliance support on legal documents and the company's ethics & compliance programs. You must have 6-10 years' PQE gained in an international corporate environment and have sound knowledge of contract and company law. Experience in drafting or ratifying commercial and R&D agreements is highly desirable. Proactive lawyers with strong negotiation skills and experience in ethics & compliance implementation are preferred. You must have excellent presentation and communication skills in addition to fluent English to succeed in this role.

### **Legal Counsel | 5-8 yrs pqe | Shanghai REF: 14154/AC**

This global venture capital firm with a strong presence in China is seeking a PRC-qualified lawyer to support their new RMB-denominated fund from a base in Shanghai. You will be responsible for supporting a variety of legal, compliance and operational issues within China with a focus on their RMB fund investment. You must have a PRC law degree with over 5 years' direct experience in venture capital matters in China. Experience of handling US venture capital funds and investments in China is an advantage. Native-level Mandarin is essential plus a good command of English.

## Private Practice

### **Patent Attorney | 5-8 yrs exp | Singapore REF: 14273/AC**

This world-leading IP firm is seeking an experienced patent lawyer with a physical science/engineering background to join its Singapore office. You will primarily be responsible for advising clients on the application and prosecution of patents in addition to mentoring trainee patent lawyers. You must have over 5 years' relevant patent experience gained in a reputable law firm. The GCIP holder or a registered Singapore patent agent is essential.

### **Corporate Associate | 3-5 yrs pqe | Shanghai REF: 14272/AC**

This global law firm with a highly regarded corporate practice is hiring a Corporate Associate for its Shanghai office. You will be working closely with their corporate team advising notable multinational corporations on M&A transactions, investment projects, and general corporate matters. You must be PRC qualified with 3-5 years' relevant PQE with a top-tier law firm in China. An additional overseas legal qualification is a strong plus. You must have good command of written and spoken English for the role.

### **Attorney | 2+ yrs pqe | Hong Kong REF: 14246/AC**

This White Shoe law firm is hiring a junior qualified lawyer with non-disclosure agreements experience to join its Hong Kong corporate team. You will primarily be supporting the team in drafting, reviewing and executing non-disclosure and confidentiality agreements. You will be Hong Kong/USA qualified with at least 2 years' relevant PQE in a reputable law firm. Candidates with business acumen and flexible personality are preferred. Strong communication skills are required as well as fluent English and Mandarin.

### **Paralegal, DR | 1+ yr exp | Hong Kong REF: 14270/AC**

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## Virtual currency in the Philippines: Recognition and regulation

Bitcoin is essentially a virtual currency (VC), which is any type of digital unit that is used as a medium of exchange — a veritable currency that exists in the digital world. Since it is electronic currency, VC is easily transferable and can be used to pay for goods and services sold through the internet. VC transfers could be made with nominal processing fees as they do not require a lot of facilities and intermediaries.

Bitcoins may be purchased from an online exchange, then traded from one personal “wallet” to another. This wallet is a small database that you can download and store on your mobile phone or computer. Each wallet is anonymous since neither names nor personal information are exchanged, which safeguards its users from identity theft.

When bitcoin is transferred between different wallets, each transaction is added to a shared public ledger or blockchain that is available to every computer in the network. This ledger is made public to prevent fraud, and protected by cryptography.

As such, VCs may have a significant impact on the way that ordinary Filipinos do commercial transactions. First, overseas Filipino workers (OFWs) who send remittances to the Philippines may benefit from the VC’s minimal processing fees. Second, according to the Bangko Sentral ng Pilipinas (BSP), 86 percent of Filipino households do not have bank accounts due to lack of sufficient capital and proper identification requirements. The 86 percent will now have access to the facilities of VC exchanges that do not require such capital or identification requirements. Third, being the fastest-growing smartphone market in the Asean

with more than 40 million internet users, the Philippine economy will definitely benefit from increased mobile commercial transactions.

Unlike cash, however, VC is neither issued nor guaranteed by a central bank, nor backed by any commodity. The value of VC depends solely on its supply and demand, and the integrity of its system. Clearly, VC collides with the current monetary system that is in place all over the world.

“As VC transactions are expected to continue to rise, financial regulators must remain vigilant”

On January 19, 2017, the BSP approved BSP Circular No. 944, known as the Guidelines for VC Exchanges (BSP Circular). This is an official recognition of the legitimacy of VCs — a progressive stance similar to the favourable cryptocurrency regulations issued by the US, Canada, Belgium and Germany. In contrast, China banned the use of cryptocurrencies in its capital markets, while Malaysia cautioned its citizens and declared that it has yet to decide if it will ban the trading of cryptocurrencies.

The BSP Circular regulates VC transactions, and governs its operations and reporting obligations:

- The Circular governs VC exchanges in the Philippines that engage in activities that provide facility for the conversion or exchange of legal currency to VC or vice versa. A VC exchange must obtain a Certificate of Registration (COR) to oper-

ate as a remittance and transfer company. To date, two companies in the Philippines have been issued a COR for this purpose.

- VC transaction amounts are no longer unlimited. Pay-outs of more than Ps500,000 or its foreign currency equivalent, in any single transaction, shall only be made by cheque payment or direct credit to bank deposit accounts.
- To ensure the safety of its customers and the stability of the system, a VC exchange is required to adopt risk management and security control mechanisms (such as installing anti-malware solutions, conducting backups) and maintain an internal control system.
- To support the costs of regulation, a VC exchange must pay registration and annual service fees.
- Finally, a VC exchange must comply with notification and reporting requirements. Violation of these requirements (ie, erroneous, delayed or unsubmitted reports) will subject the VC exchange to penalties ranging from monetary penalties, fines, cancellation of registration, sanctions to enforcement actions.

According to BSP governor Nestor Espenilla, the Philippines already ranks third globally in terms of bitcoin use. The monthly trading volume in the country is estimated to be about \$6 million from only \$2 million in the previous year. As VC transactions are expected to continue to rise, financial regulators must remain vigilant to ensure that VC transactions will not be used for money laundering, terrorist financing and other illegal purposes. While financial innovation must definitely be encouraged, the ordinary Filipino users of VCs must always be protected.

This article was first published in Business World, a newspaper of general circulation in the Philippines.

# The JLegal



Personality  
Questionnaire  
Experience

Every month, JLegal examines the PQE of a senior in-house counsel. This month we talk to Dag Ove Solsvik, a secretly talented husband with an aversion to enforced team building.

- What is on your mind at the moment?  
I really want to go home from the office...
- What secret talent do you have?  
My wife says that I am a talented husband (but she claims there is still some room for improvement). We keep it secret - she does not want word to get out.
- If you weren't a lawyer you would be a ...  
professional footballer and then a carpenter when I retire.
- What is your idea of misery?  
Some forced team building events can be quite miserable. Marching bands as well. A team building event that incorporates those two would be the worst - a team trying to be a marching band. Not so unlike the Norwegian national day.
- What is the strangest thing you have seen?  
A dish called "Milt/Shirako, Ginger Espuma" made by my good friend Chef Markus - it was essentially made out of whale sperm as I understand...
- Where is the best place you have ever been to?  
I like so many places. As far as beach holidays go, I like Sri Lanka, Caribbean and Angra dos Reis in Brazil. My home town, Vestre Jakobselv, is also an amazing place - although don't enter the water there.
- What is your motto?  
Victoria Concordia Crescit (It's not really mine, I borrowed it from my football team).
- If you could have one superpower it would be ...?  
Turn water into wine - preferably a nice white Burgundy style wine.
- What do you consider the most overrated virtue?  
Obedience is overrated, especially in strict forms which leads to complete subordination.
- What was your last Google search?  
"Most overrated virtues".
- Which of the Seven Dwarfs is most like you?  
I would say Happy. Some might say Sleepy.



## Dag Ove Solsvik

Head of Group Legal,  
Middle East & Asia Pacific  
DNV GL



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## SOUTH KOREA



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By Yi So-Yeon

## Amendment of the Fair Trade Act

A proposed amendment of the Enforcement Decree of the Monopoly Regulation and Fair Trade Act (Fair Trade Act) was approved by the State Council on September 26, 2017. It became effective on October 19, 2017.

The main elements of this amendment are: 1) it imposes new significant charges on companies that fail to file reports required under the law; 2) it changes the requirement for foreign companies to report business mergers; 3) it increases the maximum amount of fines imposed on habitual violators of the Fair Trade Act; 4) it provides for

the payment of rewards to people who report illegal activities of Korean conglomerates; and 5) it strengthens provisions protecting technologies and preventing larger companies illegally from luring away employees from small and medium-size companies. Below are some of the details of the amendment.

First, new procedures have been established to compel companies to submit materials to the Korea Fair Trade Commission (“KFTC”) for examination under the revised Enforcement Decree. This revision was made, following an

amendment of the Fair Trade Act, to add further punishment for failing to submit a required report. The former Fair Trade Act imposed a fine for non-compliance with the reporting requirement (Article 69-2(6)). The revised act adds more teeth. In addition to a fine and imprisonment (Article 67(9), Article 50-4), it now charges a non-compliant company a daily amount not to exceed 3/1,000 of the company’s daily average sales (as such sales are defined under the Presidential Decree). The Enforcement Decree also has been revised to specify the period during which the charges will be imposed, as well as the amounts to be paid and when the charges will be owed:

Category	Description	
Period When Charges Will Be Imposed	From the date of any reporting deadline ordered by the KFTC until the report is actually submitted to the KFTC.	
Amount to be Charged	Daily average sales	Percentage rate
	Not more than W 1.5 billion	2/1000
	More than W 1.5 billion but not more than W 3 billion	2/1500
	More than W 3 billion	2/2000
	Sales nonexistent or cannot be calculated	–

The revised Enforcement Decree also raised the level of sales needed to trigger a company’s reporting obligations for a business merger. That revision was made because the assets of domestic companies and size of their sales have significantly expanded along with Korea’s economic growth. Under Article 18(1)-(2), the total assets or sales of a Korean company needed to trigger a report of a business merger increased from W200 billion to W300 billion for a company acquiring

another company, and from W20 billion to W30 billion for the company being acquired. Under Article 18(3), the level of domestic sales of foreign companies that trigger merger reporting requirements was also raised to W30 billion. In other words, such foreign companies will be required to report business mergers when their sales in Korea are more than W30 billion, as long as they meet all of the other reporting requirements contained in Article 18(1)-(2).

The revised Enforcement Decree also has increased the sanctions that will be imposed on repeat violators of the Fair Trade Act under Schedule 2(2)(b), raising by 100 percent the maximum amount of fines that can be assessed against repeat offenders. The revised Enforcement Decree also strengthened provisions protecting small and medium-size companies from theft of technologies and luring away of employees by larger competitors.



**Lewis Sanders**  
Legal Recruitment

# Lewis Sanders

Legal Recruitment

## In-House

**SHIPPING/COMMERCIAL HONG KONG 8-15 YEARS**

Conglomerate focused on maritime services seeks a senior level lawyer with experience in contentious & non-contentious shipping & insurance matters. Commonwealth qualification & prior experience in Asia are essential. Chinese language skills are not required. AC6613

**FINANCIAL CRIMES COMPLIANCE HONG KONG 12+ YEARS**

Global bank with a strong presence in Asia is looking for a senior member for its compliance team. You should have extensive experience in financial crimes compliance from another reputable financial institution. Chinese language skills are not essential. Attractive benefits are on offer. AC6814

**EMPLOYMENT/LITIGATION HONG KONG 6-10 YEARS**

Well-known MNC is seeking a mid to senior associate to join its legal team. You will have significant employment/litigation experience from a reputable law firm. This role will involve a variety of disputes & investigations. Chinese language skills not needed. AC6241

**LITIGATION HONG KONG 5-8 YEARS**

Rare opportunity for a litigator to join a HK conglomerate. You will handle contentious matters arising from the operations of the Group & will also have the chance to work on commercial matters. Solid commercial litigation experience and fluent Cantonese & Mandarin are essential. AC6666

**EQUITIES HONG KONG 4-8 YEARS**

Bulge bracket bank seeks a VP for its equities team. In this role you will deal with equities trading, OTC, listed/corporate derivatives & structured products. Prior in-house experience would be ideal. Chinese language skills not needed. Top quality work & attractive remuneration on offer. AC6638

**LITIGATION HONG KONG 3-8 YEARS**

Excellent in-house opportunity for a mid-level litigator with experience in general commercial/financial services litigation and strong analytical skills. The role has a strong focus on civil litigation and court work and you will have fluent written and spoken English and Chinese skills. AC3989

**CAPITAL MARKETS HONG KONG 3-6 YEARS**

Investment bank seeks a legal counsel in HK. Reporting to the Head of Legal, you will provide legal support on capital markets matters. Great opportunity for those with strong capital markets experience to join a dynamic team. Fluent English, Cantonese & Mandarin required. AC6516

## Private Practice

**CORPORATE PARTNER HONG KONG 10-20 YEARS**

An International firm in Hong Kong with a strong shipping practice is looking for a Corporate Partner to join them. Whilst a book of business would be preferable, those at Counsel level will also be considered. Chinese language skills not required. AC6835

**REGULATORY COUNSEL/PARTNER HONG KONG 5-15 YEARS**

Leading offshore firm in Hong Kong seeks a Regulatory Counsel/Partner to join its global Regulatory practice. You will work closely with the Cayman Islands regulatory team as well as participating in a broad variety of regulatory reform initiatives. AC6843

**EQUITY CAPITAL MARKETS HONG KONG 5-7 YEARS**

A Magic Circle firm in Hong Kong seeks an experienced senior associate to join its Corporate team, focusing on Equity Capital Markets as well as cross-border M&A transactions. You should have experience gained from a leading capital markets team. Mandarin language skills essential. AC6831

**EMPLOYMENT HONG KONG 3-5 YEARS**

International firm in Hong Kong seeks a mid-level employment associate to join its team. You should have 3-5 PQE together with excellent academics. HK, Australia or E&W qualification will be considered. Chinese language skills are preferred but not essential. AC6833

**INVESTIGATIONS HONG KONG 3+ YEARS**

A top tier international firm seeks an investigations lawyer to join its team in Hong Kong. You will have at least 3 years of PQE, a strong academic background and FCPA/UKBA investigations experience. Chinese language skills not needed. AC6812

**CONSTRUCTION DISPUTES HONG KONG 2-4 YEARS**

International firm seeks an associate to join its top tier Construction Advisory & Disputes team. You should have 2-4 PQE solid construction disputes experience including adjudication, arbitration & litigation. Solid Chinese language skills preferred. AC6820

**MATRIMONIAL HONG KONG NQ-1 YEAR**

A leading HK litigation firm seeks a junior matrimonial associate to join its expanding team. Prior matrimonial experience would be advantageous, however those with commercial litigation experience & a genuine interest in this area are welcome to apply. Fluent Chinese is required. AC6817

This is a small selection of our current vacancies. Please refer to our website for a more comprehensive list of openings. Please contact Lindsey Sanders, lsanders@lewissanders.com +852 2537 7409 or Jenny Law, jlaw@lewissanders.com +852 2537 7448 Karishma Khemaney, kkhemaney@lewissanders.com +852 2537 0895 or email recruit@lewissanders.com



## VIETNAM



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## New regulations on liquor trading

On September 14, 2017, the government promulgated Decree No. 105/2017/ND-CP on liquor trading (Decree 105), which will take effect as of November 1, 2017 and supersede Decree No. 94/2012/ND-CP dated November 12, 2012 on liquor production and liquor trading (Decree 94).

Decree 105 provides for the production, import, distribution, wholesale and retail of liquor, and on-the-spot sales of liquor for consumption. Also, it is stated that the governing scope of Decree 105 is exclusive of: (i) export, temporary import for re-export, temporary export for re-import, and transit of liquor; (ii) import of liquor for trading at duty-free shops; (iii) import of liquor from overseas into non-tariff zones, and the purchase and sale of liquor as between non-tariff zones; liquor trading at non-tariff zones, and delivery of liquor into bonded warehouses; (iv) imported liquor in luggage or in assets in transit, as a gift or as samples within the limits for which the law exempts taxation or stipulates that liquor is non-taxable.

Liquor, as defined under Decree 105, is a beverage containing ethanol that is produced from the fermentation process (distilled or non-distilled) from starch of various types of cereals and from sweet wort from plants and fruits, or which is prepared from ethanol, which does not include any type of beer or fermented fruit juice with alcohol content below 5 percent by volume. This definition of liquor under Decree 105 is clearer and states that trading liquor is one of the industries and trades in which business investment is conditional. In

particular, entities or individuals engaging in industrial production of liquor, entities engaged in small-scale production of liquor for commercial purposes, liquor distributors, liquor wholesalers, liquor retailers and on-the-spot sellers of liquor for consumption must have a licence in accordance with the provisions of Decree 105. The small-scale producers selling liquor for further processing to enterprises licensed for industrial liquor production must register with the People's Committee at the commune level.

“Liquor is defined as a beverage containing ethanol produced from the fermentation process ... but does not include any type of beer or fermented fruit juice with alcohol content below 5 percent by volume”

Decree 105 specifies in detail the conditions for various industries of liquor trading, ie (i) conditions for industrial production of liquor; (ii) conditions for small-scale production of liquor for commercial purposes; (iii) conditions for small-scale production of liquor for sale for further processing to enterprises licensed for industrial production; (iv) conditions for liquor distribution; (v) conditions for liquor wholesaling; (vi) conditions for liquor retailing

and (vii) conditions for on-the-spot liquor sale for consumption. In comparison with Decree 94, the conditions on location for trading, transportation means and financial capacity have been removed.

For the matter of goods quality and food safety, Decree 105 regulates that the liquor produced under existing technical regulations must have a declaration of conformity with such technical regulations and the declaration must be registered with the competent state authority before circulation of such liquor on the market. Liquor that is produced without any existing technical regulations must have a declaration of conformity with food safety regulations and the declaration must be registered with the competent state authority prior to circulation of such liquor on the market until the corresponding technical regulations are issued and take effect.

In addition, Decree 105 specifies the breaches of regulations on liquor trading, including (i) trading liquor without a licence or incorrectly in terms of the provisions of the licence as stipulated in Decree 105; (ii) using alcoholic foodstuffs that fail to satisfy the regulations, or industrial alcohol or other prohibited raw materials to produce or prepare liquor; (iii) leasing out or lending a licence for liquor trading; (iv) exhibiting, purchasing, selling, circulating or consuming any type of liquor without a stamp or label as required by law, or liquor that fails to satisfy the standards, quality and food safety, or liquor that does not have a clear origin; (v) selling liquor to people under 18 years, selling liquor with an alcohol content of 15 percent or more over the internet, or selling liquor in vending machines; (vi) conducting liquor advertising or liquor promotions contrary to the laws.

## MOVES

### The latest senior legal appointments around Asia and the Middle East



Chris Redden



#### AUSTRALIA

**Ashurst** has strengthened its Asia Pacific project finance capability with the addition of **Chris Redden** as a partner in the Sydney office. He joins from Norton Rose Fulbright, where he was head of financial institutions. He has acted on numerous high profile international and cross border financings across various sectors, including oil and gas, infrastructure, mining and energy. Redden is qualified to practice and has extensive experience in Australia, Hong Kong and the UK.

**Gadens** has added **Kathy Merrick** as a partner in its disputes team in Sydney. She joins from Henry Davis York, where she was a partner and practice leader in their corporate and regulatory investigations and disputes team. Merrick brings market-leading expertise in corporate and commercial litigation, dispute resolution and regulatory investigations. Acting for major corporates, financial institutions, professional services firms, administrators, liquidators, and government clients, her practice includes advising on regulatory investigations and disputes, directors and officers duties, professional negligence claims, financial services and superannuation industry disputes, as well as insolvency related investigations, disputes and complaints.



Kathy Merrick

**Gadens** has also added **Dermott Lynch** as a partner in its disputes team in Sydney. He joins the firm after 10 years of operating his own legal practice in London, specialising in commercial litigation, international arbitration and alternative dispute resolution. Acting for clients ranging from private equity and public companies to hedge funds and financial services clients, Lynch's practice includes advising on complex contentious domestic and international disputes and portfolio litigation.



Dermott Lynch



#### INDIA

**Cyril Amarchand Mangaldas** has appointed **David Morley** as a member of its strategic advisory board. Morley spent almost his entire professional career at Allen & Overy, where he won three successive leadership elections and led the firm initially as managing partner and then two terms as senior partner. He has more than 25 years of transactional and relationship experience as a banking lawyer. After retiring from Allen & Overy, he is now pursuing a range of business interests, including as chairman of Elaghmore GP, a private equity fund, and also consulting on leadership and strategy in professional services.



David Morley

**J Sagar Associates** has added **Anjana Potti** as a partner in the finance practice of its Mumbai office, effective November 23, 2017. A senior professional with over 12 years of experience, she has worked for many years with a leading private bank and, more recently, with a large Indian law firm as an of counsel in Mumbai.



Prakash Raja Segaran



#### SINGAPORE

**Allen & Overy** in Singapore has appointed **Prakash Raja Segaran** as a partner. He is a Singapore law finance specialist, acting both for banks and borrowers on a variety of banking transactions ranging from acquisition finance, property finance and Islamic finance and ship financing through to restructurings. He regularly acts as Singapore law counsel on cross-border transactions across the Asean region as well as in China and India. He joins from Shook Lin & Bok, where he was a partner for more than 12 years, leading the areas of acquisition finance, vessel finance, Islamic finance and trade finance.

## EVENT REPORTS

## Closing out 2017

*There has been no let up at the end of a busy year for the In-House Community team with four important gatherings in the past month alone*

**ABU DHABI**

The In-House Congress Abu Dhabi, in association with Abu Dhabi Global Markets (ADGM), attracted more than 120 in-house delegates and got off to an excellent start with Linda Fitz-Alan, registrar and chief executive of ADGM Courts, reminding in-house counsel about the crucial role they play in the companies they serve. ADGM also presented a workshop that covered dispute resolution in the financial centre and the regulatory environment.

In other sessions during the day Hadeef & Partners analysed the UAE IPO regime and the enforcement of arbitration awards, Berwin Leighton Paisner introduced real estate joint ventures, Trowers & Hamblins discussed the new value-added tax and dispute resolution, while Galadari Advocates & Legal Consultants gave an overview of developments in Gulf trademark law protection.

**YANGON**

Our first ever In-House Community Congress in Myanmar, which took place on November 23 at the Sule Shangri-La, was a great success with more than 60 counsel in attendance, helped by our co-hosts and supporters, DFDL, Myanmar Legal Services, ZICO Law and the British Chamber of Commerce in Yangon.

The day began with an opening address by Robert San Pe, an adviser to the government-established Coordinating Body for rule of law and justice sector issues, and former advisor to Daw Aung San Suu Kyi. Pe spoke on the priorities for legal reform in the country, a topic which was picked up on later by our plenary panel. There followed a keynote by Maung Maung Thein, former Deputy Minister of Finance, on the investment opportunities in the country.

Our morning plenary discussion looked at the evolution of the legal function in Myanmar and the challenges for in-house counsel, featuring panellists Jackson Pek, Asia-Pacific general counsel for the Amadeus IT Group; Robin Scott, general counsel at City Mart; Stanley Khaing, general counsel of CFLD Myanmar; Sett Hlaing, head of the legal and compliance department at Kanbawza Bank; and William Greenlee, a partner at DFDL. The panel was chaired by In-House Community Managing Director, Tim Gilkison.

The biggest legal challenges cited during the day's discussions included unclear and outdated laws, and

the need for more consistent application of laws by the regulators.

Between the day's networking opportunities, workshops examined the changing power generation portfolio, domestic M&A and employment issues, legal education in Myanmar and project financing in the region.

**TOKYO**

The 13th annual Japan In-House Community Symposium was a select gathering of enthusiastic senior in-house counsel. The majority represented Japanese corporates interested in investing in regional emerging markets, especially India and Indonesia.

Attendees enjoyed a frank discussion on how the in-house lawyer can become a trusted adviser to the company, with Grady E Loy, general counsel for Mitsubishi Gas Chemical, and Eric Sedlak of K&L Gates, followed by stimulating workshops on the latest trends in M&A with Tsuguhito Omagari, a partner with K&L Gates; investment into India with Mohit Saraf, a partner with Luthra & Luthra Law Offices; and Indonesian labour matters with Lia Alizia, managing partner of Makarim & Taira S.

Thanks also to the Japan In-House Counsel Network for their participation and support.

**MUMBAI**

The 14th annual Mumbai In-House Congress was once again extremely well received by the in-house counsel in attendance. Cyril Shroff, managing partner of Cyril Amarchand Mangaldas, got the proceedings underway with an opening address that led into a panel discussion with Amber Gupta, head of legal for Aditya Birla Sun Life; Damini Marwah, general counsel for Axis Bank; Manish Asarkar, India legal and compliance head for Black & Veatch; and Gautam Bhattacharyya, a partner at Reed Smith.

The In-House Development Model, as devised by Evangelos Apostolou, former general counsel of EY Asia, was thoroughly aired and found to be of particular resonance for both in-house counsel teams and the private practice firms that serve them.

Topics discussed during the rest of the day included the changing corporate governance paradigm with Cyril Amarchand Mangaldas; dispute resolution and transactional aspects in the debt restructuring process with Reed Smith; and third-party funding with Clyde & Co Clasis Singapore and IMF Bentham.

**ABU DHABI****YANGON****TOKYO****MUMBAI**

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

*“A perfect event — the topics were very relevant to my work and the content was insightful”*

2017  
**IN-HOUSE  
Congress**  
ABU DHABI



**Vanessa Abernethy**  
General Counsel  
Emirates International  
Investment Company



**Saleem Adam**  
Partner – Abu Dhabi  
Trower & Hamlin LLP



**Mohammed R. Alsuwaidi**  
Managing Partner  
Al Suwaidi & Company



**Martin Amison**  
Partner – Resident  
Managing Partner - Dubai  
Trowers & Hamlin LLP



**Cheryl Cairns**  
Partner – Dubai  
Trowers & Hamlin LLP



**Richard Davies**  
Country Managing Partner  
- UAE, Abu Dhabi  
Berwin Leighton Paisner  
LLP



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



**Michael Dunmore**  
Associate  
Hafef & Partners



**Karim Fawaz**  
Corporate Counsel –  
Middle East, Africa &  
Turkey Team Lead  
Cisco Systems



**Linda Fitz-Alan**  
Registrar and Chief  
Executive  
ADGM Courts



**Andrew Glendinning**  
Senior Legal Counsel  
PricewaterhouseCoopers



**Emmanuel Givanakis**  
Executive Director of the Legal  
and Enforcement Division -  
Financial Services Regulatory  
Authority (FSRA)  
Abu Dhabi Global Market



**Greg Nixon**  
Senior Associate  
Berwin Leighton Paisner  
LLP



**Yasser Omar**  
Partner  
Hafef & Partners



**Davide Paoli**  
Senior Associate  
Galaadri Advocates &  
Legal Consultants



**Hazel Shakur Quinn**  
Legal Director  
Berwin Leighton Paisner  
LLP



**Dawn Sanderson**  
General Counsel  
Al Dahra Holding LLC



**Nicholas Sharratt**  
Of Counsel  
Winston & Strawn LLP



**Basil Siddiqi**  
Executive Partner  
Hafef & Partners



**Martin Tideström**  
Director of Business  
Development, Registration  
Authority  
Abu Dhabi Global Market

*“it was the perfect time to host this conference. It was great to consider issues relevant to in-house lawyers for the first time in Myanmar”*

2017  
**IN HOUSE  
Congress**  
YANGON



**Albert T. Chandler**  
International Legal  
Consultant  
Myanmar Legal Services  
Limited



**Tim Gilkison**  
Managing Director  
In-House Community



**William Greenlee**  
Partner; Managing  
Director, Myanmar; Head  
of DFDL China Desk  
DFDL



**Sett Hlaing**  
General Manager, Head of  
Legal and Compliance  
Department  
Kanbawza Bank Limited  
(KBZ Bank)



**Stanley Khaing**  
General Counsel  
CFLD Myanmar



**Daw Khin Cho Kyi**  
Managing Director  
Myanmar Legal Services  
Limited



**Robert San Pe**  
Senior Adviser on  
Myanmar Legal Affairs



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



**Robin Scott**  
General Counsel  
City Mart Holding  
Company, Limited



**Dave Seibert**  
Senior Legal Adviser  
DFDL



**Guillaume Stafford**  
International Legal  
Consultant  
Myanmar Legal Services  
Limited



**Dr Maung Maung Thein**  
Former Myanmar Deputy  
Minister of Finance,  
Executive Chairman,  
ZICO Law Myanmar

*“It is so difficult to get legal information on countries such as India and Indonesia, so the presentations by Mr Saraf and Ms Alizia were quite helpful”*

Japan  
**In-House Community  
Symposium**  
Tokyo 2017  
A GUEST EVENT TO THE  
In-House Congress



**Lia Alizia**  
Managing Partner  
Makarim & Taira S.



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



**Grady Loy**  
General Counsel  
Mitsubishi Gas Chemical  
Company, Inc.



**Tsuguhito Omagari**  
Partner, Tokyo  
K&L Gates LLP



**Mohit Saraf**  
Senior Partner  
Luthra & Luthra Law  
Offices



**Eric Sedlak**  
Partner, Tokyo  
K&L Gates LLP

*“An excellent and well-organised event, and a good forum to meet peers and gain new perspectives”*

2017  
**IN-HOUSE  
Congress**  
MUMBAI



**Manish Asarkar**  
Legal & Compliance Head  
– India  
Black & Veatch Private  
Limited



**Gautam Bhattacharyya**  
Partner  
Reed Smith



**Anchal Dhir**  
Partner  
Cyril Amarchand  
Mangaldas



**Patrick Dransfield**  
Investment Director Asian-  
mena Counsel and  
Co-Director, In-House  
Community



**Tom Glasgow**  
Senior Partner  
Investment Manager  
(Asia)  
IMF Bentham



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**Cyril Shroff**  
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Mangaldas

## DEAL OF THE MONTH



## Asian-mena Counsel Deal of the Month

## Razer's HK\$4.1bn IPO

The company that makes hardware “For Gamers. By Gamers.” pulled off an offering that also proved popular for investors.

Razer, which makes gaming laptops and accessories, took advantage of the strong market for initial public offerings in November with its Hong Kong debut.

The San Francisco and Singapore-based company, which is backed by Hong Kong billionaire Li Ka-shing and Singapore's sovereign wealth fund, raised HK\$4.1 billion (US\$530 million) in new capital that it will in part be used to fund expansion into dedicated gaming smartphones — a move that will be helped by the company's relationship with Li and his telecoms empire.

The shares were priced at HK\$3.88 each on the back of strong demand and gained as much as 41% during the first day of trading, but soon gave up most of those gains as investors took

their profit. By the end of November it was trading at around HK\$4.10.

Even at the lower share price, chief executive (and a keen gamer himself) Tan Min-liang, who owns 42% of the company with his family, has comfortably entered the ranks of billionaires. His stake is worth roughly US\$2 billion today.

The shares were offered to international investors in reliance on the US SEC's Rule 144A and Regulation S.

Although the company has been loss-making for the past three years and expects to continue to be loss-making through 2018, it is a key player in the rapidly growing professional competitive games sector, also known as esports. It is ranked as the number one provider of gaming hardware in China,



where esports events can attract audiences of thousands of people.

**Davis Polk & Wardwell** acted as Hong Kong and US counsel to **Razer**, led by partners **Bonnie Chan** and **James Lin**. **Freshfields Bruckhaus Deringer** acted as Hong Kong and US counsel to **Credit Suisse** and **UBS**, as the underwriters and joint bookrunners, with a team led by partners **Grace Huang** and **David Ludwick**. **Maples and Calder** acted as Cayman Islands counsel to Razer, with partner **Richard Spooner** leading the transaction.

## Other recent transactions include:

**HSA Advocates** is advising **Karm Chand Thapar Group** (KCT) on the divestment of 100 percent stake of KCT Renewable Energy (KCTRE) to Goldman Sachs-backed ReNew Power Ventures for more than Rs10 billion (US\$153.6m). KCTRE owns three fully operational wind power projects with a total capacity of 103 megawatts in the State of Andhra Pradesh. The KCT Group, the Vikram Thapar-led arm of the business house, was founded by Karam Chand Thapar in 1929 as a coal mining company. Today, it has a highly diversified portfolio of businesses, with interests in sectors ranging from coal and real estate to manufacturing and aquaculture. In 2013, the group entered the wind energy sector, a division which is led by Varun Aditya Thapar, son of Vikram Thapar. Managing partner **Amitabh Sharma**, supported by partners **Harvinder Singh** and **Mazag Andrabi** and associate partner **Akshay Malhotra**, is leading the transaction.

**S&R Associates** advised **DSP Merrill Lynch**, **ICICI Securities**, **IIFL Holdings**, **CLSA**, **Edelweiss** and **JM Financial** as the book-running lead managers on the Rs57 billion (US\$871.6m)

IPO of **ICICI Lombard General Insurance**, a private sector non-life insurer. This was the first IPO by a non-life insurance company in India. Mumbai partners **Sandip Bhagat** and **Jabarati Chandra** led the transaction.

**Simpson Thacher** has represented the **underwriters**, led by **Citigroup**, **Merrill Lynch** and **HSBC**, on the offering of US\$500 million currency-linked zero coupon convertible bonds by Hon Hai Precision Industry, also known as FoxConn. Headquartered in Taiwan, Hon Hai is the world's largest contract electronics manufacturer. Its common shares are traded in Taiwan. The bonds are listed in Singapore. Hong Kong corporate partner **Chris Lin** led the transaction.

**Skadden** is representing **Bytedance**, China's leading AI-powered content platform, on its agreement to acquire Musical.ly, one of the world's most popular mobile lip-sync platforms, and on its acquisition from Cheetah Mobile of News Republic, a global mobile news aggregating service operator. Partners **Julie Gao** and **Will Cai** are leading the transactions, which were announced on November 10, 2017.



Stefano Demichelis  
Principal, Investigations and Disputes

# Forensic accounting to assist asset search

*There are endless ways to identify assets, but it can be a costly exercise.*

Corporations can face financial exposure from a variety of sources including, but not limited to, regulatory disputes, medium to large outstanding receivables, arbitration and outright internal and external frauds.

We are often approached by companies that have experienced such financial losses to assess the asset position of respondents prior (and/or during) arbitration proceedings or to assist in litigation and the identification and recovery of assets.

When it comes to identifying assets, the investigative venues and methodologies are endless and greatly depend on a number of factors, including the nature of the subject (ie, company, individual, trust, etc) being investigated; the jurisdictions involved; and the amount sought by our clients. Unfortunately, asset tracing can be a costly exercise and the amounts involved might have a direct impact on the willingness of the client to pursue recovery.

For the purpose of this article, we will describe just a few of the sources of information that can be used when an organisation is considering asset recovery:

- Public records. Public record research is a basic stepping stone when searching for assets. Corporate filings, property registers, and media (including social networks) can be critical in assessing the subject's direct or indirect asset holding methods.
- Cash movement. The old mantra "follow the money" highlights one of the first places to start,

especially when access to the books and records of a company is possible and when cryptocurrencies are not involved. This can provide an initial understanding as to where funds might have been transferred. Swift messages are fairly easy to review and are normally used for international transfers. In the case of former owners of acquired companies, it is not uncommon to see funds being paid to companies not linked to the business or to personal bank accounts.

- Phone records. Reviews of itemised phone bills of the subject (both landline and company mobile phone) might provide an insight as to calls made to landlines and/or international numbers not linked to the business of the company. Granted, with the increased use of VoIP calls (eg, FaceTime, WhatsApp,) this exercise might yield little or no results.
- Books and records. Forensic accounting reviews of books and records can provide investigative leads worth pursuing. For instance, payment of real estate agents' fees, flights and hotels might yield an insight as to where properties might have been purchased or assets hidden.
- Digital footprints. Individuals tend to use office computers and mobile phones for personal matters. As a result, forensic review of these devices can provide exceptional information about a subject. For instance:
- Computers might retain (in addition to emails and deleted and active

documents), internet logs, keyword searches on internet engines (eg, Google, Yahoo), chat and snippets of online mail accounts, pictures, audio files, email identifiers and contacts that can be reviewed to understand the behaviour of a subject. The purpose of this exercise is not to identify matters of a personal nature (eg, medical history), but to identify, if possible, the whereabouts of assets and names of people related or close to the subject.

- Mobile phones can be a treasure chest of information including, among other things, messages (eg, viber, wechat, line, whatsapp, imessages, sms, etc); geolocation (ie, places frequently visited, pictures taken and uploaded, etc); and phone call mapping (ie, the ability to identify the timing, length and number of conversations with specific parties, etc).
- HR files. Reviewing HR files is often overlooked, but this part of any investigation might provide very good leads when it comes to the identification of potential proxies, nominees, addresses, phone numbers and email addresses that can be used to unravel complex webs of companies and individuals.

In all cases, asset tracing exercises need to be supported by a clear legal strategy, sound methodology and a phased approach to increase the chances of success and keep costs under control.

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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.

**In-House: Senior Lawyer  
– Banking and Finance,  
8+ yrs PQE, New Delhi**

A senior banking and finance lawyer is sought to join this leading European financial services institution in New Delhi, supporting all finance-related matters across India. Reporting to the head of legal in India, you will be responsible for providing legal support with respect to corporate banking and finance transactions such as bilateral / syndicated loans, on/offshore loans, issuance of debt securities and securitisation, as well as monitoring related regulations and legislation development. Experience in banking and finance or capital markets in private practice or in-house role would be considered for this role. Common law or Indian legal qualification is essential. Previous knowledge of market-standard documentation (LMA, APLMA) is highly desirable. Fluent written and spoken English skills are required. [Ref: I4276/AC]

Contact: Kelvin  
Tel: (852) 2520 1168  
Email: hughes@hughes-castell.com.sg

**In-House: Head of Global Markets Legal  
– Southeast Asia,  
10+ yrs PQE, Singapore**

A well-known investment bank is currently looking for a team lead for the region. This person will act as the central point of contact and have expertise in global markets related activities taking place in Southeast Asia, particularly in Thailand, Vietnam, Indonesia and Malaysia. This person will work closely with the local legal counsel in those jurisdictions and with other members of the regional global markets legal team in Hong Kong. The role will cover all asset classes but there is a strong preference on commodities and FX experience. Successful candidates will be legally qualified in a common law jurisdiction with 10+ years' experience. [Ref: R/MA1710-168728]

Contact: Michael Allen  
Tel: (852) 2499 9796  
Email: michaelallen@puresearch.com

**In-House: Commercial Lawyer  
– Insurance,  
4-8 yrs PQE, Hong Kong**

A leading insurance group seeks a commercial corporate lawyer to support a wide range of corporate projects and provide regulatory support. Great opportunity for a general corporate lawyer to join a dynamic and fast growing insurance business. Fluency in both spoken and written Cantonese is required. [Ref: IHC 16029]

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

**In-House: Legal Counsel  
– Finance,  
4+ yrs PQE, Hong Kong**

A leading financial institution is seeking a 4+PQE lawyer with strong experience in finance matters to advise and provide legal support to their securities brokerage and asset management business lines. The ideal candidate will be qualified in HK, UK or US and will have gained solid experience from a top tier international law firm or reputable financial institution. Fluency in English and Mandarin is essential. [Ref: PBP6837]

Contact: Jenny Law  
Tel: (852) 2537 7448  
Email: jlaw@lewisanderson.com

**In-House: Legal Counsel  
– Manufacturing,  
5-8 yrs PQE, Singapore**

A leading and well-established MNC is presently looking for an independent and experienced in-house counsel. The successful hire will be reporting to the general counsel and working on legal matters globally when required. The ideal candidate will be working closely with the business and supporting them on various functions such as IT, HR and real estate. You will also be actively supporting their China operations and thus be required to attend to business contracts in both English and Mandarin. In addition, you will be advising on compliance related matters. [Ref: JGB – IS 1749]

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



An ASIAN-MENA COUNSEL survey for the

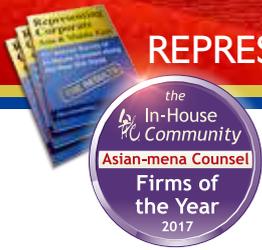
**In-House Community**™

OF IN-HOUSE LEGAL & COMPLIANCE PROFESSIONALS



the  
 In-House  
 Community  
**Asian-mena Counsel**  
**Firms of  
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 2017

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# Representing Corporate Asia & the Middle East

Asian-mena Counsel is pleased to present the results of its 11th annual Representing Corporate Asia and Middle East Survey of members of our *In-House Community* of corporate legal and compliance counsel, and buyers of legal services along the New Silk Road.

## SURVEY METHODOLOGY

### A unique and objective process

More than 21,000 pre-qualified in-house counsel and buyers of legal services were invited to participate in our survey directly and personally online, through a controlled interface, or while attending one of our annual In-House Community Congress and Symposium events across the region (some 2,500 in-house counsel attend at least one of our 18 In-House Community events each year). In total, 1,310 responded overall.

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

### Firms of the Year In-House Community

The second part provided in-house counsel with an opportunity to recognise the law firms which have made a significant impression on them during the past year.

Participants were asked, among other things, for their comments on the quality and value of service they received from external counsel in their jurisdiction and,

where applicable, in other jurisdictions, as well as which firms they prefer to use for various activities. This year, over 1,000 senior in-house counsel took the time to tell us their preferred external counsel in various areas, and based on their experience, why. In-house counsel were able to nominate any firm of their acquaintance – the survey does not lead their choices in any way whatsoever and hence is unique among legal polls in the region – with votes aggregated to select the winning firms in each category. As such, the results do not indicate which law firms have been the most active in any given area, but rather those private practice teams whose service has been of meritable quality and who have been responsive to their clients' needs beyond the norm.

The In-House Community Firms of the Year is not a ranking of firms, and a law firm's absence from the below report is no criticism of them or their abilities, but it is to the great credit of the firms mentioned herein that their clients have voluntarily nominated them for recognition in the following areas.

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

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

### Profile of participants

The respondents to the survey were mostly in-house – either counsel (52%) or heads of legal (32%), while 2% were company directors and 5% were compliance managers.

In terms of industries, roughly a quarter of respondents work in financial services, followed by manufacturing and TMT. While this represents a slightly smaller proportion of financial services respondents than last year, the overall spread of industries is broadly similar to last year.

One notable difference from last year is the growth of representatives from the retail sector, perhaps reflecting the region's growing middle-class consumer segment, as well as the importance of online shopping.

The average size of legal teams is 14 people, with slightly more than 70% saying that they include ethics and/or compliance in the legal department.

## JURISDICTION BY JURISDICTION

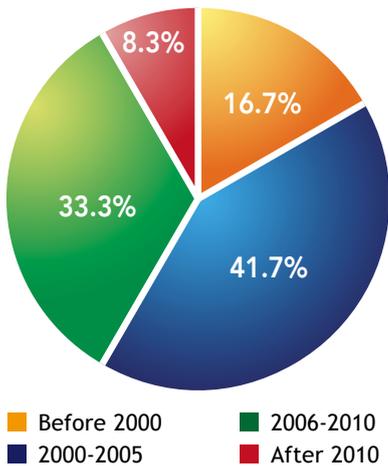
And now for a look at how things stand at a jurisdictional level.

### CHINA

#### AT A GLANCE

Dominant industry: Manufacturing  
Average team size: 16

#### When was your legal department first established in China?



#### Overview

In-house lawyers in China have a broad range of concerns, but two of the most significant challenges are measuring the performance and value-add of the legal department, and working out the optimal departmental structure to ensure that it comprises the right people, with the right skill sets at the right level.

Another common issue that was raised was the desire among in-house counsel to change their non-lawyer colleagues' perception of the legal function from being a barrier to that of being a business partner.

However, such desires come with a caveat – be careful what you wish for. One respondent stated the goal of wanting to “provide more valuable assistance to the business”, while at the same also “controlling the workload of the legal department”. This is a delicate balancing act that some departments have not managed to get right in a market where costs are coming under greater scrutiny in many sectors. When asked about the biggest challenges faced by

in-house counsel in China, another respondent answered simply: “more work, less budget”.

When it comes to what in-house lawyers want from external counsel, the overwhelming consensus was certainty of costs, responsiveness and industry knowledge.

It will come as no surprise that respondents in China were mostly from the manufacturing sector, though there was also good representation from financial services, energy and natural resources, and retail.

For the first time, we asked respondents this year to tell us how old their legal departments are. In China, the average age was around 15 years, which provides an idea of how mature the in-house community is in the country. There were outliers, of course, with some in-house departments being established in the mid-1990s.

Overwhelmingly, ethics and/or compliance is included in the legal department in China and the average team size among respondents to our survey was 16.



### CHINA

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

#### Alternative Investment Funds (including private equity)

- **King & Wood Mallesons**
- *Huashang Law Firm*

- *Anjie Law Firm*
- *Debevoise & Plimpton*
- *Ropes & Gray*

#### Anti-Trust/ Competition

- **Anjie Law Firm**
- **JunHe**
- *Fangda Partners*
- *Han Kun Law Offices*
- *Shearman & Sterling*
- *Winston & Strawn*

#### Corporate and M&A

- **Clifford Chance**
- **JunHe**
- **King & Wood Mallesons**
- *Dentons*
- *Herbert Smith Freehills*
- *White & Case*

#### Aviation

- **Simmons & Simmons**

#### Employment

- **JunHe**
- **King & Wood Mallesons**
- **Lan Bai**
- *Shanghai Baohua Law Firm*
- *DeHeng Law Offices*
- *TransAsia Lawyers*

#### Banking and Finance

- **Allen & Overy**
- **Clifford Chance**
- **King & Wood Mallesons**
- *Han Kun Law Offices*

#### Energy & Natural Resources

- **King & Wood Mallesons**

#### Capital Markets

- **Huashang Law Firm**
- **King & Wood Mallesons**

#### Environmental

- **King & Wood Mallesons**

#### Compliance/ Regulatory

- **JunHe**
- **King & Wood Mallesons**

#### Insurance

- **Yingke**
- *Han Kun Law Offices*

#### Intellectual Property

- **Beyond IP Law**
- **JunHe**
- **King & Wood Mallesons**

#### International Arbitration

- **Clyde & Co**
- **Herbert Smith Freehills**
- **King & Wood Mallesons**
- *Fangda Partners*

#### Life Sciences

- **Sidley Austin**
- *Ropes & Gray*

#### Litigation and Dispute Resolution

- **Anjie Law Firm**
- *King & Wood Mallesons*

#### Maritime & Shipping

- **Henry & Co**
- *Ince & Co*
- *Wang Jing*

#### Projects and Project Financing

- **O'Melveny & Myers**

#### Real Estate / Construction

- **Huashang Law Firm**
- *King & Wood Mallesons*
- *Zhong Lun Law Firm*

#### Restructuring & Insolvency

- **Clifford Chance**

#### Taxation

- **EY**
- **KPMG**
- *Dentons*

#### Telecommunications, Media & Technology

- **King & Wood Mallesons**
- *Bird & Bird*

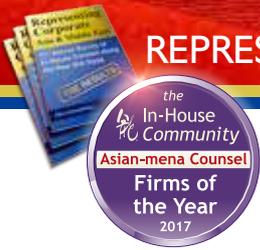
### MOST RESPONSIVE FIRMS OF THE YEAR, CHINA

#### INTERNATIONAL

- **Baker McKenzie**
- **Clifford Chance**
- **Herbert Smith Freehills**

#### DOMESTIC

- **JunHe**
- **King & Wood Mallesons**
- *Fangda Partners*
- *Zhong Lun Law Firm*



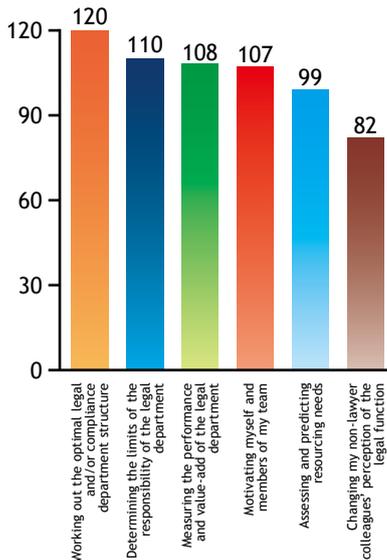
## HONG KONG

### AT A GLANCE

Dominant industry: Financial services

Average team size: 22

### The biggest challenges in my job are....



### Overview

The pressure on legal resources remains a critical challenge for in-house lawyers in Hong Kong. While this is a common theme across the region, it is particularly acute in this financial services hub, where lawyers are increasingly being asked to perform non-advisory tasks as part of internal operational risk management frameworks, such as formal risk assessments and reporting, management updates, events monitoring and root cause analyses.

Meeting the challenge of “more responsibilities with no increase in resources” was frequently cited by in-house lawyers in the city, and much of the blame for this was placed on the growing burden of compliance. And “burden” is clearly how some lawyers see it, with one respondent complaining about “regulatory demands that are not necessarily relevant for our industry or specific products”.

As well as coping with legal and regulatory developments, in-house teams

in this dynamic city say they are also challenged with understanding and responding to the increasing role of technology. Fintech is the buzzword of the moment for many businesses in Hong Kong, but this is an area that can place additional and unfamiliar demands on the legal department, particularly in the form of data privacy rules.

The push by large financial institutions to be entrepreneurial and innovative requires in-house lawyers to be sensitive to the demands of the business and the need to provide valuable and meaningful guidance, bearing in mind the legal function’s broader role in protecting the company’s interests, “while not being a roadblock to business interests and turning into the ‘Department of No’,” as one respondent put it.

Doing all of this on a fixed or shrinking legal budget is clearly putting stress on some in-house teams in Hong Kong, with few signs of optimism for the outlook going forward.

## Albar & Partners

We are passionate about law.

We strive to provide practical value-added service to our clients.

Albar & Partners is honoured to be named “Firm of the Year, Malaysia, 2017 for Banking and Finance” by In-House Community & Asian-mena Counsel.

We are also pleased to receive an Honourable Mention for “Most Responsive Domestic Law Firm”, Malaysia, 2017.

All of us at Albar & Partners wish to thank our clients and friends for their continuous trust and support.

We look forward to serving you better by always striving to exceed your expectations.

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## HONG KONG

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

### Alternative Investment Funds (including private equity)

- Allen & Overy
- Clifford Chance
- Deacons
- Debevoise & Plimpton
- Proskauer Rose

### Anti-Trust/ Competition

- **Baker McKenzie**
- Clifford Chance
- Mayer Brown JSM

### Aviation

- **Clyde & Co**

### Banking and Finance

- **Clifford Chance**
- Allen & Overy

### Capital Markets

- **Freshfields**
- Allen & Overy
- Latham & Watkins
- Linklaters

### Compliance/ Regulatory

- **Baker McKenzie**
- Latham & Watkins
- Norton Rose Fulbright

### Corporate and M&A

- **Baker McKenzie**
- **Linklaters**
- Davis Polk

### Employment

- **Deacons**
- **Mayer Brown JSM**
- **Simmons & Simmons**
- Baker McKenzie
- Eversheds

### Insurance

- **Kennedys**
- Clyde & Co
- Deacons

### Intellectual Property

- **Baker McKenzie**
- **Bird & Bird**
- **Simmons & Simmons**
- **Wilkinson & Grist**

- Ella Cheong & Alan Chiu
- Marks & Clerk

### International Arbitration

- **Herbert Smith Freehills**
- Deacons

### Litigation and Dispute Resolution

- **Herbert Smith Freehills**
- Deacons
- Fangda Partners
- Kennedys
- Mayer Brown JSM
- Stephenson Harwood

### Maritime & Shipping

- **Clyde & Co**
- Reed Smith

### Projects and Project Financing

- **Linklaters**
- Allen & Overy
- Clifford Chance

### Real Estate/ Construction

- **Deacons**
- **Mayer Brown JSM**
- Minter Ellison

### Restructuring & Insolvency

- **Kirkland & Ellis**

- Latham & Watkins

### Taxation

- **Baker McKenzie**
- EY
- PwC
- KPMG

### Telecommunications, Media & Technology

- **Hogan Lovells**

### MOST RESPONSIVE FIRMS OF THE YEAR, HONG KONG

#### INTERNATIONAL

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

#### DOMESTIC

- Deacons
- Tanner De Witt



**ANJIE**  
**LAW FIRM** 安杰律师事务所

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AnJie has one of the largest and most experienced antitrust & competition law practice teams in China and are among the few first-tier law firms who can provide clients with a full range of services in this area, including merger control, investigation defense and private anti-monopoly litigation.



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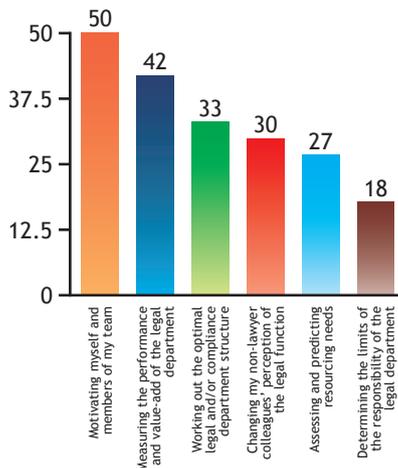
## INDIA

### AT A GLANCE

Dominant industry: Financial services

Average team size: 12

### The biggest challenges in my job are...



## Overview

While lawyers are generally regarded highly in India, this degree of respect does not necessarily extend to in-house lawyers, which might help to explain why one of the biggest challenges cited by respondents at our Mumbai event was “motivating myself and members of my team”.

The “lack of recognition” cited in the survey also contributes to attrition within legal teams and a struggle to retain talented lawyers, who are apt to move to positions that afford them greater respect – but also more challenging roles. “Many young, talented lawyers want to think differently and do things differently,” said one respondent.

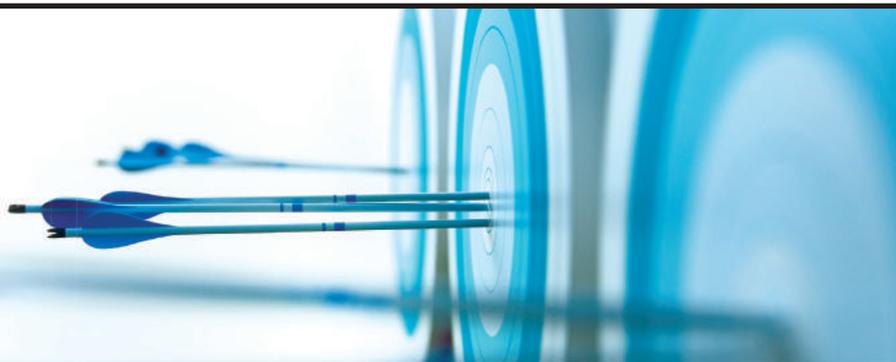
India’s legal landscape is not traditionally seen as fast-moving, but the current government has been more active in introducing new rules and regulations, which has added to the difficulties in-house

teams face as they are charged with keeping pace with changing laws. While this is a common problem across the region (and the world), it is a particularly challenging task with a legal team that is constantly changing.

In terms of what Indian in-house teams want from external lawyers, it is perhaps not surprising that responsiveness is the main quality they are looking for.

Another issue, peculiar to India, is the requirement under the country’s Advocates Act that lawyers working full-time in an in-house role should surrender their licences and be deemed “non-practising”. While many in-house lawyers do not bother to notify the bar council, this status does raise some potential issues. In particular, worried one respondent, what is the nature of attorney-client privilege between India’s non-practising in-house lawyers and their internal clients?

swift  
practical  
resourceful



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A firm of over 500 professionals, BKL is able to deliver swift, focused advice in every area of commercial interest. Specialized practice groups regularly advised on a wide span of cross-border transactions for our clients, among them many multinational enterprises and investor groups.

Core practice areas include Corporate/M&A, Finance, Capital Markets, Dispute Resolution (Litigation, White-collar Crime), International Arbitration, Fair Trade, Intellectual Property, Labor, Construction and Real Estate, Tax, TMT, Maritime and Insurance.

Commonly turned to for the more complex and challenging transactions, BKL consistently ranks among the top Korean firms in client and peer assessments.

In all our work, our philosophy is to deliver expedient advice and resourceful advocacy, guided by a clear understanding of the commercial needs of our clients.

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**INDIA**

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

**Alternative Investment Funds (including private equity)**

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**

**Anti-Trust/ Competition**

- **Cyril Amarchand Mangaldas**
- **Khaitan & Co**

**Aviation**

- **Cyril Amarchand Mangaldas**
- **Wadia Ghandy & Co**

**Banking and Finance**

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**
- *Wadia Ghandy & Co*

**Capital Markets**

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**
- **J Sagar Associates**

**Compliance/ Regulatory**

- **Cyril Amarchand Mangaldas**
- **AZB & Partners**
- *S&R Associates*

**Corporate and M&A**

- **AZB & Partners**
- **Cyril Amarchand Mangaldas**
- *Crawford Bayley & Co*
- *J Sagar Associates*
- *Shardul Amarchand Mangaldas & Co*

**Employment**

- **Agarwal Associates**
- *Bharucha & Partners*
- *Cyril Amarchand Mangaldas*

**Energy & Natural Resources**

- **J Sagar Associates**
- *Cyril Amarchand Mangaldas*

**Environmental**

- **Cyril Amarchand Mangaldas**

**Intellectual Property**

- **Anand and Anand**

**International Arbitration**

- **Reed Smith**

**Litigation and Dispute Resolution**

- **Agarwal Associates**
- **Manilal Kher Ambalal & Co**
- *Cyril Amarchand Mangaldas*
- *Shardul Amarchand Mangaldas & Co*

**Projects and Project Financing**

- **Cyril Amarchand Mangaldas**

**Real Estate/ Construction**

- **Cyril Amarchand Mangaldas**
- **J Sagar Associates**

**Restructuring & Insolvency**

- **Cyril Amarchand Mangaldas**

**Taxation**

- 
- *Khaitan & Co*

**Telecommunications, Media & Technology**

- **Shardul Amarchand Mangaldas & Co**
- *Cyril Amarchand Mangaldas*
- *Naik & Naik*

**MOST RESPONSIVE FIRMS OF THE YEAR, INDIA**

**INTERNATIONAL**

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

**DOMESTIC**

- **Cyril Amarchand Mangaldas**
- *AZB & Partners*
- *Khaitan & Co*

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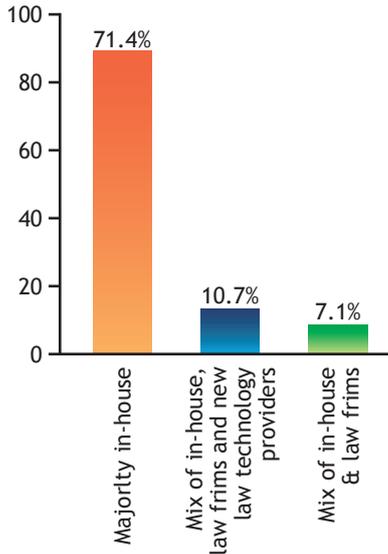

## INDONESIA

### AT A GLANCE

Dominant industry: Manufacturing

Average team size: 8

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



### Overview

While we have listed manufacturing as the dominant industry of respondents in Indonesia, the breadth of sectors represented was actually quite diverse, with significant representation from financial services, energy and natural resources, retail, real estate, technology and metals.

The maturity of the legal teams in attendance at the Jakarta event was also relatively diverse. On average, respondents were working in legal departments that were roughly 15 years old, but some departments dated back to the 1980s.

The mix of domestic and multinational companies was slightly different to the

average In-House Community event, with 42% of respondents working at local corporations, compared to an average of one-third. More than half of the people answering the survey said they worked in teams of five or fewer, and the overall average team size was roughly eight.

Just 61% of respondents said that ethics and/or compliance was included within their legal department, slightly less than the overall average of 72%. The majority of legal work in Indonesia, according to the survey responses, is handled in-house, with very few in-house teams saying that they work with legaltech providers. Analysing the responses, roughly one-third of Indonesian legal spend goes to external counsel.



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Lubis Ganie Surowidjojo





## INDONESIA

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

### Alternative Investment Funds (including private equity)

- **Ginting & Reksodiputro (Allen & Overy)**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**

### Anti-Trust/ Competition

- **Assegaf Hamzah & Partners**
- Ignatius Andy
- Soemadipradja & Taher

### Aviation

- **Lubis Ganie Surowidjojo**
- **Norton Rose Fulbright**

### Banking and Finance

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

### Capital Markets

- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- **Makes & Partners**
- ABNR

### Compliance/ Regulatory

- **Assegaf Hamzah Partners**
- *Hadiputranto Hadinoto & Partners (Baker McKenzie)*

- *Hanafiah Ponggawa & Partners*
- *Kartini Mulyadi & Rekan*
- *Makes & Partners*
- *SSEK*

### Corporate and M&A

- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- *Hutabarat Halim & Rekan*
- *SSEK*

### Employment

- **Kemalsyah & Partners**
- *Adnan Kelana Haryanto & Hermanto*

### Energy & Natural Resources

- **SSEK**
- *Ginting & Reksodiputro (Allen & Overy)*
- *Hogan Lovells*
- *Lubis Ganie Surowidjojo*

### Environmental

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**

### Insurance

- **Widyawan & Partners**

### Intellectual Property

- **Acemark**
- **Am Badar**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**

### International Arbitration

- **Clyde & Co**
- **Lubis Santosa Maramis**

### Islamic Finance

- **Karimsyah & Partners**

### Life Sciences

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**

### Litigation and Dispute Resolution

- **Adnan Kelana Haryanto & Hermanto**
- *Lubis Ganie Surowidjojo*
- *NSMP*

### Maritime & Shipping

- **Lubis Ganie Surowidjojo**

### Projects and Project Financing

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- **Herbert Smith Freehills**

### Real Estate/ Construction

- **SSEK**

### Restructuring & Insolvency

- **Batubara & Bels Law Office**
- **Hermawan Juniarto**

### Taxation

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- **MKK**

### Telecommunications, Media & Technology

- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**

## MOST RESPONSIVE FIRMS OF THE YEAR, INDONESIA

### INTERNATIONAL

- **Allen & Overy**
- **Baker McKenzie**
- **Clyde & Co**
- *Ashurst*
- *Linklaters*

### DOMESTIC

- **Assegaf Hamzah & Partners**
- **Hadiputranto Hadinoto & Partners (Baker McKenzie)**
- *Lubis Ganie Surowidjojo*



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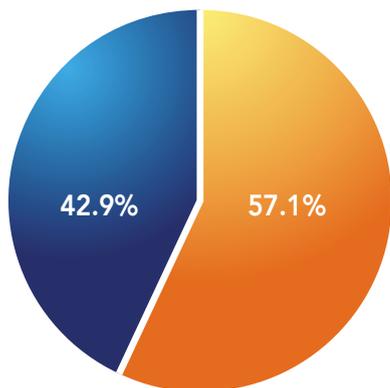


## MALAYSIA

### AT A GLANCE

Dominant industry: Financial services  
Average team size: 8

### Your company is a:



■ Local Company  
■ Multinational Company

### Overview

Although banks and insurers comprise the biggest industry group among our respondents in Malaysia, energy and natural resources players are a close second. Local companies are represented more strongly than in any other market, with a majority 57% domestic participation.

More than 90% of in-house respondents in the country said that they worked in legal teams of between two and 20 lawyers, with just a handful of respondents saying they worked in bigger teams. Surprisingly, the average age of legal teams was less than 10 years among respondents who answered the question, with the oldest dating back to just 1995.

Slightly less than 55% of respondents said that ethics and/or compliance was included within their legal department, well below the overall average of 72%. The majority of legal work in the country, according to the survey responses, is handled in-house, though working with external counsel is relatively common, with roughly 40% of legal spend going to external counsel.



## MALAYSIA

### AS VOTED FOR BY IN-HOUSE COUNSEL

*Winners in bold, honourable mentions in italics*

#### Anti-Trust/ Competition

- **Christopher & Lee Ong**
- **Skrine**
- *Rahmat Lim & Partners*
- *Tay & Partners*

#### Aviation

- **Skrine**

#### Banking and Finance

- **Albar & Partners**
- **Kadir Andri & Partners**
- **Wong & Partners**
- **Zul Rafique & Partners**
- *Putri Norlisa Chair*
- *ZICO Law*

#### Capital Markets

- **Adnan Sundra & Low**
- **ZICO Law**
- *Kadir Andri & Partners*

#### Compliance/ Regulatory

- *Christopher & Lee Ong*
- *Skrine*



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- Zul Rafique & Partners

**Corporate and M&A**

- Kadir Andri & Partners
- Slaughter and May
- ZICO Law

- Adnan Sundra & Low
- Rahmat Lim & Partners
- Shearn Delamore

**Employment**

- Alvin John & Partners
- Lee Hishammuddin Allen & Gledhill
- Shearn Delamore
- Zul Rafique & Partners
- Skrine
- Wong & Partners

**Energy & Natural Resources**

- Christopher & Lee Ong
- Slaughter and May
- Trowers & Hamblins

**Environmental**

- Lee Hishammuddin Allen & Gledhill

**Insurance**

- Azim Tunku Farik & Wong
- Kadir Andri & Partners

**Intellectual Property**

- Azmi & Associates
- Norton Rose Fulbright
- Shearn Delamore
- Rahmat Lim & Partners

**International Arbitration**

- Eversheds
- Cecil Abraham & Partners
- Herbert Smith Freehills
- Rahmat Lim & Partners

**Islamic Finance**

- ZICO Law
- Adnan Sundra & Low
- Kadir Andri & Partners

**Litigation and Dispute Resolution**

- Cecil Abraham & Partners
- Lee Hishammuddin Allen & Gledhill
- Shearn Delamore
- Skrine
- Azman Davidson & Co
- Christopher & Lee Ong
- Rahmat Lim & Partners
- Shook Lin & Bok
- Wong & Partners
- Wong Lu Peen & Tunku Alina

**Maritime & Shipping**

- Fuzet Farid
- Azmi & Associates
- Sativale Mathew Arun

**Projects and Project Financing**

- Abdul Rahman & Partners
- Christopher & Lee Ong
- Kadir Andri & Partners
- ZICO Law
- Zul Rafique & Partners

**Real Estate/ Construction**

- Christopher & Lee Ong
- Raja Darryl & Loh
- Skrine
- Soo Thien Ming & Nashrah
- Tay & Partners
- Zul Rafique & Partners

**Restructuring & Insolvency**

- Kadir Andri & Partners
- Skrine

**Taxation**

- Lee Hishammuddin Allen & Gledhill
- Kadir Andri & Partners
- Raja Darryl & Loh
- Shearn Delamore

**Telecommunications, Media & Technology**

- Christopher & Lee Ong

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

**INTERNATIONAL**

- Baker McKenzie
- Allen & Overy
- Clifford Chance
- Herbert Smith Freehills
- Norton Rose Fulbright
- Rajah & Tann
- Trowers & Hamblins

**DOMESTIC**

- Azmi & Associates
- Christopher & Lee Ong
- Lee Hishammuddin
- Shearn Delamore
- Wong & Partners
- ZICO Law
- Albar & Partners
- Kadir Andri & Partners
- Rahmat Lim & Partners
- Raja Daryl & Loh
- Skrine
- Zul Rafique & Partners

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- Intellectual Property
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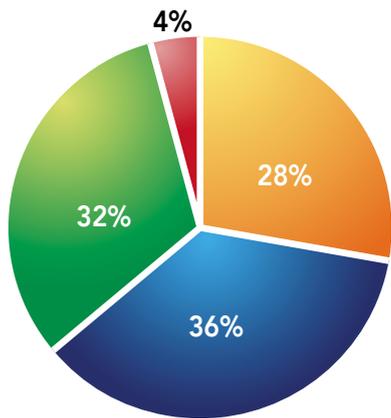


## PHILIPPINES

### AT A GLANCE

Dominant industry: Financial services  
Average team size: 10

### Of the work we outsource:



- All goes to traditional law firms
- Most goes to traditional law firms (over 75 percent of work)
- We use a balanced mix of traditional law firms and new model firms / technology driven service providers
- The majority goes to new model firms / technology driven service providers (over 75 percent of work)
- All goes to new model firms / technology driven service providers

### Overview

The Philippines In-House Community event reflected a diverse selection of industries. While financial services dominated, as in most markets, there was strong participation from energy and natural resources players, manufacturing, retail, real estate, infrastructure, business process outsourcing and government. Almost all of the respondents said they worked in legal departments of fewer than 20 people, with an average team size of 10. One-fifth said they expected the team size to grow during the next year.

Unlike the situation in some of its emerging market neighbours, legal departments in the Philippines are well-

established, with an average age of almost 20 years among respondents to the survey. The oldest date cited for the first establishment of a legal team was 1937.

Slightly more than 57% of respondents said that ethics and/or compliance was included within their legal department. In terms of how departments project-manage their legal work, half of respondents said they employed a balanced mix of in-house and outsourcing. Most of the external spend is directed to traditional law firms, although one-third said they also used new model legal providers, which is perhaps not surprising in a market that has long been home to legal process outsourcers.



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**PHILIPPINES**

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

**Alternative Investment Funds (including private equity)**

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

**Anti-Trust/ Competition**

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

**Aviation**

- **Ocampo & Manalo**
- *ACCRALAW*
- *Romulo Mabanta Buenaventura Sayoc & de los Angeles*

**Banking and Finance**

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

**Capital Markets**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *ACCRALAW*
- *Picazo Buyco Tan Fider & Santos*

**Compliance/ Regulatory**

- **ACCRALAW**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *SyCip Salazar Hernandez & Gatmaitan*
- *Villaraza & Angangco*

**Corporate and M&A**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**

**Angeles**

- *ACCRALAW*

**Employment**

- **ACCRALAW**
- **Siguion Reyna Montecillo & Ongsiako**
- *Platon Martinez*
- *Romulo Mabanta Buenaventura Sayoc & de los Angeles*

**Energy & Natural Resources**

- **ACCRALAW**
- **PJS Law**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- **SyCip Salazar Hernandez & Gatmaitan**

**Environmental**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *Poblador Bautista & Reyes*
- *Siguion Reyna Montecillo & Ongsiako*

**Insurance**

- **ACCRALAW**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *GDR Law Offices*

**Intellectual Property**

- **ACCRALAW**
- **Quisumbing Torres (Baker McKenzie)**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *Bengzon Law Firm*

**International Arbitration**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**

- *Follosco Morillos & Herce*
- *Poblador Bautista & Reyes*
- *Quisumbing Torres (Baker McKenzie)*

**Islamic Finance**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**

**Life Sciences**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**

**Litigation and Dispute Resolution**

- **ACCRALAW**
- *Poblador Bautista & Reyes*
- *Romulo Mabanta Buenaventura Sayoc & de los Angeles*

**Maritime & Shipping**

- **Cruz Marcelo & Tenefrancia**
- **Picazo Buyco Tan Fider & Santos**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**

**Projects and Project Financing**

- **Latham & Watkins**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- **SyCip Salazar Hernandez & Gatmaitan**
- *Cruz Marcelo & Tenefrancia*

**Real Estate/ Construction**

- **Poblador Bautista & Reyes**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- **Tan Acut & Lopez**
- *ACCRALAW*
- *Ines & Villacarlos*

**Restructuring & Insolvency**

- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- **SyCip Salazar Hernandez & Gatmaitan**
- *Platon Martinez*

**Taxation**

- **Baniqued Layug & Bello**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- *Du-Baladad and Associates*
- *Platon Martinez*
- *SyCip Salazar Hernandez & Gatmaitan*

**Telecommunications, Media & Technology**

- **ACCRALAW**
- **Romulo Mabanta**  
**Buenaventura Sayoc & de los Angeles**
- **Villaraza & Angangco**
- *Platon Martinez*
- *Quisumbing Torres (Baker McKenzie)*

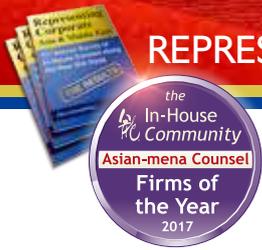
**MOST RESPONSIVE FIRMS OF THE YEAR, PHILIPPINES**

**INTERNATIONAL**

- **Baker McKenzie**
- *Herbert Smith Freehills*
- *Latham & Watkins*
- *Pinsent Masons*

**DOMESTIC**

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



## SINGAPORE

### AT A GLANCE

Dominant industry: Technology, media and telecoms

Average team size: 15

### Overview

The range of challenges cited by respondents in Singapore reflect the nature of the city as a modern, regional financial hub. In-house lawyers discussed issues relating to high workload, high staff turnover, a rapidly changing environment and operating efficiently in a multi-jurisdictional region.

In terms of the profile of respondents, close to 90% worked at multinational companies, across a wide range of industries, including TMT, manufacturing, financial services and energy and natural resources.

Similar to almost all markets, respondents also complained of challenges relating to cost management in a declining economy and problems associated with revamping the legal department to be positioned as a critical partner to the business side, while preserving good legal practices.

Although there was also the usual discussion of external legal costs and the justification of such expenses, there was also a complaint that most of the requests coming into the legal team could not be easily or efficiently outsourced to external counsel. More than half said they were

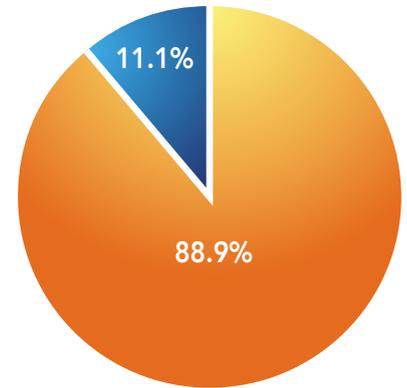
using external counsel less.

As in-house lawyers looked into their crystal balls to forecast which challenges they expected to occupy their limited resources in the future, many cited the Personal Data Protection Act, cyber security and disruptive technologies.

There was also a recognition that vigilance is especially necessary when businesses are struggling, with one respondent saying that the biggest challenge going forward would be “ensuring that our business people do the right thing, despite the challenging economic climate”.

### Your company is a:

- Multinational Company
- Local Company



## SINGAPORE

### AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

#### Alternative Investment Funds (including private equity)

- **Allen & Gledhill**
- **Drew & Napier**
- **Sidley Austin**
- *WongPartnership*

- *Allen & Gledhill*
- *Baker McKenzie*
- *Norton Rose Fulbright*

#### Anti-Trust/ Competition

- **Rajah & Tann**
- *Allen & Gledhill*
- *Baker McKenzie*
- *Drew & Napier*

#### Corporate and M&A

- **Allen & Gledhill**
- **Ashurst**
- **Rajah & Tann**
- *Morgan Lewis Stamford*
- *Reed Smith*
- *WongPartnership*

#### Aviation

- *ATMD Bird & Bird*

#### Employment

- **Baker McKenzie**
- **WongPartnership**
- *Rajah & Tann*

#### Banking and Finance

- **Allen & Gledhill**
- *WongPartnership*

#### Energy & Natural Resources

- **Norton Rose Fulbright**

#### Capital Markets

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

#### Environmental

- *Norton Rose Fulbright*

#### Compliance/ Regulatory

- **Rajah & Tann**
- **WongPartnership**

#### Insurance

- **Clyde & Co**
- **Rajah & Tann**

#### Intellectual Property

- **ATMD Bird & Bird**

#### MOI Juris

- *Xavier & Associates*
- *Yusam Audrey*

#### International Arbitration

- **Simmons & Simmons**

#### Litigation and Dispute Resolution

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

#### Maritime & Shipping

- **Clyde & Co**
- **HFW**
- **Hill Dickinson**
- **Reed Smith**

#### Projects and Project Financing

- **Allen & Gledhill**
- **Baker McKenzie**
- **Morgan Lewis Stamford**
- **Rajah & Tann**

#### Real Estate/ Construction

- **WongPartnership**
- *Allen & Overy*
- *TSMP*

#### Restructuring & Insolvency

- **Allen & Overy**
- *TSMP*

#### Taxation

- **Ong Sim Ho**
- *Allen & Gledhill*
- *Baker McKenzie*
- *EY*
- *PwC*

#### Telecommunications, Media & Technology

- **Hogan Lovells**
- **Rajah & Tann**
- *ATMD Bird & Bird*
- *CMS*

### MOST RESPONSIVE FIRMS OF THE YEAR, SINGAPORE

#### INTERNATIONAL

- **ATMD Bird & Bird**
- **Baker McKenzie**
- *Clifford Chance*
- *Clyde & Co*
- *Norton Rose Fulbright*

#### DOMESTIC

- **Allen & Gledhill**
- **Rajah & Tann**
- *Drew & Napier*
- *Wee Swee Teow & Co*
- *WongPartnership*

## SOUTH KOREA

### AT A GLANCE

Dominant industry: Financial services  
Average team size: 10

### Overview

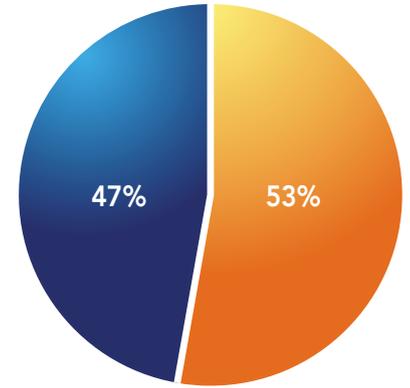
Respondents in Korea said that, as buyers of legal services, the most important quality they want from external counsel is responsiveness and industry knowledge. Overall, one-third said that they are using external counsel less, though this figure

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

- Grow
- Shrink
- Remain the same

was slightly higher among lawyers working at multinational companies than for those at local companies.

The willingness to use new model legal providers is relatively high, with almost 90% saying that they either have used or would



be willing to use such services.

Slightly more than half of respondents said that they intend to grow their team during the subsequent 12 months.



## SOUTH KOREA

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

### Alternative Investment Funds (including private equity)

- **Bae Kim & Lee**

- *K&L Gates*
- *Lee & Ko*
- *White & Case*

### Anti-Trust/ Competition

- **Kim & Chang**
- **Lee & Ko**
- *Bae Kim & Lee*
- *Yulchon*

### Employment

- **Kim & Chang**
- **Lee & Ko**
- *Yulchon*

### Banking and Finance

- **Kim & Chang**
- *Shin & Kim*

### Energy & Natural Resources

- **Bae Kim & Lee**
- **Kim & Chang**
- **White & Case**

### Capital Markets

- **Kim & Chang**
- **Shin & Kim**

### Environmental

- **Yoon & Yang**

### Compliance/ Regulatory

- **Baker McKenzie**
- **Kim & Chang**
- **Lee & Ko**
- *Bae Kim & Lee*

### Insurance

- **Kim & Chang**
- **Lee & Ko**
- **Shin & Kim**

### Corporate and M&A

- **Bae Kim & Lee**
- **Kim & Chang**
- *Baker McKenzie*
- *Clyde & Co*

### Intellectual Property

- **Bae Kim & Lee**
- **K&L Gates**
- **Lee & Ko**
- **Lee International**
- **Muhann Patent & Law Firm**
- *Kim & Chang*

### International Arbitration

- **Bae Kim & Lee**
- **White & Case**
- *Kim & Chang*
- *Shin & Kim*

### Life Sciences

- **Lee & Ko**

### Litigation and Dispute Resolution

- **Bae Kim & Lee**
- **Kim & Chang**
- **Lee & Ko**
- *K & L Gates*
- *Kim Chang & Lee*
- *Paul Hastings*
- *Shin & Kim*
- *Yoon & Yang*

### Projects and Project Financing

- **Kim & Chang**
- **Shin & Kim**
- **Yoon & Yang**

### Real Estate/ Construction

- **Bae Kim & Lee**
- *Shin & Kim*
- *Yoon & Yang*

### Restructuring & Insolvency

- **Bae Kim & Lee**

### Taxation

- **Kim & Chang**
- **Yulchon**
- *Lee & Ko*

### Telecommunications, Media & Technology

- **Bae Kim & Lee**
- **Kim & Chang**
- **Shin & Kim**

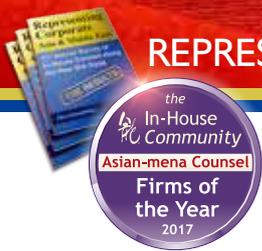
## MOST RESPONSIVE FIRMS OF THE YEAR, SOUTH KOREA

### INTERNATIONAL

- **Allen & Overy**
- **Baker McKenzie**
- **Herbert Smith Freehills**
- **K&L Gates**
- **Paul Hastings**
- *Clyde & Co*
- *Skadden, Arps, Slate, Meagher & Flom*

### DOMESTIC

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



## THAILAND

### AT A GLANCE

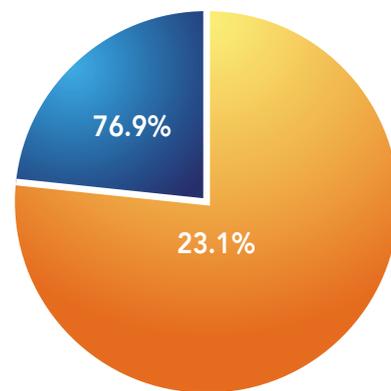
Dominant industry: Manufacturing  
Average team size: 12

### Overview

Unlike neighbouring Southeast Asian jurisdictions, the profile of respondents in Thailand reflects a much more international environment, with almost 70% of delegates working for multinational companies across a variety of sectors, including manufacturing, financial services, energy and natural resources, logistics, retail and technology.

### Is Ethics and / or Compliance included in Legal?

- Yes
- No



The average size of legal departments was 12, with roughly 38% of respondents saying that they expected the team to grow during the subsequent 12 months. Slightly more than three-quarters of respondents said that ethics and/or compliance was included within their legal department. In terms of how departments project-manage their legal work, more

than half of respondents said that the majority was handled in-house, while two-thirds said that they used new model legal providers for some of their external work. Overall, slightly more than 40% of legal spend goes to external counsel.



## THAILAND

### AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

#### Alternative Investment Funds (including private equity)

- **Weerawong C&P**
- Baker McKenzie
- Chandler MHM

#### Anti-Trust/ Competition

- **Baker McKenzie**
- **Rajah & Tann**
- Allen & Overy
- Tilleke & Gibbins

#### Aviation

- **Baker McKenzie**

#### Banking and Finance

- **Baker McKenzie**
- **Chandler MHM**
- Linklaters
- LS Horizons

#### Capital Markets

- **Chandler MHM**
- **PwC**
- Allen & Overy
- Baker McKenzie
- Clifford Chance
- Linklaters

- Weerawong C&P

#### Compliance/ Regulatory

- **Baker McKenzie**
- **Weerawong C&P**
- Chandler MHM
- DFDL
- Siam City Law Offices

#### Corporate and M&A

- **Allen & Overy**
- **Chandler MHM**
- Baker McKenzie
- Rajah & Tann

#### Employment

- **Rajah & Tann**
- DFDL

#### Energy & Natural Resources

- **Chandler MHM**
- Ashurst

#### Environmental

- **Chandler MHM**

#### Insurance

- **Baker McKenzie**

#### Intellectual Property

- **Domnern Somgiat & Boonma**
- **South Asia Law**
- **Tilleke & Gibbins**
- Baker McKenzie
- Dej-Udom & Associates
- ZICO Law

#### International Arbitration

- **Baker McKenzie**
- Herbert Smith Freehills
- Hunton & Williams
- Rajah & Tann

#### Litigation and Dispute Resolution

- **Baker McKenzie**
- Diamond Law
- ES Counsel
- Herbert Smith Freehills
- Natee International Law Office
- Siam Premier International

#### Maritime & Shipping

- **Clyde & Co**
- Baker McKenzie

#### Projects and Project Financing

- **Chandler MHM**
- Allen & Overy

#### Real Estate/ Construction

- **Axis Legal**
- **South Asia Law**

#### Restructuring & Insolvency

- **Baker McKenzie**

#### Taxation

- **PwC**
- EY

### MOST RESPONSIVE FIRMS OF THE YEAR, THAILAND

#### INTERNATIONAL

- **Baker McKenzie**
- Allen & Overy
- DFDL
- Linklaters
- Rajah & Tann

#### DOMESTIC

- **Chandler MHM**
- **Siam City Law Offices**
- South Asia Law
- Weerawong C&P

## UAE

### AT A GLANCE

Dominant industry: Real estate/construction  
Average team size: 8

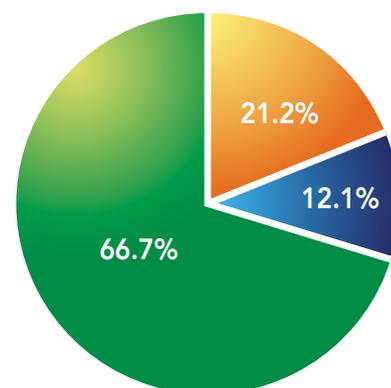
### Overview

In-house counsel in the United Arab Emirates often work for companies with interests across a particularly challenging region, where access to external legal expertise is often necessary in the eyes of the in-house team, but not always recognised by the commercial side of the business. “The business culture tends to rely on factors other than legality or risk management,” as one respondent put it.

Many respondents cited measuring the

### In the coming year, do you expect to use external counsel?

- More
- Less
- About the same



performance and value-add of the legal department as a key challenge, as well as changing the perception of the legal function from being a barrier to being a business partner in the eyes of non-legal colleagues.

This was the only jurisdiction where the election of Donald Trump came up as a challenge, with the issue of sanctions and travel restrictions affecting trade and creating uncertainty across the region. The introduction of value-added tax was also

commonly cited. The UAE and Saudi Arabia are both launching VAT on selected goods and services on January 1, 2018, including certain financial products and real estate transactions.

However, by far the most common concern mentioned by respondents was the continued economic uncertainty and slow pace of business.



## UAE

### AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

#### Alternative Investment Funds (including private equity)

- **Allen & Overy**
- **Clyde & Co**
- Freshfields
- Hadeff & Partners
- Hogan Lovells
- Ince & Co
- Simmons & Simmons

#### Anti-Trust/ Competition

- **Baker McKenzie**

#### Aviation

- **Clyde & Co**
- **HFW**
- Hadeff & Partners
- Ince & Co

#### Banking and Finance

- **Al Tamimi**
- **Allen & Overy**
- **Clifford Chance**
- Clyde & Co
- Dentons
- Hadeff & Partners
- Stephenson Harwood

#### Capital Markets

- **Clyde & Co**
- Allen & Overy

#### Compliance/ Regulatory

- **Al Tamimi**
- **Clyde & Co**
- **Dentons**
- Allen & Overy
- Eversheds
- Gibson Dunn

#### Corporate and M&A

- **Al Tamimi**
- **Clyde & Co**
- **Hadeff & Partners**
- Allen & Overy
- Amereller
- Baker McKenzie

#### Employment

- **Al Tamimi**
- **Clyde & Co**
- **Hadeff & Partners**
- Al Suwaidi & Company
- Baker McKenzie
- DLA Piper

#### Energy & Natural Resources

- **Hadeff & Partners**
- **Norton Rose Fulbright**
- Amereller
- Bracewell
- Herbert Smith Freehills

#### Environmental

- **Eversheds**
- **Hadeff & Partners**

#### Insurance

- **Clyde & Co**
- **Hadeff & Partners**
- Eversheds

#### Intellectual Property

- **Abu-Ghazaleh Intellectual Property**
- **Al Tamimi**
- **Clyde & Co**
- Hadeff & Partners
- Saba IP

#### International Arbitration

- **Clyde & Co**
- **Dentons**
- **Hadeff & Partners**
- **Winston & Strawn**
- Al Tamimi
- Reed Smith

#### Islamic Finance

- **Al Tamimi**
- Clifford Chance
- Hogan Lovells
- Simmons & Simmons

#### Life Sciences

- **Hadeff & Partners**

#### Litigation and Dispute Resolution

- **Al Tamimi**
- **Clyde & Co**
- **Hadeff & Partners**
- Baker McKenzie
- Gibson Dunn
- HFW

#### Maritime & Shipping

- **Clyde & Co**
- **Hadeff & Partners**
- Al Tamimi
- HFW
- Ince & Co

#### Projects and Project Financing

- **Clyde & Co**
- **Hadeff & Partners**
- DLA Piper

#### Real Estate/ Construction

- **Clyde & Co**
- **Hadeff & Partners**
- Al Tamimi
- Baker McKenzie
- Huqooq Legal Practice

#### Restructuring & Insolvency

- **Clyde & Co**
- **Hadeff & Partners**
- Clifford Chance

#### Taxation

- **Hadeff & Partners**

#### Telecommunications, Media & Technology

- **Al Tamimi**
- Clyde & Co
- Hadeff & Partners
- Simmons & Simmons

### MOST RESPONSIVE FIRMS OF THE YEAR, UAE

#### International

- **Clyde & Co**
- Allen & Overy
- Baker McKenzie
- Clifford Chance
- DLA Piper
- Eversheds
- Freshfields
- Hogan Lovells

#### Domestic

- **Al Tamimi**
- **Hadeff & Partners**
- Afridi & Angell
- Al Suwaidi & Company



## VIETNAM

### AT A GLANCE

Dominant industry: Financial services

Average team size: 6

### Overview

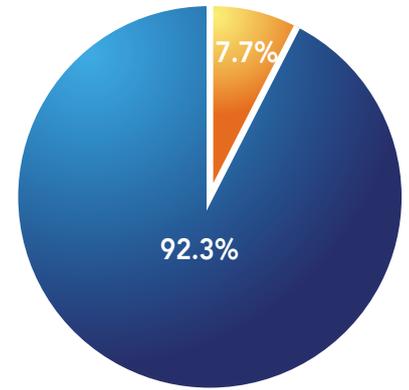
The profile of respondents in Vietnam was overwhelmingly from multinational companies, reflecting the relatively weak development of local private business, which is far outweighed by state-owned enterprises.

International companies in the country

are focused on a range of sectors, from financial services to retail, manufacturing, energy and real estate. The average size of legal teams is just six people and most respondents worked in teams that were established less than 10 years ago. Reflecting the international nature of the businesses they worked for, 81% said that

### Your company is a:

- Local Company
- Multinational Company



ethics and/or compliance is included in legal, which is higher than the regional average.

Respondents said that roughly 30% of legal spend is sent to external counsel.



## VIETNAM

### AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

#### Alternative Investment Funds (including private equity)

- **Baker McKenzie**
- **Russin & Vecchi**
- *LNT & Partners*
- *Mayer Brown JSM*
- *YKVN*

#### Anti-Trust/ Competition

- **Hogan Lovells**
- **LNT & Partners**
- *Baker McKenzie*
- *Duane Morris*
- *Luat Viet*
- *Phuoc & Partners*
- *Russin & Vecchi*
- *VILAF*

#### Aviation

- **YKVN**

#### Banking and Finance

- **Baker McKenzie**
- **VILAF**
- *Mayer Brown JSM*
- *PwC*
- *Russin & Vecchi*
- *YKVN*

#### Capital Markets

- **Baker McKenzie**
- **LNT & Partners**

- **Mayer Brown JSM**
- **VILAF**

#### Compliance/ Regulatory

- **Baker McKenzie**
- **LNT & Partners**
- *PwC*
- *VILAF*
- *YKVN*

#### Corporate and M&A

- **Baker McKenzie**
- **Freshfields**
- **LNT & Partners**
- **Russin & Vecchi**
- **VILAF**
- *Allens Linklaters*
- *Duane Morris*
- *YKVN*

#### Employment

- **Baker McKenzie**
- **Phuoc & Partners**
- *VILAF*

#### Energy & Natural Resources

- **Allens Linklaters**
- *Freshfields*
- *Herbert Smith Freehills*
- *VILAF*

#### Environmental

- **LNT & Partners**
- **YKVN**

#### Insurance

- **Baker McKenzie**
- **Herbert Smith Freehills**

#### Intellectual Property

- **Invest Consult**
- **Vision & Associates**
- *Baker McKenzie*

#### International Arbitration

- **Rajah & Tann**
- **VILAF**
- *Baker McKenzie*

#### Litigation and Dispute Resolution

- **LNT & Partners**
- *Phuoc & Partners*

#### Maritime & Shipping

- **LNT & Partners**

#### Projects and Project Financing

- **VILAF**
- **YKVN**
- *Mayer Brown JSM*

#### Real Estate/ Construction

- **VILAF**
- **ZICO Law**

#### Restructuring & Insolvency

- **Baker McKenzie**
- **Mayer Brown JSM**
- **YKVN**

#### Taxation

- **KPMG**
- **PwC**
- *EY*

#### Telecommunications, Media & Technology

- *LNT & Partners*
- *YKVN*

### MOST RESPONSIVE FIRMS OF THE YEAR, VIETNAM

#### INTERNATIONAL

- **Allen & Overy**
- **Baker McKenzie**
- *Allens Linklaters*
- *Freshfields*
- *Hogan Lovells*
- *Mayer Brown JSM*

#### DOMESTIC

- **LNT & Partners**
- **Russin & Vecchi**
- *Invest Consult*
- *Phuoc & Partners*
- *VILAF*
- *YKVN*



## ANGARA ABELLO CONCEPCION REGALA & CRUZ

LAW OFFICES  
(ACCRALAW®)



### SETTING THE PACE OF EXCELLENCE IN THE PRACTICE OF LAW

Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW) is the country's premier law firm with a cohesive multi-disciplinary team of legal professionals who possess in-depth knowledge in specialized fields of law, backed by extensive experience of over forty years in the practice of law in the Philippines. From a core group of seven lawyers at its inception in 1972, the Firm has grown to a prestigious service organization of more than 150 lawyers and 160 non-legal personnel. Its principal offices are in Bonifacio Global City, Taguig, Metro Manila. The firm has full service branches in thriving business commercial centers in the Visayas and Mindanao - Cebu City and Davao City.

The Firm has an excellent track record in litigation and dispute resolution, labor and employment law,

intellectual property, and in handling diverse, significant and complex business projects and transactions for both local and multinational clients. It has been involved in landmark litigation cases and significant business transactions.

ACCRALAW's clientele represents the full spectrum of business and industry, and includes professional organizations and individuals. Servicing the Firm's clients are seven practice departments and two branches, which offer timely, creative and strategic legal solutions matched with cost-efficient administration and expert handling of clients' requirements.

The Managing Partner of the Firm is Emerico O. De Guzman and its Co-Managing Partner is Regina Padilla Geraledz.



ACCRALAW TOWER

#### PRACTICE AREAS

- Administrative Law
- Admiralty & Maritime Law
- Agricultural Law & Agrarian Reform
- Antitrust & Trade Regulation
- Appellate Practice
- Banking Law
- Business Law
- Bankruptcy, Insolvency and Corporate Rehabilitation
- Business Process Outsourcing
- Class Actions
- Commercial Law
- Constitutional Law
- Construction Law
- Contracts
- Criminal Law
- Cross Border Litigation
- Data Privacy & Protection
- Debtor & Creditor
- Election Law
- Eminent Domain
- Employee Benefits
- Entertainment Law
- Environmental Law
- Family Law
- Government & Legislative Advocacy
- Government Contracts, Public Private Partnership Arrangements and Privatization Projects
- Insurance
- International Law
- Internet Law
- Investment Law
- Litigation
- Mining & Natural Resources
- Personal Injury
- Products Liability
- Professional Liability & Malpractice
- Real Estate
- Securities Law
- Taxation
- Torts
- Trusts & Estates
- White Collar Crime
- Wills & Probate
- Workers' Compensation
- Zoning, Planning & Land Use

#### FOUNDING PARTNERS

- Teodoro D. Regala
- Manuel G. Abello+
- Edgardo J. Angara
- Avelino V. Cruz
- Jose C. Concepcion

#### SENIOR COUNSEL

- Franklin M. Drilon

#### OF COUNSELS

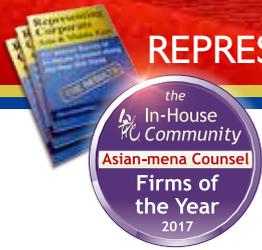
- Rogello A. Vinluan
- Victor P. Lazatin
- Danilo R. Deen
- Luis A. Vera Cruz, Jr.
- Eusebio V. Tan
- Marcial G. De La Fuente
- Emiterio C. Manibog, Jr.
- Aleli Angela G. Quirino

#### SENIOR PARTNERS

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- Francisco Ed. Lim
- Emerico O. De Guzman
- Regina Padilla Geraledz
- Ana Lourdes Teresa Arnaldo-Oracion
- Ernesto R. Añasco
- Alex Ferdinand S. Fider
- Ramon G. Samson
- Josephine Alessandra G. Cochico
- Salvador L. Peña
- Rowena L. Garcia-Flores
- Jefferson M. Marquez
- Leland R. Villadolid, Jr.
- Brígida S. Aldeguer
- María Iolanda B. Abella
- Ruby Rose J. Yusi
- Patricia-Ann T. Prodigalidad

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- Teodoro L. Regala, Jr.
- Oliver L. Pantaleon
- Judy Hao
- Reynaldo J. Concepcion
- Creselda G. Baldonado
- Andre B. Navato, Jr.
- Arnold M. Corporal
- Jose Martin R. Tensuan
- Clarence Darrow C. Valdecantos
- Neptali B. Salvanera
- Victor N. De Leon
- Patricia Tysmans-Clemente
- Chryssilla Carissa P. Bautista
- Joselito M. Bautista
- Eric R. Recalde
- John Paul M. Gaba
- George S.D. Aquino
- Antonio Eduardo S. Nachura, Jr.
- Aison Benedict C. Velasco
- Joy Anne C. Leong-Pambid
- Erwin Jay V. Filio
- Richmond K. Lee
- Elaine Patricia S. Reyes-Rodolfo
- Melissa Angela G. Velarde
- Myra S. Montecalvo-Quillatan
- Eduardo V. Soleng, Jr.
- Jose Eduardo T. Genilo



## IN-HOUSE TESTIMONIALS ...

### UAE

*"In the area of M&A, Hadeef provide extremely diligent and commercial advice"*

### SINGAPORE

*"Baker McKenzie were very responsive to our emails and produce high-quality work consistently"*

### MALAYSIA

*"Kadir Andri & Partners' banking team provide sophisticated advice with commercial understanding and practical negotiation skills"*

### THAILAND

*"For their experience and reputation, Weerawong C&P stands out"*

### VIETNAM

*"Fast in responding to our company's requests. Allens Linklaters provide us with straightforward advice"*

### HONG KONG

*"Very personal and professional service. I find Deacons' advice prompt and concise"*

### PHILIPPINES

*"Romulo Mabanta have been the most consistent in providing banks with the best quality of service and expertise. Regardless of the amount involved or the level of risks associated with a particular concern, the firm delivers the same excellent service"*

### INDONESIA

*"Baker McKenzie lawyers collaborate unusually well across borders, markets and industries around the globe, which means great service"*

### HONG KONG

*"Davis Polk & Wardwell are outstanding for their expertise, corporate culture, service and overall coverage"*

### INDIA

*"Cyril Amarchand Mangaldas align their advice to the needs of the transaction without compromising the legal issues"*

### SOUTH KOREA

*"Lee International is the most well rounded IP firm in Korea"*

### MALAYSIA

*"Christopher & Lee Ong are very competent, always meet the client's needs and give valuable and suitable advice"*

### SOUTH KOREA

*"One of our acquisition targets was coming out of a reorganisation and Bae Kim & Lee's lawyers were instrumental in clearing all the hurdles to make the transaction possible"*

### CHINA

*"Junhe has an outstanding and reliable employment team, whose members are all responsive, knowledgeable and try hard to understand the industry and businesses of the client"*

### THAILAND

*"Chandler MHM provide clear and complete advice"*

### UAE

*"The lawyers at Winston & Strawn took the time to understand our entity and us as the client. They had a strong strategy for arbitration ... very genuine people"*

**UAE**

*“Hadeif & Partners stand out for their commercially-minded, practical legal advice. They have proved cost-effective, and available to us even on short notice”*

**SINGAPORE**

*“I have worked with Rajah & Tann for many years. Commercially oriented with competent lawyers, they understand our business needs and challenges, and are quick to respond”*

**SOUTH KOREA**

*“Kim & Chang attorneys always try to learn more about a customer’s needs to help suggest a better solution”*

**VIETNAM**

*“Our experience working with them, good relationship and their expertise keeps Russin & Vecchi on our list of panel firms for Vietnam”*

**MALAYSIA**

*“Albar & Partners demonstrate technical expertise and a great level of service”*

**HONG KONG**

*“Eversheds have very commercially minded partners and are cost-effective counsel”*

**INDONESIA**

*“Makes & Partners long-term experience in capital markets makes them stand out”*

**MALAYSIA**

*“Azmi & Associates’ responses have always been prompt and advice given ‘sound’ and fit for purpose”*

**SINGAPORE**

*“Allen & Gledhill remain the most responsive among the local firms”*

**UAE**

*“On the real estate side, Clyde & Co’s Alexis Waller has been exceptional in terms of her input and the commerciality of her advice”*

**PHILIPPINES**

*“For real estate matters in the Philippines, Dino Vivencio A Tamayo at Poblador Bautista & Reyes stands out”*

**UAE**

*“DLA have excellent global coverage. Prompt commercial response, good advice, delivered in time and within budget ... Always happy to go the extra mile”*

**SOUTH KOREA**

*“Paul Hastings responded to us in a timely manner, even in very minor cases which were of little financial value”*

**MALAYSIA**

*“Azim, Tunku Farik & Wong have vast experience in insurance, with an ability to advise our company promptly”*

**HONG KONG**

*“King & Wood Mallesons provide timely and professional service, addressing my needs with reasonable charges”*

**INDONESIA**

*“Dr Ganie of Lubis Ganie Surowidjojo is the best lawyer in shipping I know”*



## CHINA

*“For anti-trust matters, Anjie Law gives business-savvy, creative advice. I credit them for their responsiveness, value for money and for listening”*

## INDONESIA

*“Hadiputranto, Hadinoto & Partners has strong team and foundation in banking and finance who are very responsive and give value for money”*

## THAILAND

*“Baker McKenzie understand the facts and give spot-on, timely advice”*

## UAE

*“Clyde & Co are very responsive and flexible to our needs. For example, when we require urgent advice, their response is concise, well researched and they answer the question asked as opposed to merely quoting laws. Their lawyers are professional and knowledgeable”*

## VIETNAM

*“Strong in litigation, LNT also provide a good customer experience”*

## INDIA

*“AZB for their expertise in M&A and ability to deal with complex transactional legal issues”*

## SOUTH KOREA

*“Herbert Smith Freehills’ Seoul team provide a great quality of legal advice, on time, with dedicated services”*

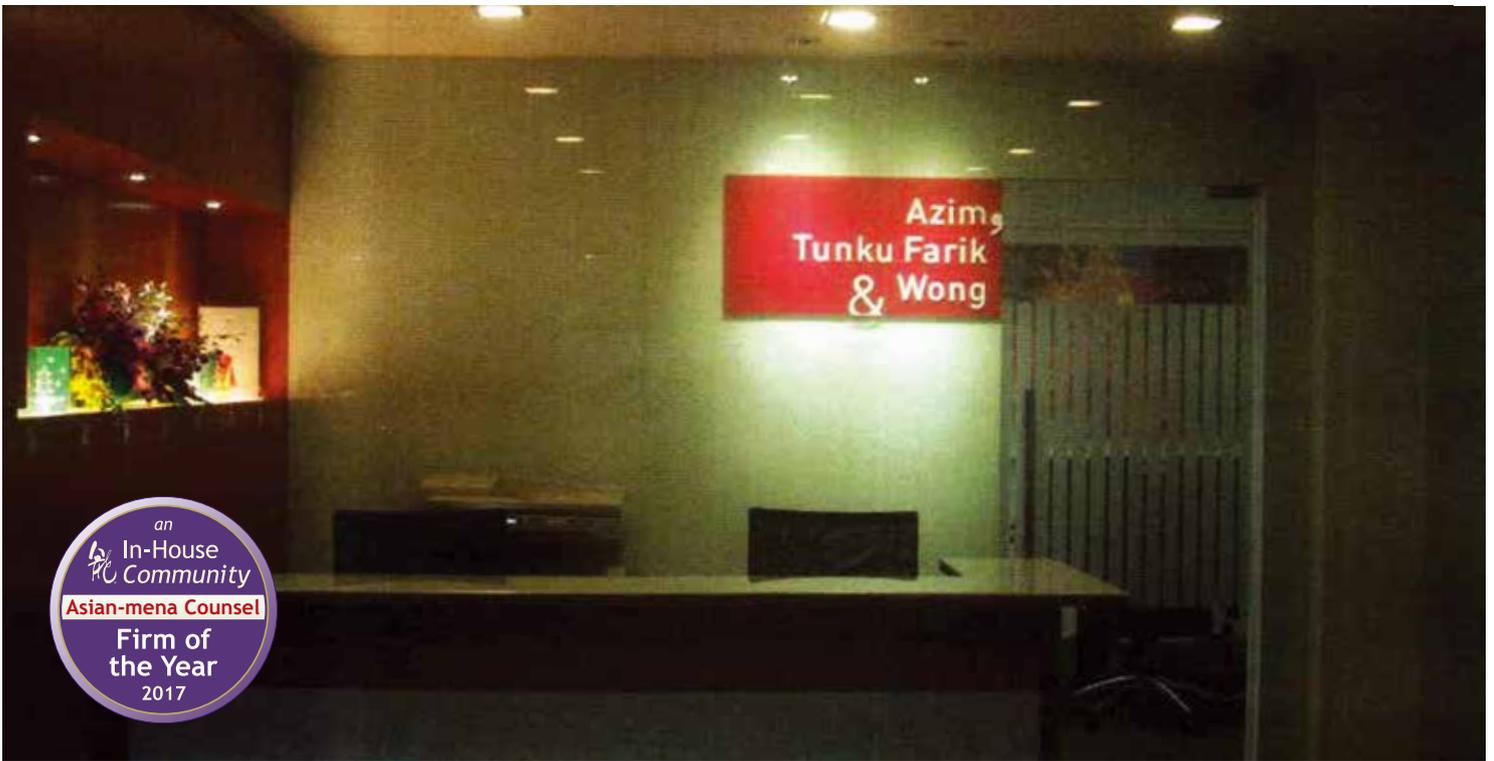
## PHILIPPINES

*“ACCRA Law provide a consistently strong service across various practice areas such as litigation, taxation, corporate and IP”*

### TOP MULTIPLE CATEGORY WINNERS BY JURISDICTION

JURISDICTION		FIRM	CATEGORY WINS
CHINA	Domestic	King & Wood	11
	International	Clifford Chance	3
HONG KONG	Domestic	Deacons	2
	International	Baker McKenzie	5
INDIA	Domestic	Cyril Amarchand Mangaldas	11
INDONESIA	Domestic	Hadiputranto Hadinoto & Partners (Baker McKenzie)	10
MALAYSIA	Domestic	= Christopher & Lee Ong	4
	Domestic	= Kadir Andri & Partners	4
	Domestic	= Lee Hishammuddin Allen & Gledhill	4
PHILIPPINES	Domestic	Romulo Mabanta Buenaventura Sayoc & de los Angeles	19
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# Philippine rules on merger procedure

By Franchette M Acosta, senior partner, V&A Law

**T**he Philippine Competition Commission (Commission or the PCC) issued the Rules on Merger Procedure which explain the timing for the filing of a notice for covered transactions, the procedure for notification, Phase 1 and Phase 2 review and other matters, including confidentiality claims. These matters are summarised briefly below.

## Timing for notification under the PCC rules on merger procedure

The Rules on Merger Procedure issued by the Philippine Competition Commission took effect on December 8, 2017, after the required publication. Significantly, the Rules revise the prescribed timing for the filing of the required transaction notice under the Philippine Competition Act. Under the law, mergers, acquisitions and joint ventures satisfying transaction thresholds must be notified prior to consummation. Relevant thresholds include the assets and revenues of the ultimate parent entity of the acquiring or acquired entity, the value of the transaction and percentage of the corporation acquired. The Rules require notification within 30 days from execution of

the definitive agreement. Under regulations in place prior to the effectivity of the Rules, notification had to be given prior to the execution of the definitive agreements of the transaction.

Definitive agreements are defined by the Commission as those setting out the complete and final terms and conditions of the transaction, including rights and obligations between or among the transacting parties. Share Purchase Agreements, Asset Purchase Agreements, Joint Venture Agreements or other similar agreements are considered definitive agreements. Notification made beyond 30 days from execution of the definitive agreement even if prior to consummation of the transaction will result in the imposition of penalties on the parties. Failure to notify prior to full or partial consummation of the transaction will render the transaction void, and will also subject the parties to fines. A merger or acquisition is consummated where the parties have performed their obligations under the definitive agreement resulting in the transfer, conveyance, assignment or encumbrance of any right, title, interest, property or asset.

“Notification made beyond 30 days from execution of the definitive agreement even if prior to consummation of the transaction will result in the imposition of penalties on the parties. Failure to notify prior to full or partial consummation of the transaction will render the transaction void”

M&A review under the Rules follows a two-phase process. Phase 1 review is conducted within a period of 30 days from complete notification and payment of filing fees. However, prior to the commencement of this period, the Commission is given an opportunity to review the submissions to determine completeness. Thus, within a period of 15 days from receiving the parties' submission, the Commission will conduct a sufficiency check to verify if the parties have provided complete information and documentation. If the submission is complete, the parties will be directed to pay the filing fee. If the submission is determined to be incomplete, the period to conduct the sufficiency check will be effectively extended. The parties will be informed and will have 15 days to respond and provide the needed information. In the meantime, the 15-day Sufficiency Period is suspended.

The purpose of the Phase 1 review is to establish whether the notified transaction is likely to give rise to competition concerns, which must be subjected to further study. The Commission will clear the transaction for consummation if it determines that the transaction does not raise competition concerns. However, if the Commission is not convinced that the transaction does not raise competition concerns, review will proceed to Phase 2. For this purpose, the Commission will serve notice on the parties and request for additional information.

Phase 2 runs for a period of 60 days commencing on the day after service of Phase 2 notice. The transaction parties must respond to a Phase 2 request for information within 15 days from receipt. Failure to respond within the period shall result in the expiration of the parties' notice, and the parties will have to re-file. However, if the Commission is in possession of alternative relevant information, it may decide to pursue Phase 2 review.

In the course of Phase 2 review, the Commission will evaluate whether the notified transaction will substantially prevent, restrict or lessen competition (SLC) in the relevant market. If it is concluded that the notified transaction is likely to result in SLC, the Commission will prohibit the transaction or impose conditions to address the anti-competitive effects such as requiring the parties to enter into agreements or dispose assets or shares in order to prevent anti-



*Franchette M Acosta*

competitive effects. In the course of Phase 1 and Phase 2 Reviews, the transaction parties may volunteer commitments to remedy, mitigate or prevent competition concerns identified by the Commission. However, proposals for commitments will not be allowed after the PCC has rendered a decision.

The Mergers and Acquisitions Office (MAO) will issue a Statement of Concerns (SOC) if based on evaluation, it determines that the transaction is likely to give rise to SLC. The SOC, which must set forth the findings of the MAO, is filed with the Commission not later than the 45th day of the Phase 2 period. Following receipt of the SOC, the transaction parties have the opportunity to present their defence. The parties may request for a state of play meeting, or file a verified comment within a period of 10 days. To better prepare their defence, the transaction parties may request the PCC to disclose the documents on the basis of which the SOC was issued. Following the submission of the verified comment, the parties may request for a conference or the PCC may require the parties to submit further

briefs, memoranda or other information. The PCC shall promulgate its decision within 15 days from the date of the last hearing or submission of the parties.

**Confidentiality claims under the rules**

Under the Rules, all information provided during the course of a pre-notification consultation (PNC) shall be treated as confidential by the PCC. Parties cannot claim confidentiality as an excuse for not submitting any document or information required by the PCC. Confidentiality of documents submitted pursuant to a notification are expressly governed by Section 9 of the Rules. The PCC is allowed to disclose Confidential Information

“The purpose of the Phase 1 review is to establish whether the notified transaction is likely to give rise to competition concerns, which must be subjected to further study. The Commission will clear the transaction for consummation if it determines that the transaction does not raise competition concerns.”

only when there is consent from the person or entity claiming confidentiality or when disclosure is required by law, by a valid order of a court or by virtue of an agreement with a government agency. Another instance when disclosure can be made is when it is necessary to enforce the law. This last instance gives the PCC broad discretion. The condition for disclosure to government agencies outside the Philippines is stricter, as it requires the waiver of the entity claiming confidentiality.

Generally, the Rules extend confidential treatment to Confidential Business Information, which is defined as information which “concerns or relates to the operations, production, sales, shipments, purchases, transfers, identification of customers, inventories, or amount or source of any income, profits, losses, expenditures which are not generally known to the public or to other persons who can obtain economic value from its disclosure or use, or is liable to cause serious harm to the person who provided it, or from whom it originates, and is the subject of efforts that are reasonable under the

circumstances to maintain its secrecy.” However, the PCC may also extend confidentiality to information other than Confidential Business Information upon claim of an entity on the ground that the information is not generally known to the public or if the disclosure of information is prejudicial to any investigation conducted under the law. The following information are not considered confidential by the PCC: the fact of a merger/ acquisition, information that will not cause harm to the business if disclosed to the public, information that reflects the parties’ view of how the competitive effects of the merger could be analysed, and information that is general knowledge within the industry or may be verified by any diligent market participant or expert.

It should be noted that submissions to the PCC should indicate if there are any claims of confidentiality, which must be particularly or specifically substantiated. General claims of confidentiality will not be given due course. Unless there is a claim of confidentiality, the PCC will presume that none of the information contained in a party’s submission is confidential. The parties claiming confidentiality must provide a non-confidential version of the submission. The MAO will provisionally extend confidential treatment if the request for confidentiality meets the conditions required under the Rules. If the MAO does not agree that information provided should be treated confidentially, the MAO must notify the parties at least five days prior to disclosure. The affected parties may question this decision within a period of five days by raising the issue with the Commission. The MAO shall not make any disclosure during that period.

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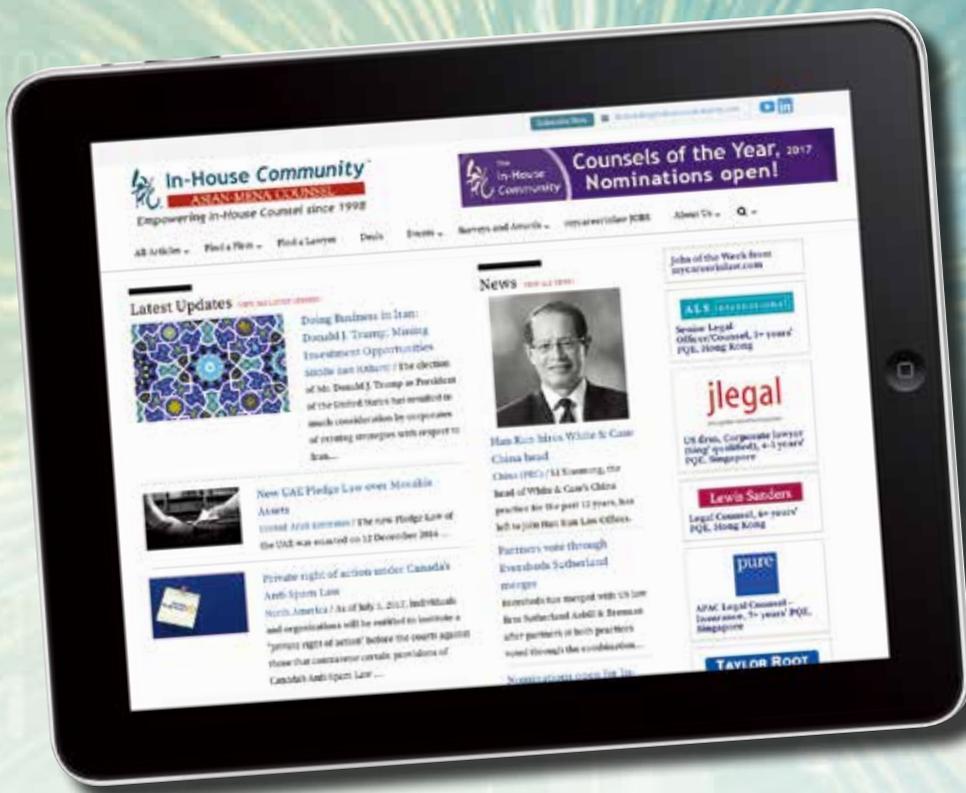


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**Dr Justine Walker, *advisor to the British Banking Association***



Photo: Patrick Dransfield

# The thing about ... Stefan Gannon

A decade after the global financial crisis, the Commissioner of the Hong Kong Monetary Authority's Resolution Office speaks to Patrick Dransfield about the new legal regime designed to manage orderly bank failures.

**Asian-Mena Counsel:** It has been 10 years since the start of the global financial crisis (GFC). What are the lessons to be drawn? What responsibility do central banks have to the general public?

**Stefan Gannon:** While bank failure in Hong Kong is rare, the Hong Kong Monetary Authority (HKMA) cannot be complacent when it comes to protecting Hong Kong's financial stability.

A key lesson from the GFC is that regardless of the size of the bank, it is possible for it to fail. As mentioned above, insolvency is not a desirable mechanism for managing the orderly failure of a bank as may be the case for other types of firms because once a bank enters insolvency, it would need to suspend all operations. Critical banking

functions provided by that bank, such as withdrawal of deposits, will be suspended, resulting in a disruption of credit and lending flows in the market. The larger and the more systemically important a bank is, the more acute and widespread the consequences of its entry into insolvency will be. This is why during the GFC many foreign governments were forced to use large sums of taxpayers' money to bail out too-big-to-fail banks. In order to make up for the astronomical amount of money spent on these substantial bail-outs, most of the governments concerned had to cut public spending, for example, by reducing national budgets for hospital services and education. This led to erosion of public confidence in the banking system and public outcry.

Furthermore, the fact that taxpayers had to pick up the tab for the failure of profit-minded commercial enterprises understandably led to public backlash. The crisis called into question the merits of an open and globalised financial system.

To combat this too-big-to-fail phenomenon, post-GFC, leaders of the G20 countries reached unprecedented international consensus to include resolution as a major component of the global financial regulatory agenda. The resulting product is the new international standards set out in the Financial Stability Board (FSB)'s Key Attributes of Effective Resolution Regimes for Financial Institutions (Key Attributes).

Hong Kong's Financial Institutions (Resolution) Ordinance (Ordinance), which is modelled on the Key Attributes, arms the HKMA with powers necessary to deal with bank failures in a quick and decisive manner, with the intention to minimise the consequences and the contagious effect of such failure and protecting the Hong Kong financial system on which the wider economy depends. For example, the powers may help to ensure that the critical services provided by a failing bank will continue, especially the provision of deposit and lending services to the general public and small and medium-sized enterprises. Bail-out of a failed bank with public funds while its shareholders and certain creditors are shielded from loss will no longer be tolerated. The HKMA, together with the relevant international counterparts, has been working with banks to structure their businesses in a way such that if banks were to fail in the future, their failure could be managed in an orderly manner.

**AMC: What is the significance of the Ordinance for Hong Kong?**

**Gannon:** The Ordinance, which was enacted in June 2016 and came into effect recently in July 2017, establishes the legal basis for a cross-sector resolution regime in Hong Kong, which is designed to be compliant with the international standards set by the FSB.

As an FSB member and international financial centre, it is of crucial importance for Hong Kong to implement the standards set out in the Key Attributes in a timely manner, progress of which is monitored and reported on by the FSB and other international standard setters.

Without an internationally compatible resolution regime in Hong Kong, the authorities would face difficulties in coordinating effectively with other key jurisdictions; both on resolution planning and, if necessary, execution in the event of a failure of a financial institution (FI). This may impact on the willingness of certain home jurisdictions to allow their FIs to maintain their current structure and operations in Hong Kong.

Absent an effective regime, Hong Kong would also be

exposed to any domestic failure of a systemically important FI and attendant risks to continuity of critical financial functions.

**AMC: What is resolution? How does it differ from existing insolvency procedures?**

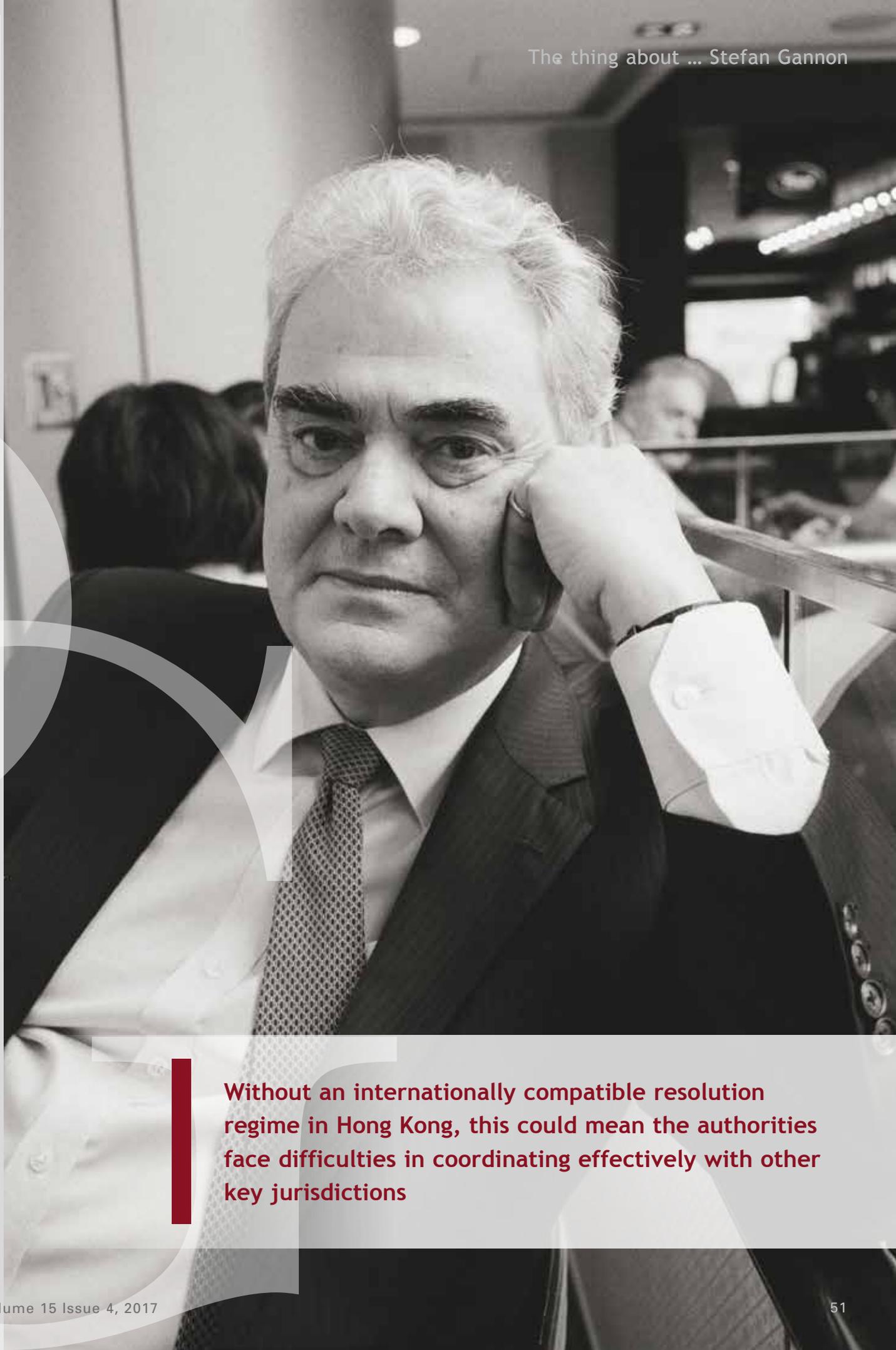
**Gannon:** Resolution is an administrative process which enables authorities to manage the failure of an FI in an orderly manner and mitigate its impact on the financial system and the wider economy if such failure could have adverse systemic consequences. This process is intended to protect public funds and maintain stability of the financial system.

Resolution sits alongside existing insolvency procedures. They differ in that resolution is designed to, among others, preserve the continuity of critical financial functions of an FI, and to place the costs of failure on the shareholders and certain creditors of the FI rather than on the taxpayers. It is important to note that insolvency remains a default option in the event of an FI's failure where that FI is not expected to pose a threat to the stability and effective working of the financial system of Hong Kong. Likewise, where it is assessed to be necessary to stabilise and restructure only part of a critical or systemic FI following a resolution, the residual entity would likely be dealt with via existing insolvency arrangements.

Resolution is achieved by using the powers available under the Ordinance to intervene and to manage the failure of an FI. One of the key resolution powers provided to the HKMA is 'bail-in'. It is a way to recapitalise a distressed bank so that its shareholders and certain creditors will bear the losses of the failure, obviating the need for any injection of public funds. The HKMA may use this power to write down the bank's liabilities, or convert them into equity, thereby offsetting the losses of a failed bank, essentially giving it an equity 'boost' and improving its financial condition. By aligning the interests of a bank with those of its shareholders and creditors, this arrangement creates a stronger incentive for these interested parties to constantly monitor and constrain the risks the bank is taking today to avoid future failure.

**AMC: What protections will be provided under the resolution regime?**

**Gannon:** In comparison to insolvency, resolution may be better at protecting a broad set of stakeholders, including depositors, investors (with client assets) and policyholders, in that it is intended to deliver an outcome such that critical businesses of a failing FI will be stabilised, restructured and continued. This means that some or all depositors and investors with client assets at a failing FI will have close to uninterrupted access to their



**Without an internationally compatible resolution regime in Hong Kong, this could mean the authorities face difficulties in coordinating effectively with other key jurisdictions**

accounts, funds and assets. This contrasts with insolvency, whereby all operations of a failing FI would have to be suspended.

Importantly, it is within the objectives of the resolution regime to seek to protect deposits or insurance policies as well as client assets, of a within-scope FI in no lesser degree than they would be protected on a winding-up of the FI. Furthermore, one of the key statutory safeguards underpinning our resolution regime is the principle that no creditors shall be worse off than in liquidation. This establishes protection for pre-resolution shareholders and pre-resolution creditors of an FI in resolution, entitling them to compensation if they do not receive at a minimum in resolution what they would have received had the FI been wound up under the applicable insolvency regime.

**AMC:** How can an in-house lawyer play a progressive, innovative and constructive role in society, particularly as it relates to financial stability and the public interest?

**Gannon:** Now that the Ordinance is in force, the Resolution Office's priorities are to work with the banks to prepare and plan for resolution with a view to enhancing the effectiveness of resolution arrangements in the event of a bank failure. The former priority requires banks to make changes to their legal, financial and operational structures to remove impediments to resolution. The latter priority requires the HKMA to execute resolution transaction structures to recapitalise failed FIs or transfer their assets, rights or liabilities, both with the objective of ensuring continuity in the FI's essential banking services.

This work has many aspects: policy development, industry engagement, restructuring of banks and their group structure, transaction structuring for various resolution scenarios, and detailed valuation analysis. A common thread through all these works is the undertaking of legal analysis, both for planning during peace time and resolution implementation at the time of a bank failure. In-house lawyers play a core role in assisting the resolution authority in operationalising the resolution regime by supporting the translation of the high level enabling statutory resolution regime into viable action plans for their clients. One of their duties is to ensure that the resolution planning and relevant transactions to facilitate the resolution process can withstand legal challenges such that resolution objectives could be duly achieved. Such work may involve facilitating the resolution planning process, structuring resolution transactions and supporting the development of legally robust processes and procedures for the implementation of resolution actions (such as developing the operational mechanics for effective application of bail-in power to

write-down or convert the liabilities of a failed AI).

**AMC:** Can you comment on the industry involvement relating to the preparation of FIs' resolution plans?

**Gannon:** The HKMA has been actively engaging with banks and relevant authorities overseas in the preparation of resolution plans. For the global systemically important banks (G-SIBs), the HKMA attends the crisis management groups of 12 G-SIBs organised by the relevant home authorities to develop resolution strategies for individual banks, assess the resolvability of each banking group and identify any structural changes required to remove impediments to resolvability. The HKMA also took the lead in organising an annual regional crisis management group for a local banking subsidiary of a major international bank attended by the host regulators from the Asia-Pacific region.

Locally, the HKMA has commenced the resolution planning process with the domestic systemically important banks (D-SIBs) and requested D-SIBs to submit a set of "core information" to facilitate resolution planning. To this end, the HKMA published a Code of Practice chapter under the Ordinance to provide guidance to banks on, among other things, the scope and content of the core information to be submitted by banks in order to facilitate resolution planning.

In addition, it is worth noting that the cross-sector resolution regime under the Ordinance is designed to be compliant with the international resolution standards set out in the Key Attributes, which are already reflected in the resolution regimes of jurisdictions that have implemented such a regime, such as the US and the EU. Drawing from their experience in operating in these jurisdictions, we expect banks to already have a reasonable understanding of applicable standards and to an extent, the requirements derived from those standards.

**AMC:** What is your hinterland?

**Gannon:** Prior to taking up my current position as the Commissioner of the Resolution Office, I was the general counsel of the HKMA from its establishment in 1993, advising on all aspects of the HKMA's activities and contributing to the formulation of policy. From 1987 to 1993, I was the legal adviser to the Monetary Affairs Branch of the Hong Kong government, and before moving to Hong Kong, I practised as a barrister and was an international legal adviser to Midland Bank, then one of the largest British banking groups in London. I am the representative member of Hong Kong to the Resolution Steering Group of the FSB, and was until recently the chairman of its legal experts working group. I am also a Fellow of the Society for Advanced Legal Studies and a member of the Committee on International Monetary Law of the International Law Association.

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