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Aakash Choubey is a partner in the corporate and commercial practice group in the Mumbai office of Khaitan & Co. He has advised several clients on corporate and commercial transactions, including private and public mergers, acquisitions, strategic alliances, private equity investments and routine advisory on all aspects of Indian corporate and foreign investment laws.
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Opening the money taps into Africa

Akinwumi Adesina is not a name most people in Africa would recognise, yet it belongs to a man who is, arguably, doing the most to haul the continent out of a rut of underdevelopment and improve the lives of its people.

Adesina is president of the African Development Bank (AfDB) and the brains behind this month’s Africa Investment Forum in Sandton, Johannesburg. This event followed immediately after South African president Cyril Ramaphosa’s own headline-grabbing plans to drum up development projects for his country, so it did not get as much publicity.

But it certainly deserves to be noticed — and Adesina given credit for it — because the Forum was the adrenaline injection African infrastructure development badly needs. Bankers, lenders, investors, engineers, builders, governments and others — from more than 100 countries — were gathered together in one place and told to get on with cutting deals to fix Africa.

At the end of the three-day Forum, it was announced that 56 deals had been signed — to a value of almost US$68 billion. This bettered the previous year’s event — the first convened by Adesina — which conjured up about US$39 billion.

It seems the assembled gentry of high finance took the words of Rwanda’s president Paul Kagame to heart when he told them at the start: “Just do it!”

Such a call to action has been sorely lacking in Africa for decades, with many national governments unable to get down to the infrastructure build needed to boost economic growth, and international financiers hesitant to put money into a continent they perceive as high risk.

Africa has plenty of plans for projects and deals, but can’t find the finance; financiers have lots of money to lend but can’t find viable, bankable projects. What’s been sorely needed is a catalyst to close this gap.

Enter Adesina. The 59-year-old son of farmers in Nigeria’s Oyo state and a former minister in his nation’s cabinet was elected to lead the AfDB in 2015 and immediately set about invigorating a rather moribund organisation — with agriculture, energy, industrialisation and regional integration as pillars of his mission to improve African lives.

The African Development Forum, described as “an innovative, multi-stakeholder transactional marketplace”, corrals a collection of nascent deals, provides “boardrooms” to thrash them out and has plenty of resources on hand to fill gaps and hold nervous hands. It is Adesina’s way of fast-tracking the process of addressing Africa’s huge infrastructure deficits, which the World Bank estimates amount to lost opportunities worth US$170 billion a year. A lack of roads, railways, power and ports curb production by 40 percent and per capita economic growth by 2.2 percentage points, it adds.

The action in Sandton was described by an observer as “speed dating on steroids”.

The clinching of so many deals suggests lenders are overcoming their fear of Africa’s political risks, while governments are providing better and faster delivery on their promises.

The backdrop to all negotiations was the African Continental Free Trade Area, recently adopted by African countries. This free-trade protocol is still some way from implementation but it is a potent symbol of a continent-wide commitment to change and economic progress.

Delegates were also constantly reminded that Africa is home to many of the fastest-growing economies in the world, such as Ethiopia, Rwanda, Ghana and Senegal.

“The time is now to move with speed to ensure that we unlock our potential,” said Ramaphosa in his opening address, as he urged investors to move beyond pledges. “Our continent is ripe for investments but, more importantly, it is also brimming with enormous profitable opportunities.”

Adesina detailed the Forum successes, such as $600 million for Ghana to improve processing and value addition for cocoa and $350 million for beef agro-processing in South Africa.

“Promise made, promise kept,” he declared, noting also that Mara Phones’ Ashish Takkhar made a “major commitment” at the 2018 forum. “In 2019, he delivered.”

“It is a new, more confident Africa,” said Adesina. “A continent now aware of its place in the world and determined to be a global investment haven.”

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Regional Compliance Manager, Healthcare  Singapore  5-8 PQE
Global healthcare company seeks a regional compliance manager to provide support to their business across ASEAN, India and ANZ. The manager will work closely with the leadership teams across the region to advise and support on all compliance matters. You should have experience in pharmaceutical, device, IVD or healthcare industries with relevant exposure to compliance functions. (IHC 18084)

Senior Employment Legal Counsel  Hong Kong  6+ PQE
Multinational company seeks a senior employment counsel. You will provide advice on all aspects of employment law, review employment contracts and participate in the relevant global practice groups. Candidates should have trained and worked in the employment practice of a reputable international firm. Fluency in Chinese is required. (IHC 18080)

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A leading technology company seeks a senior trademark counsel with solid experience in domain name and copyright (non-contentious, contentious, commercial and compliance related). Ideal candidate should have team management skills and solid experience in intellectual property worldwide outside of China and Hong Kong qualified. (IHC 17361)

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Conglomerate seeks a senior M&A legal counsel to join their team. The candidate should have a broad range of cross border M&A experience with a top-tier international firm. EGM experience would be a plus. Written and spoken Chinese is essential for this role. (IHC 18083)

Corporate Counsel  Singapore  4-7 PQE
Major US listed company in the IT space is looking for a legal counsel to join their team based in Singapore and to support their business across the APAC region on a broad range of corporate matters. The ideal candidate should be qualified in Singapore, Australia or the UK with good corporate commercial experience. (IHC 18104)

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Assistant Legal Counsel  Singapore  2-4 PQE
Major US listed company in the IT space seeks a legal counsel to join their team. You should come with good corporate commercial experience, although they are open to look at good commercial litigators. They are open to considering lawyers from in-house or private practice, who are qualified in Singapore, although Australia or UK qualification would also be an advantage. (IHC 18058)

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Aircraft finance and leasing in Indonesia

The Indonesian aviation sector has grown rapidly over the past few years. Due to this, airlines and lessors have been capitalising on the general availability of diverse sources of funding. In particular, aircraft sale-leaseback or lease transactions are used more frequently due to competitive pricing and Indonesia has been trying to develop a legal framework to accommodate the financing and leasing of aircraft.

Regulatory position
Indonesia has ratified the Cape Town Convention, which assures lenders protection of their interests in aircraft as it provides international registration for creditors and debtors for their security interests, and provides a set of basic remedies in the event of debtor default.

The Cape Town Convention is further implemented under the Civil Aviation Safety Regulation Part 47, regarding Aircraft Registration (CASR 47) issued by the Directorate General of Civil Aviation (DGCA) of the Ministry of Transportation. CASR 47 regulates approval for the procurement of aircraft, aircraft registration certificates, aircraft dealer and manufacturer registration certificates and the Irrevocable Deregistration and Export Request Authorisation (IDERA).

Registration of aircraft in Indonesia
As a general rule, if an aircraft is to be operated in Indonesia, the aircraft should be registered in Indonesia. Otherwise, the aircraft may only fly between one Indonesian airport and foreign airports. The DGCA maintains the aircraft registry in Indonesia. Under CASR 47, an aircraft must be registered only by and in the legal name of its owner. However, the aircraft registry also includes details of the operator of the aircraft if it is different from the owner and, therefore, registration may also be done by the authorised proxy or operator of the aircraft (lessee).

The Certificate of Registration (COR) issued by the DGCA is not evidence of ownership of an aircraft and the DGCA does not endorse any of the information on the COR. The DGCA issues a COR to the person deemed the owner based on the evidence of ownership submitted, eg the bill of sale, lease agreement between the operator (lessee) and the lessor (owner) or the record in the Civil Aircraft Register. Under CASR 47, a COR is valid for three years as of its registration date. A COR may be revoked (i) upon receipt of an application submitted by the owner of the aircraft or the authorised proxy because, for example, the lease agreement has expired; (ii) at the request of the holder of the IDERA (discussed further below) or (iii) if the operator fails to maintain its worthiness certificate for three consecutive years.

If the aircraft is transferred to a third party, the holder of the latest COR must then apply for the re-registration of the aircraft.

Security over aircraft
Indonesia has no regulation yet specifically governing security over aircraft. Therefore, suitable security is open to interpretation and creditors face a risk in aircraft finance transactions.

Indonesia has also never had an official registry of aircraft mortgages. Before the Aviation Law (Law No. 1 of 2009 on Aviation) was enacted, the DGCA used to accept the filing of aircraft mortgages by simply recording the mortgages in its books. Since the Aviation Law came into effect, aircraft mortgages should be registered with the International Registry as Indonesia has not established a local International Registry.

Given the issue of the registration of mortgages, in practice, lessors usually require security regarding fiduciary assignment over insurance and reinsurance claims related to the aircraft. Fiduciary assignment is governed by Indonesian law if it is drawn up in notarial deed form before a notary public in Indonesia and registered with the Fiduciary Registration Office.

IDERA
Under CASR 47, the registered operator (or lessee) or owner may issue an IDERA in favour of the creditors as the authorised parties if the aircraft has obtained an Indonesian Certificate of Registration (COR). These creditors include: (i) the Chargee under a security agreement; the conditional seller under a title reservation agreement; or (iii) the lessor under a lease agreement (Authorised Party).

DGCA acknowledges and will record an IDERA so long as the IDERA is submitted using the form prescribed and it is completed properly. Only one IDERA can be granted and registered with the DGCA for each aircraft. Moreover, an IDERA can only be revoked at the request of the Authorised Party or a certified designee, and the record of the IDERA will then be deleted. Therefore, creditors’ rights as the Authorised Parties would be protected as only they can apply for the deregistration of the aircraft in Indonesia and remove the aircraft out of Indonesia.

Expected developments
In November 2019, the DGCA issued a statement regarding the amendment of CASR 47. In practice, some technical restrictions under CASR 47 become an issue. Accordingly, it is proposed that several provisions of CASR 47 should be loosened because of technical issues, eg (i) evidence of ownership no longer needs to be notarised as a certified true copy; (ii) if the applicant for a COR is not the owner of the aircraft, evidence of control over the aircraft no longer needs to be notarised (the DGCA will rely on the written statement the applicant submits for confirming the validity and correctness of the data submitted); and (iii) clarity about the default for the deregistration of an aircraft. These remain to be seen until the DGCA issues the new or amended CASR 47.
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JURISDICTION UPDATES

PHILIPPINES

By Karen Andrea D Torres
Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW)
Tel: (63) 2 830 8000
E: kdtorres@accralaw.com
W: www.accralaw.com

Changing times for PEZA locators

The Philippines enticed into investors into its special economic zones with tax incentives, such as income tax holidays (ITH) or 5 percent gross income taxation (GIT), VAT zero-rated purchases and duty-free importations. However, with major tax reforms introduced and proposed by the government, business operating in these zones are facing a new business paradigm, requiring proactiveness.

Tax Reform for Acceleration and Inclusion
Provisions in Republic Act No. 10963, or the Tax Reform for Acceleration and Inclusion (TRAIN), that allowed purchases by Philippine Economic Zone Authority (PEZA) locators (ie, those registered and operating within the PEZA zones, which are considered as separate customs territory) to be VAT zero-rated were initially vetoed by the president, causing significant pushback from PEZA locators, who were appeased with Memorandum Circular No. 2018-003, which asserted that the TRAIN law does not affect the current zero-rating of sales of goods and services to PEZA locators.

The status quo, however, may just be a respite. Under the TRAIN, ultimately, only direct exporters shall be entitled to VAT zero-rated sales. This means that suppliers of direct exporters, being merely indirect exporters themselves, shall not be entitled to VAT zero-rated sales. Viewed from a different angle, sales to exporters, such as PEZA locators, or the purchases by these PEZA- locators shall no longer be VAT zero-rated, but subject to 12 percent VAT. This shall be the case upon the successful establishment and implementation of an enhanced VAT refund system.

As such, by 2020, if the DOF determines the refund system to be successful, purchases by PEZA locators may be subject to 12 percent VAT. When it happens, PEZA locators have two options — they may either treat the 12 percent VAT as part of their cost, or claim for refund. The 12 percent input VAT passed on to the PEZA locators is qualified for refund, provided these are in relation to the PEZA locator’s exports (of either goods and services), which are paid for in foreign currency.

Corporate Income Tax and Incentives Rationalisation Act

Another major shift for PEZA locators will be as introduced by the Corporate Income Tax and Incentives Rationalisation Act (CITIRA), currently pending review and deliberation. The certainty of the CITIRA passing into law may have been sealed with the support by the PEZA Office itself, previously a staunch critic to the CITIRA.

Under the CITIRA, PEZA locators will lose their ITH and 5 percent GIT status over the course of five years; exemption from the 15 percent branch profits remittance tax; exemption from local business tax; and exemption from 10 percent improperly accumulated earnings tax. After full implementation of TRAIN and CITIRA, PEZA locators will be no different from other regular corporations (except with respect to its qualified duty-free importations).

Hence the question: Is there still any economic benefit to being a PEZA locator? And more important: How should a PEZA locator prepare for these changes?

It seems there are no more significant tax benefits to being a PEZA locator (except with respect to its qualified duty-free importations). While the answer is negative to the first question, the answer to the second is hopeful, with some proactiveness.

With respect to the 12 percent VAT on its purchases upon full implementation of TRAIN, PEZA locators should already prepare their processes for VAT refund applications so that the 12 percent VAT passed on to it by its suppliers will not materially impact the bottom line.

With respect to removal of the incentives under CITIRA, PEZA locators may opt to cancel their PEZA registration and apply for registration under the Strategic Investment Priority Plan (SIPP) with the Fiscal Incentives Review Board (FIRB). The SIPP shall be as formulated by the Board of Investments. Under the CITIRA, SIPP-qualified entities shall be entitled to ITH for 2-6 years, depending on location; reduced corporate income tax rate after its ITH, and in lieu of local business tax; duty-free importation on capital equipment and raw materials directly and exclusively used for its registered activity; if at least 90 percent of sales are export sales, its purchases shall be VAT zero-rated (ie, the SIPP entity does not have to file for VAT refund), and enhanced deduction for capital assets and labor. As such, PEZA locators qualified for SIPP have a lot of fiscal incentives still going for them, as long as they are aligned with the government’s investment policy.

While the business outlook for PEZA locators may seem tough, truly tough businesses know how to make good of the bad. As when the paradigm is shifting, only the trulyenterprising can ride and prosper. Nothing is perpetually stable in business. It should be business as usual, but with heaps of foresight.

This article first appeared in Business World, a newspaper of general circulation in the Philippines. The views and opinions expressed in this article are those of the author. This article is for general informational and educational purposes, and not offered as, and does not constitute, legal advice or legal opinion. The author is a Senior Associate of the Tax Department of the Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW). She may be contacted at kdtorres@accralaw.com or (632) 8330-8000.
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The controversy over “different franchise fees” in Korea

In Korea, many franchisors require their franchisees to purchase franchise products from the franchisors. They do this to ensure a level of uniformity in the franchise business, enabling franchise customers to receive the same types and quality of goods from each franchise store.

To accomplish this goal, franchisors often ask their franchisees to sign agreements requiring the franchisees to purchase all their important goods and ingredients only from the franchisor or a vendor designated by the franchisor. For example, pizza franchisors may designate themselves or certain vendors as their franchisees’ sole source of cheese or flour, and cafe franchisors may require their franchisees to obtain all coffee beans or coffee machines only from the franchisor’s HQ or an appointed vendor. Because these types of agreements are necessary for achieving uniformity, the Korean Franchise Business Act has recognised and generally allowed such compulsory provisions.

“Different” Franchise Fees

However, it was discovered that some franchisors have reaped unreasonable profits by selling required goods or ingredients to their franchisees at excessively high prices, and these unfair practices have raised serious social concerns.

Consequently, in a notification announced last year, the Korean Fair Trade Commission introduced the term “different” franchise fees, meaning the amount paid by the franchisee to the franchisor for the goods supplied by the franchisor, which amount exceeds the fair wholesale price of such goods. The KFTC will now require franchisors to disclose the details of such “different” franchise fees in their information disclosure statements.

The details are as follows: Different franchise fees are (the price paid by the franchisee to the franchisor for the goods supplied by the franchisor) minus (the fair wholesale price of such goods). Because some franchisors have been found to have amassed unreasonable profits by charging these different franchise fees, the KFTC amended the franchise disclosure rules to require franchisors to identify their different franchise fees by publishing the details of such fees in their information disclosing statements, beginning January 1, 2019.

Any failure to include this information may result in the franchisor being fined up to W10 million (US$85,000).

Franchisors Challenge Disclosure Rules

Unfortunately, these new disclosure rules have given rise to significant problems for franchisors: the two elements of the different franchise fees — “the price paid by the franchisee to the franchisor for the goods supplied by the franchisor” and “any amount which exceeds the fair wholesale price of such goods” — may be considered trade secrets of a franchisor where they can show the business ability of such franchisor. Thus, any disclosure of a franchisor’s different franchise fees could lead to the divulgence of its trade secrets. Moreover, franchisors who are seen to require the payment of steep different franchise fees may be branded as companies that are exploiting their franchisees, leading to a loss of business. For these reasons, the new disclosure rules prompted fierce resistance among franchisors.

Faced with these problems, a considerable number of franchisors filed an appeal challenging the constitutionality of this rule change by the KFTC. The appeal remains pending before the Korea Constitutional Court with a decision expected to come in near future.
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New Labour Code taking effect on January 1, 2021

The participation in the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) and the EU-Vietnam Free Trade Agreement (EVFTA) poses numerous requirements on the reform of laws, including labour laws.

Specifically, the members of the CPTPP and EVFTA are requested to adopt and maintain the rights as set out in the 1998 International Labour Organisation (ILO) Declaration, however, Vietnam is yet to ratify the remaining two core conventions of the ILO, which are Convention No. 87 regarding freedom of association and protection of the right to organise, and Convention No. 105 regarding abolition of forced labour. On that basis, Vietnam’s National Assembly ratified the new Labour Code on November 20, 2019 to replace the Labour Code 2012 and pave the way for the full implementation of the 1998 ILO Declaration. The new Labour Code will officially take effect from January 1, 2021 with the following notable provisions.

Employee representative organizations
The new Labour Code provides regulations on the establishment of employee’s organisations which are not under the system of Vietnam trade unions. Together with trade unions, these organisations are recognised as representing labour collectives at the grassroots level and have the equal rights and obligations as trade unions. In another way, the new Labour Code now recognises the right of employees to set up their own representative organisations to promote and improve the representative efficiency and protection of the rights and interests of the employees in labour relations, to comply with the core Conventions of the ILO as the new provision shows Vietnam’s effort tend to ILO’s Convention No. 87 which is not ratified by Vietnam’s National Assembly and to facilitate the process of international integration.

Nevertheless, this new regulation may place trade unions at a disadvantage due to a decrease in the number of members, especially in the non-state sector, and the role of trade unions may be limited.

Retirement age
The retirement age was a controversial topic in the process of preparing the draft of the new Labour Code 2019 for the National Assembly to ratify. People in favour of retaining the current retirement age argued that the increase of the retirement age might lead to growth in unemployment. Eventually, the retirement age has been amended to increase gradually.

In particular, age of retirement of employees working in normal working conditions is increased from 60 to 62 for males in 2028 and from 55 to 56 for females in 2035. Starting from 2021, the retirement age of employees working in normal working conditions is increased by three months per year for males and by four months per year for females.

This roadmap for increasing the retirement age is considered reasonable as the current retirement age is still low compared to many countries in the world such as Singapore, Japan, Germany, etc. Moreover, the current retirement age was set more than 60 years ago when the average life expectancy of Vietnamese was 45 while it has now grown to 76.6 years.

Overtime cap
One of the remarkable amendments in the new Labour Code is the adjustment in the overtime cap. It has risen to 40 hours per month as compared to 30 hours per month as stated in the Labour Code 2012.

This amendment is for the purpose of meeting business needs and increasing the competitiveness of Vietnamese employees in the context of Vietnam joining CPTPP and EVFTA. In addition, the Labour Code newly stipulates cases for employees to work overtime for more than 300 hours per year to ensure long-term benefits for employees.

Other noteworthy regulations
Other than the above-mentioned provisions, some noteworthy regulations of the new Labour Code are as follows: (i) an additional one full paid leave day adjacent to National Day raises the number of public holidays to 11; (ii) employees are allowed to unilaterally terminate labour contracts without reasons by notifying in advance within the timeline specified by law; (iii) employers are allowed to unilaterally terminate labour contracts of employees who are absent from work without permission for a total of five consecutive working days or more without requiring the employers to dismiss the employees for termination of labour contracts; (iv) and instead of conducting dialogue at workplaces every three months, the new Labour Code adjusts this regulation to once a year.
New Year New Goal

Find your next move with us

This is a small sample of the in-house and private practice roles we are currently working on. Contact us for a career discussion or to find out about new opportunities across a diverse range of sectors.

Financial Services
9-12 Years | Hong Kong
Well-known insurer is looking for an Associate Director in a business-facing leadership role. Those with regulatory/compliance experience at an asset manager, professional services firm or an insurer will be considered. Business level Chinese skills required. AC8227

In-house

Hospitality
3-10 Years | Macau
Hospitality company is looking for a legal counsel to join its legal team in Macau in a broad commercial role. Strong preference for candidates qualified in Macau. Those with prior experience in the industry will also be considered. Cantonese and business level Chinese skills are essential. AC8246

Data Privacy
10+ Years | Hong Kong
A regulatory body is looking for an experienced data privacy lawyer to join its legal team. You must have at least 10 years of post-qualification experience, with excellent exposure to data privacy matters. English, Cantonese and Mandarin language skills are required. AC7008

Virtual Bank
10-15 Years | Hong Kong
Virtual banking arm of one of Asia’s largest banks is looking for a company secretary. You should have company secretarial experience with other well-known financial institutions and the ability to manage stakeholders at all levels. Business level Chinese language skills are essential. AC8242

Private Practice

PE Funds Formation
2-6 Years | Hong Kong
Reputable international law firm is looking for a junior to mid-level lawyer to join its funds team. You should have PE funds formation experience, although those with other funds experience and keen to develop in the PE space will also be considered. Chinese language skills are preferred. AC8234

Banking & Finance
1-3 Years | Hong Kong
A well-established US firm is currently looking to add a junior banking and finance lawyer. Experience in banking and finance matters at another international law firm and common law qualifications are essential. Mandarin language skills would be preferred. AC8222

Litigation
1-3 Years | Hong Kong
Leading Offshore firm seeks a junior litigation associate to join its expanding Asia practice. Opportunity to work on a broad range of corporate litigation, restructuring and insolvency matters. Strong academic results and fluent Chinese language skills essential. AC5287

Trademark
3-5 Years | Hong Kong
A well-known and highly regarded US law firm is currently looking for a mid-level lawyer with strong trademark experience. You must have experience in trademark enforcement, trademark portfolio management, trademark clearance and prosecution. Mandarin is preferable but not essential. AC6236

Contact us

Camilla Worthington
Director
cw@lewissanders.com
+852 2537 7413

Roshan Hingorani
Consultant
rhythorani@lewissanders.com
+852 2537 7416

Chris Chu
Associate Director
chu@lewissanders.com
+852 2537 7415

Samuel Edwards
Consultant
sedwards@lewissanders.com
+852 2537 7630

www.lewissanders.com
2001, Winway Building, 50 Wellington Street, Central, Hong Kong
What are the recent developments in offshore trusts?

Offshore trusts are used for a variety of different purposes relating to both private wealth and commercial transactions. They depend largely upon the existence of professional trustees able and willing to take on the business of being a trustee. In the modern world that does not simply involve the occasional glass of sherry with Lord Crawley to discuss the landed estates, and lunch in the City with the stockbroker to be reassured that the other trust investments were suitably diversified. The role of a modern trustee is much more nuanced and may involve being part of a more complex structure often involving one or more of the following: private trust companies, purpose trusts, reserved powers, non-diversified investments and complex financial instruments.

Against this background there are two important features of a modern trust deed which trustees pay particular attention: the so-called “anti-Bartlett” clause and the “trustee exoneration and indemnity clause”. Two recent cases, one from England and one from Hong Kong, will therefore be of particular interest to professional trustees.

**Zhang & Ji v DBS Bank**

The most significant decision is the judgment of the Hong Kong Court of Final Appeal in Zhang & Ji v DBS Bank [2019] HKCFA 45 delivered on November 22, 2019 which reversed the decisions of the First Instance Judge and the Court of Appeal.

DBS were the trustees of a Jersey trust settled by Zhang and Madam Ji who were the beneficiaries together with their minor sons. The trust held the sole share in a BVI company used as a private investment company, and for Ji was the company’s investment adviser. There was a Letter of Wishes directing the trustee to consult Ji with regards all matters and her recommendation should be final. The director of the BVI company also granted Ji authority to give instructions on behalf of the company. The trust contained typical anti-Bartlett provisions in a comprehensive form. Ji had caused the company to invest in certain high-risk currency-linked notes. Given the overall structure and the anti-Bartlett clause the trustee would not have been expected to be held liable for the losses suffered to the trust from the failure of the risky investments carried out by Ji. However, both at first instance and in the Court of Appeal it was held that notwithstanding the arrangements and terms of the trust deed, the trustee retained a “high level supervisory duty” which it had breached.

**Upholding anti-Bartlett provisions**

Fortunately for DBS and for trustees generally, the Court of Final Appeal unhesitatingly rejected the reasoning of the courts below, which it said was plainly inconsistent with the express terms of the anti-Bartlett provision.

The trust also contained typical exculpatory and indemnity provisions relieving trustees of liability short of fraud, wilful misconduct or gross negligence. The Court held that even if there had been any supervisory duty, there was simply no basis at all for concluding that there was negligence to a “serious and flagrant degree” so that the trustees would have been protected in any event.

Trustees can now rest more easily in the knowledge that common sense has prevailed and the so-called “high level supervisory duty” does not exist.

**Sofer v SwissIndependent Trustees**

Another victory for trustees was achieved in England in Sofer v SwissIndependent Trustees SA [2019] EWHC 2071 where HHJ Paul Mathews sitting as a Judge of the High Court held that a fraudulent or dishonest breach of trust for the purposes of a trustee exoneration clause required that a trustee, both:

(1) committed a deliberate breach of trust, and
(2) either (a) knew, or was recklessly indifferent as to whether, it was contrary to the interests of the beneficiaries, or (b) believed it to be in the interests of the beneficiaries, but so unreasonably that no reasonable professional trustee could have so believed.

Finally, it should be mentioned that with effect from June 14, 2019, the Cayman Islands Trusts law was amended to add a new section, 64A, to give statutory jurisdiction to the Court to retrospectively correct a mistake made by a trustee by setting aside the exercise of a fiduciary power and making consequential orders. This removes any doubt that the decision of the English Supreme Court in Pitt v Holt [2013] UKSC 26 has no relevance in the Cayman Islands.

These are welcome developments for professional trustees.
Pure specialists.
Focused on your world.

To your next professional hire, we bring an understanding of the legal function in detail as well as the wider market around you. Every mandate is unique. Each Pure solution is informed through close collaboration, so the individual shines, business culture thrives and commercial ambitions progress.

Hong Kong
Tina Lu
Legal
tinau@puresearch.com

Venus Ip
Legal
venusip@puresearch.com

Alex Tao
Legal
alextao@puresearch.com

Singapore
Michelle Koh
Legal
michellekoh@puresearch.com
MOM Reg No: R1102371

Hong Kong
T +852 2499 1611
SingaporT +65 6956 6580
Co. Reg. No. 201209597C
EA No. 1255954
puresearch.com
Our second annual Johannesburg In-House Congress took place on November 6 in Johannesburg. The event started with an opening speech from our founding director, Tim Gilkison, which was followed by a lively panel discussion about technology and talent management. Moderated by our publisher, Rahul Prakash, the panel included Carina Wessels, governance, legal and compliance executive at Alexander Forbes; Pieter Badenhorst, legal, risk and compliance director at AFGRI Group; Didier Mbayo, regional commercial legal counsel with Aviat Networks; Tshepo Shabangu, partner and chairperson of the partnership at Spoor & Fisher; Cameron Dunstan-Smith, director of the corporate crime and investigations practice in Johannesburg for Herbert Smith Freehills; and Christopher Akiwumi, former government and regulatory affairs director, MEA, at Microsoft.

It was a beneficial day for the attendees, thanks to workshops from Amereller, Control Risks, Herbert Smith Freehills and LEX Africa. The congress was also supported by Taylor Root and Alexander Forbes where the event was held.

Encouraged by an increasing number of Hanoi-based in-house counsel traveling south to attend our annual HCMC gathering each year, we held our first Hanoi In-House Congress on November 19. The day started with a discussion on the evolution of the legal function in Vietnam, with particular focus on the country’s capital city, between Ha Nguyen, managing director of BGA Vietnam; Thuy Minh Lai, country legal counsel for Citibank; Vuong Le Quang, legal and compliance manager at Coca-Cola Beverages Vietnam; Eleonora Casarosa, head of legal for Piaggio Vietnam; Le Net, a partner at LNT & Partners; and moderated by Tim Gilkison of In-House Community.

The day also included workshops on Vietnamese and US sanctions and Vietnamese anti money laundering rules, led by Russin & Vecchi; pitfalls to avoid when hiring and firing in Vietnam, presented by Tilleke & Gibbins; and project and acquisition finance by LNT & Partners. The congress was also generously supported by Coca-Cola Vietnam.

Legal innovation professor Mitchell Kowalski gave the keynote speech at our 10th In-House Congress in Abu Dhabi on November 20, speaking about the future of the relationship between in-house and external counsel.

Before that, the day got underway with opening remarks from Martin Tidestrom, director of business development at Abu Dhabi Global Market, and Faraj Ahnish, managing partner of Hadef & Partners in Abu Dhabi. Kowalski, who is a visiting professor at the University of Calgary Law School, then joined a panel discussion on technology alongside Jamie Levy, general counsel at the Abu Dhabi Investment Office; Aneeza Siddiqui, general counsel and company secretary for ADNOC Offshore; Geraldine Ahern, senior office partner in Abu Dhabi for Eversheds Sutherland. Levy, Kowalski and Siddiqui stayed on for a further discussion of talent management with Mohammed Alsuwaidi, managing partner at Al Suwaidi & Company; and Rebecca Kelly, a partner at Morgan, Lewis & Bockius. Both were moderated by Patrick Dransfield of In-House Community.

Johannesburg, Hanoi and Abu Dhabi In-House Congresses close out a busy 2019 for the Community
A special thanks on behalf of the In-House Community™ to all our speakers, which included:

**“Thank you to In-House Community for bringing the Congress here again” — Johannesburg delegate**

- Carins Wesselh - Executive Governance, Legal and Compliance, Alexander Forbes Group Holdings Limited
- Pieter Badenhorst - Director, Legal, Risk and Compliance, FUGB Group Holdings
- Didier Mbuyo - Regional Commercial Legal Counsel, Avoc Netherts
- Christopher Akueumi - Former Director, Government and Regulatory Affairs, MEA
- Christopher Gunson - Partner, AMERELLER

- Wayne Malese - Managing Partner, Control Risk
- Cameron Dunstan-Smith - Director of Corporate Crime & Investigations Practice — Johannesburg
- Pieter Steyn - Chairman LEV Africa & Director, Walmomana Attorneys
- Tehepo Shabangu - Partner, Chairperson of the Partnership, Spoor & Fisher Attorneys
- Tim Gilkison - Founding Director, In-House Community

**“This event was extremely informative and relevant to my general counsel role” — Hanoi delegate**

- He Nguyen - Managing Director, BGA Vietnam
- Thay Minh Lai - Country Legal Counsel, Gisbarke, NA, (Vietnam)
- Vuong Le Quang - Legal & Compliance Manager, Coca-Cola Beverages Vietnam Ltd
- Le Net - Partner, LNT & Partners
- Eleonora Casarosa - Head of Legal, Piaggio Vietnam Co., Ltd

- Nguyễn Huy Minh Nhut - Rusan & Vecchi
- Seo S E Vecchi - Rusan & Vecchi
- Thomas J. Treadler - Partner & Managing Director, Tiliea & Gibbins
- Kien Trung Trikh - Partner, Tiliea & Gibbins
- Chuyen Hong Huu Le - Attorney-at-Law, Tiliea & Gibbins
- Tim Gilkison - Founding Director, In-House Community

**“As always, the Abu Dhabi Congress has been a great event, informative and well organised” — Abu Dhabi delegate**

- John Hermann - Senior Legal Counsel (Financial), Financial Services Regulatory Authority, Abu Dhabi Global Market
- Martin Tidestrom - Director of Business Development, Abu Dhabi Global Market
- Natalie Scott - Senior Legal Counsel, Abu Dhabi Global Market
- Jamie Levy - General Counsel, Abu Dhabi Investment Office
- Aneez Siddiqui - General Counsel and Company Secretary, ADNC Offshore

- Charles Laubach - Abdil & Angell
- Danielle Lobo - Abdil & Angell
- James Bowden - Abdil & Angell
- Mohammed Alswaaidi - Managing Partner, Al Suwaidi & Company
- Geraldine Ahern - Senior Office Partner, Abu Dhabi

- Nasser Ali Khassawneh - Global Co-head of TMT, Eversheds Sutherland
- Erica Werneman - Senior Associate, Eversheds Sutherland
- Dr Faraj Alniss - Managing Partner - Abu Dhabi, Hazel & Partners
- Dina Mahdi - Partner, Hazel & Partners
- Ahmed Nasser - Partner, Hazel & Partners

- Alisha Sullivan - Partner, Abu Dhabi
- Mark Gilligan - Partner, Morgan, Lewis & Bockius LLP
- Rebecca Kelly - Partner, Morgan, Lewis & Bockius LLP
- Steve Smith - Vice President Sales, EMEA & APAC, NAVEX Global

- Mitchell Kowalski - Gowling WLG Visiting Professor, University of Calgary Law School
- Patrick Dunsfield - Publishing Director, In-House Community

**2019 IN-HOUSE Congress**

**JOHANNESBURG**

**2019 IN-HOUSE Congress**

**HANOI**

**2019 IN-HOUSE Congress**

**ABU DHABI**
The latest senior legal appointments around Asia and the Middle East

AUSTRALIA

K&L Gates has further bolstered its financial services team with the addition of partner Paul Faure, who joins the Melbourne office from Holding Redlich. Faure has more than 19 years of experience advising large industry and public sector superannuation funds, on their investments in Australia and international jurisdictions. He supports his clients on a wide range of superannuation and funds management issues, including investment acquisitions and divestments, investment structuring, fund establishment, managed investment schemes, and private equity, property, and hedge funds. Faure also has extensive experience advising on corporate and investment holding structures, regulatory compliance, and governance and risk issues.

Kennedys has added commercial litigation partner Jane Kupsch in its Melbourne office. Her expertise is in the defence of litigation arising from large-scale corporate collapses, regulatory investigations and a wide range of commercial and shareholder disputes. Kupsch is one of very few litigators accredited by the Law Institute of Victoria (LIV) as a specialist in commercial litigation, and she chairs LIV’s Commercial Litigation Specialist Advisory Committee. She has worked at boutique litigation firm Brian Ward & Partners and, more recently, at Piper Alderman.

HONG KONG

Allen & Overy has appointed prominent litigation and investigations specialist Eugene Chen to its Asia Pacific litigation and investigations group. Chen will be based in Hong Kong. Having originally practised in the US (California and Washington, DC) before relocating to Shanghai in 2007, Chen has significant US trial experience and is fluent in English and Mandarin. He joins from Hogan Lovells, where he was head of the PRC disputes group and brings with him a wealth of experience and expertise in Foreign Corrupt Practices Act (FCPA) investigations, China-side regulatory investigations and enforcement actions, and China inbound and outbound disputes. Chen will work hand in hand with FCPA and US white collar partner Jason Gray, based in Sydney, as well as global FCPA and investigation practitioners.

HFW has continued to expand its fast-growing transactional offering in Greater China with the hire of a nine-lawyer corporate finance team, including partner Matthew Wong. The team specialises in capital markets, including IPOs, as well as M&A, private equity and other transactional work. They join the firm’s Hong Kong office from US law firm Locke Lord, following Wing Cheung who was Hong Kong managing partner. Wong specialises in corporate finance and capital markets, including IPOs and secondaries, M&A and joint ventures, foreign direct investment, corporate restructurings, private equity, venture capital and funds work. He also acts on Hong Kong company law and securities regulatory compliance issues.

Walkers has added Nick Davies as a partner in the firm’s global finance and corporate group, where he will be based in the firm’s Hong Kong office. He joins from an international offshore law firm, and comes with a wealth of experience in finance and corporate, with specialist focus on debt capital markets/structured finance and private equity. Davies also has a wealth of onshore experience, practising as an English capital markets and finance lawyer with several of the magic circle firms. He brings a broad range of international experience and network, having worked in the UK, Moscow, Jersey, Cayman and Hong Kong/Greater China.

INDIA

Shardul Amarchand Mangaldas has added Zubin Mehta as a partner in the banking and finance practice. To be based out of the Mumbai office, Mehta brings over 13 years’ experience in advising and representing banks and borrowers across a broad spectrum of transactions, including structured finance, acquisition finance, factoring and trade finance. He has also represented banks and financial institutions on various regulatory matters, including setting up their banking operations and helping them introduce diverse banking products in India. Mehta earned his Bachelor of Laws degree from the ILS Law College, University of Pune. He has worked with Dave & Girish & Co for two years, AZB & Partners for ten years, and Veritas Legal for two years, as a partner.

SINGAPORE

Squire Patton Boggs launched a global commodities and shipping group with the addition of partners Barry Stimpson and Jessica Kenworthy, who join the firm’s Singapore office from Reed Smith. Having worked in London, Hong Kong, Singapore and Sydney, Stimpson brings more than 25 years’ experience handling matters in the international trade, shipping, offshore energy, construction and insurance sectors. He has been in the Asia-Pacific region for over 20 years, and was the founding partner of Reed Smith’s Singapore office when it was established in 2012, as well as the office managing partner from 2016 to 2018. His practice covers both disputes and advisory work. He is a fellow of the Chartered Institute of Arbitrators, and a fellow and panel arbitrator of the Australian Centre for International Commercial Arbitration. On the other hand, Kenworthy’s practice covers a broad range of financings, with a specialisation in complex commodity financings and ship financings. She has been involved in a wide range of commodity finance-related transactions, in particular acting for lenders, trading houses and multilaterals. Her recent transactions include international structured trade financings and pre-export, prepayment, receivables and limited recourse structures in emerging markets, with a particular focus on transactions in South East Asia, China, India, Indonesia and Mongolia, as well as transactions in the CIS, Africa, South America and London. Kenworthy has worked on a number of award winning deals, including deals in Indonesia, Mongolia, Greece, Ukraine and China. Her practice also covers ship finance, and she has handled a large number of ship sale / purchase transactions and the financing of new buildings and secondhand vessels, both debt and sale and leaseback structures involving time charters, CVCs and contracts of affreightment.
Bringing the In-House Community together along the New Silk Road

“The future of legal services lies very much in the hands of In-house counsel. To bring change, it is imperative that they form themselves, globally, into professional networks. The In-House Community provides one such forum”

Professor Richard Susskind, OBE

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Asian-mena Counsel Deal of the Month

Philippines catastrophe bond

The US$225m Singapore-listed deal is the first in Asia to be sponsored by a sovereign government.

The listing of two World Bank Philippines catastrophe bonds in Singapore in November represented the first cat bond listed on an Asian exchange and the first to be sponsored by an Asian sovereign.

The bonds finance up to US$225 million of protection against three years of typhoon and earthquake risks, and will form an additional layer of disaster relief for the catastrophe-prone country. The deal comprises a US$150 million typhoon bond that pays a 5.65% risk margin, and a US$75 million earthquake bond with a risk margin of 5.5%.

Between 1995 and 2015, the UN reports that the Philippines endured a total of 274 natural disasters, including earthquakes, volcanic eruptions, tropical cyclones and floods, making it the fourth most disaster-prone country in the world. “The World Bank cat bond is a vital building block to our long-term disaster risk and insurance strategy, which we have been steadily establishing since the aftermath of Typhoon Ketsana and Parma in 2009,” said Rosalía de Leon, national treasurer of the Philippines.

Those two typhoons struck the Philippines within the space of a week, killing hundreds of people and causing hundreds of millions of dollars of damage. Four years later, Typhoon Haiyan underscored the urgency of the problem when it became the strongest storm to ever make landfall, devastating the city of Tacloban.

The World Bank cat bond is only intended to pay in the event of a catastrophe on this scale, with the aim of providing rapid liquidity to the government to support emergency response and maintain essential services until additional resources are available.

A typhoon would have to cause a loss of at least PhP40.64 billion (US$800 million) to meet the threshold for a minimum payout. Such events are very rare in the Philippines, with Haiyan the only historical event that meets the requirement, according to the prospectus. In the earthquake record, only the 1990 Luzon event would have generated a payout, again at the minimum threshold.

Bookrunners GC Securities and Swiss Re Capital Markets had initially talked about raising as much as US$300 million, but scaled back the size of the deal after meeting investors.

The net proceeds from the sale will be used by the International Bank for Reconstruction and Development to finance sustainable development projects and programmes in member countries. Sullivan & Cromwell and Linklaters advised the underwriters — Guy Carpenter Securities, Swiss Re Capital Markets and Munich Re.

Other recent transactions from around the region:

Clifford Chance has advised the official receiver and special managers of British Steel on the sale of the business and assets to Jingye Steel and Iron, a privately owned enterprise from Hebei province in China. The deal prevents a costly shutdown of operations and the potential loss of 24,000 jobs at the steel works and in the supply chain. The complex transaction required a multi-disciplinary, international team comprising partners and associates across a number of practice areas. The Clifford Chance team was led by London partners Philip Hertz, David Lewis, Nick Rees and Iain White, with Paris partner Laurent Schoenstein and Amsterdam partner Greg Crookles leading respectively on the sale of British Steel France Rail Holdings and the sale of FN Steel. In Beijing and Hong Kong, partners Hong Zhang and Richard Blewett helped advise on this transaction.

King & Wood Mallesons has advised CEIEC, an indirect wholly-owned subsidiary of China Electronics Corporation (CEC), on its approximately HK$4.6 billion privatisation of TPV Technology by way of a scheme of arrangement under the Bermuda Companies Act. The shares of TPV were delisted from The Stock Exchange of Hong Kong and Singapore Exchange Securities Trading. The transaction involved a number of legal and regulatory issues including corporate M&A and finance along with multi-jurisdiction anti-trust filings. KWM acted for CEIEC as the offeror in respect of both Hong Kong and PRC laws. Hong Kong-based partners Sheldon Tse and Jessica Zhou acted on the M&A and finance aspects of the transaction respectively and Shanghai-based partner Chai Zhifeng advised on the antitrust aspects.

Withers KhattarWong, the Singapore office of international law firm Withers, has advised for Indonesian power plant owner PLTG Celukan Bawang in the joint venture and cooperation with Chinese conglomerate Shanghai Electric Group in developing, building and owning a gas-fired power plant in Celukan Bawang, Bali, Indonesia and is expected to commence in 2021. Upon completion, the power plant will not only future-proof Bali’s rising energy needs but also supply the electricity in an environmentally friendly manner, due to the relatively lower emissions from PLTGs. The Withers KhattarWong team, led by partner Winston Seow, will continue to advise PLTG Celukan Bawang on other aspects of the project, including project financing, gas supplies, power purchase agreement with local authorities and other commercial matters.
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.

**Legal Director**  
– Data Privacy / Cyber Security  
10+ yrs PQE, Shanghai

This world-famous brand name is seeking a senior privacy and security lawyer to join its Shanghai office. You will be responsible for providing legal advice and support on privacy, cybersecurity and digital compliance matters in the Greater China region. The ideal candidate will have a law degree from a top-ranked Chinese law school plus over 10 years’ PQE of commercial law with a recent focus on privacy and security programmes gained in a multinational company and/or an international law firm. A genuine interest in e-commerce and digital products is highly desirable. Native-level Mandarin and fluent English skills are required.  
[Ref: 15482/AC]

Contact: Sherry Xu  
Tel: (86) 21 2206 1200  
Email: shanghai@hughes-castell.com.hk

**Associate General Counsel**  
– Multinational  
8+ yrs PQE, Hong Kong

Listed multinational corporation seeks a seasoned litigator to join its team. You will be working with different business units to manage and supervise all contentious matters relating to the business worldwide. In-house experience preferred but not mandatory. Chinese language skills not required.  
[Ref: IHC 18183]

Contact: Andrew Skinner  
Tel: (852) 2920 9111  
Email: a.skinner@alsrecruit.com

**Company Secretary**  
– Virtual Bank  
10-15 yrs Experience, Hong Kong

Virtual banking arm of one of Asia’s largest banks is looking for a company secretary to join its team. Candidates should have company secretarial experience with other well-known financial institutions and also have the ability to manage stakeholders at all levels. Business level Chinese language skills are essential. This is a great opportunity for those looking to make a move from a more traditional financial organisation to a new, cutting edge business line.  
[Ref: ACB242]

Contact: Ivy Ng  
Phone: (852) 2537 7144  
Email: ing@lewissanders.com

**APAC Privacy Counsel**  
– Social Media  
3+ yrs Privacy Experience, Singapore

An exciting opportunity for an experienced privacy counsel with Asia-Pacific experience to join a new regional headquarters in Singapore. The privacy counsel will be the “go to” person for all privacy issues and matters relating to the company’s Asia-Pacific brands and services offered in the region. The successful candidate will be responsible for advising on privacy laws and regulations and will also participate in development of privacy strategy to meet changing global privacy requirements. The ideal candidate will have a degree from an accredited, top tier law school, at least 3+ years of privacy experience at a top tier law firm and/or in an in-house role (experience in a tech’ company is preferred) and exposure to EU GDPR and Asia-Pacific privacy laws. Fluency in written and spoken English is required. CIPP certification is a plus.  
[Ref: HZ 107-00002]

Contact: Jessica Deery  
Tel: (65) 6808 6635  
Email: jessica.deery@horizon-recruit.com

**M&A and Capital Markets – E-commerce Platforms**  
3-8 yrs PQE, Singapore

Leading Singapore-based fintech, digital entertainment, and e-commerce platforms hiring two attorneys for their legal team: the first is a mid-level to senior (5th–8th year) M&A attorney to work alongside their M&A Counsel in the management and leading of their multi-jurisdictional M&A matters; the second is a mid-level (3rd year+) US Qualified Capital Markets associate to work with their Securities Counsel on ‘34 Act reporting matters, fundraisings, general corporate matters, and any other transactions that their Securities Counsel might get involved in from time to time. US qualification is crucial for the second role. Note. only Asia-based candidates being considered at this time.

Contact: alexis@evanjowers.com
Self-Collection Risks

Early engagement of a Forensic investigator will ensure that all potential data sources relating to the claim are identified and considered for preservation and collection.

The process of copying files onto a USB has the potential to change metadata. This could mean that the file creation data, modification date or accessed times could change, which could create doubt in terms of the authenticity of the documents.

When digital evidence is required at the start of a matter, it’s easy to get swept up in the moment and start rushing to gather the evidence but this is a key time to step back, take a moment and reflect on the ultimate aim.

Self-collection is your firm’s greatest value proposition. The Client can gather the digital evidence, send it through and then it can be reviewed so it is possible to start piecing together what has occurred. However, this can result in potentially more work, missing key evidence or receiving a biased version of evidence and, of greater concern, having key evidence inadmissible in Court.

Here are some common scenarios to illustrate. The Client states that all the evidence relating to the claim is located on a particular folder on their Desktop, in text messages on their phone and within a folder in their email inbox. The Client will then copy the files from their Desktop on to a USB drive and forward emails that are located in their specific folder in their inbox.

The process of copying files onto a USB has the potential to change metadata. This could mean that the file creation data, modification date or accessed times could change, which could create doubt in terms of the authenticity of the documents. This process is also focused on what the Client believes to be relevant to the claim from a document perspective. There could be other data located on their computer that relates to the claim that they would not be able to access. This could include deleted data which could be recovered utilising forensic techniques, internet history, system artefacts, evidence of distribution of the key data or inculpatory evidence that needs to be considered.

In relation to emails, similar to copying files, the process of copying emails to a USB or forwarding the email to yourself may result in modification of the metadata. The folder may contain all received emails relating to the matter however may not include all sent items. If your Client has performed searches across their email to identify keywords that would relate to the matter, non-text searchable documents will be missed such as PDF attachments.

For mobile phones, self-collection is difficult and, in most instances, Clients will take screenshots or photos of their screen with the relevant text messages. Similar to documents and emails, this is a biased view of the conversations that have occurred and may not consider alternate communications that have occurred using other chat providers. Screenshots and photos will not have the associated metadata so the messages themselves cannot be verified in terms of when and if they have occurred.

Early engagement of a Forensic investigator will ensure that all potential data sources relating to the claim are identified and considered for preservation and collection. They will utilise methods that will ensure the evidence identified is admissible, impartial, repeatable and defensible in Court. They will ensure integrity of data and maintain full Chain of Custody from identification through to finalisation and, where required, they will prepare and present expert testimonial evidence in Court.

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3 Phillip Street, #17-01, Royal Group Building, Singapore 048993
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Web: www.lawinorder.com.sg

Unit 901, 9/F, Beautiful Group Tower, 74-77 Connaught Road Central, Sheung Wan, Hong Kong
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SURVEY METHODOLOGY

ABOUT THE SURVEY
This year, 3,736 in-house lawyers and buyers of legal services in 12 jurisdictions competed our survey and told us which firms had served them best across a range of practice areas and which have been the most responsive to their needs.

More than 20,000 pre-qualified in-house counsel and buyers of legal services were invited to participate directly, either while attending one of our annual In-House Community Congress and Symposium events across the region (over 3,000 counsel attend at least one of the In-House Community events each year) or through a controlled online process.

Thoughts from China, Hong Kong, India, Indonesia, Malaysia, the Philippines, Singapore, South Africa, South Korea, Thailand, the UAE and Vietnam have been collected and collated in order to find the trends in each region.

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.

Firms of the Year
The second part provided in-house counsel with an opportunity to recognise the law firms that have made a significant impression on them during the past year. Participants were asked, among other things, for their comments on the quality and value of service they received from external counsel in their jurisdiction and, where applicable, in other jurisdictions, as well as which firms they prefer to use for various activities.

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

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

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

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

Profile of respondents
The respondents to the survey were mostly in-house / general counsel (84 percent), while 4 percent were company directors and 1 percent were compliance managers (11 percent others). In terms of industries, 16 percent of respondents work in financial services, followed by TMT (technology, media, telecoms) and energy/natural resources. While this once again represents a slightly smaller proportion of financial services respondents than last year, the overall spread of industries is broadly similar to the previous poll.

The average size of legal teams is 13 people — slightly up from last year — with 67 percent saying that they include ethics and/or compliance in the legal department.
Angara Abello Concepcion Regala & Cruz Law Offices (ACCRALAW) is the country’s largest 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-five 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 over 170 non-legal personnel. 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.
JURISDICTION BY JURISDICTION
And now for a look at how things stand at a jurisdictional level.

CHINA
RESPONDENT PROFILE
Avg team size: 15
Dominant industry: Manufacturing
Ethics/compliance within legal team: 78%
Multinational/Local: 86%/14%

The way I am project-managing legal work is:

Key issues and concerns
Life in legal departments in China is becoming more complicated as the Chinese corporate and legal landscape matures. Competition for talent is increasing and external advice is becoming more expensive, but in many cases legal budgets are not rising fast enough to keep up.

At the same time, as Chinese businesses expand across the region their in-house teams are being confronted with vastly different legal regimes, each with their own unique regulatory and compliance burdens — an issue raised repeatedly by respondents to surveys conducted at our events in Beijing, Shenzhen and Shanghai.

Counsel are also facing challenges from further afield. New data protection regulations in Europe have extraterritorial implications that Chinese companies need to respond to, but overstretched legal teams are not always willing or able to elevate such concerns to senior management. Continuing trade tensions with the US are also commonly cited as a challenge for in-house teams.

For foreign companies in China, the new cybersecurity law’s requirements to store data locally and cooperate with security agencies has led to higher costs for some businesses and raised fears that sensitive information about customers and trade secrets could be compromised.

We also heard frustration over the reluctance to invest in digitalisation and artificial intelligence, which could provide teams with the tools they need to meet many of the challenges mentioned above, such as keeping abreast of disparate regulatory regimes and “doing more with less”.

The average team size has grown since our last survey, up to 15 people from 11, but fewer respondents expect further growth. Just 30 percent said their team would grow during the next 12 months.
Alternative Investment Funds
- King & Wood Mallesons
- Mayer Brown
- Linklaters
- Sheppard Mullin Richter & Hamton

Anti-Trust/ Competition
- Anjie Law Firm
- Mayer Brown
- Clifford Chance
- T&D Associates
- Zhong Lun

Banking and Finance
- Linklaters
- Baker McKenzie FenXun
- King & Wood Mallesons

Capital Markets
- Clifford Chance
- JunHe
- Han Kun Law Offices
- Linklaters

Compliance/ Regulatory
- King & Wood Mallesons
- Mayer Brown
- Zhong Lun
- Baker McKenzie FenXun
- JunHe
- MWE China Law Offices

Corporate and M&A
- Jingtian & Gongcheng
- JunHe
- King & Wood Mallesons
- Zhong Lun
- Clifford Chance
- Morrison & Foerster

Employment
- King & Wood Mallesons
- Simmons & Simmons
- Anjie
- Boohua Law Firm

Energy & Natural Resources
- Reed Smith
- Simmons & Simmons

Environmental
- Sunshine Law Firm

Fintech
- Anjie

Insurance
- Duan & Duan
- Perkins Coie
- DeBund Law Offices
- Grandall

Intellectual Property
- Dentons
- Baker McKenzie FenXun
- HongFangLaw
- Osha Liaing

International Arbitration
- King & Wood Mallesons
- Linklaters

Life Sciences
- Ropes & Gray

Litigation and Dispute Resolution
- Beijing Tiantai Law Firm
- King & Wood Mallesons
- Deheng
- Tian Tong Law Firm

Maritime & Shipping
- Grandall
- Wikborg Rein
- Wang Jing & Co

Real Estate/ Construction
- Jing Rui Law Firm
- King & Wood Mallesons
- Zhong Lun

Restructuring & Insolvency
- Jing Rui Law Firm
- King & Wood Mallesons
- Zhong Lun

Taxation
- Baker McKenzie FenXun
- EY
- PwC

Telecommunications, Media & Technology
- Linklaters
HONG KONG

RESPONDENT PROFILE:
Avg team size: 16
Dominant industry: Financial services
Ethics/compliance within legal team: 60%
Multinational/Local: 88%/12%

How is your legal budget split between internal and external spending?

41% Internal
59% External

Key issues and concerns
The outlook in Hong Kong has soured since our last survey, with three-quarters of respondents saying that they expect their team to shrink during the next 12 months as a result of the weakening economic environment. Respondents were rightly more optimistic about hiring last year, as the average team size has grown to 16 people, up from 15, but we do not expect that growth to continue.

Social unrest, the US-China trade war and slowing global growth are all weighing on business and putting downward pressure on legal budgets. Several respondents said that their company had imposed a blanket hiring freeze, while others cited difficulty in getting authorisation for extra staff. At the same time, budget constraints and cost-cutting remain a common reality.

However, in many cases the workload for in-house teams has not fallen. By far the most common challenge cited by respondents at our Hong Kong event was keeping up with ever-changing and unpredictable laws and regulations, both locally and worldwide. With 88 percent of respondents in Hong Kong working at multinational companies, the challenges of operating across multiple borders are very apparent.

In-house counsel are also worried about deploying technology within the legal team, which requires the acquisition of new knowledge and understanding that is sometimes outside their comfort zone. This can lead to difficult decisions about whether to invest in lawyers (either in terms of additional headcount or upskilling) or to outsource to technology. With the technological landscape changing so rapidly, Hong Kong counsel report difficulty in staying abreast of developments.

This is reflected in the technology that Hong Kong counsel report using. Just 7% say they use e-discovery tools, for example, which is much lower than in Singapore. Hong Kong teams are also much more likely to outsource projects and in general spend much more on external advice. Almost 50 percent of respondents say they employ a balanced mix of in-house and external providers, with roughly 41 percent of legal budgets spent externally — the highest of any jurisdiction we surveyed. Of the work that is outsourced, the most common areas are litigation and dispute resolution, M&A, employment and intellectual property.

Despite the pressure on budgets and gloomy outlook, training and retaining legal talent remains a common concern, suggesting that there is still plenty of competition for top lawyers.

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

Alternative Investment Funds (including private equity)
• King & Wood Mallesons
• Clifford Chance
• Kirkland & Ellis
• Linklaters
• Zhuang Ping

Anti-Trust/Competition
• King & Wood Mallesons
• Eversheds Sutherland
• Norton Rose Fullbright
• Clifford Chance
• Deacons
• ONC Lawyers

Banking and Finance
• Allen & Overy
• Clifford Chance
• Linklaters
• Ashurst
• Eversheds Sutherland
• Howse Williams
• White & Case

Capital Markets
• Clifford Chance
• Linklaters

Compliance/Regulatory
• Baker McKenzie
• Davis Polk & Wardwell
• Deacons
• Linklaters
• Clyde & Co
• David Norman & Co
• King & Wood Mallesons
• PC, Wao & Co
• Wao Kwan Lee & La

Corporate and M&A
• Baker McKenzie
• King & Wood Mallesons
• Linklaters
• Clifford Chance
• Deacons
• Freshfields Bruckhaus Deringer
• Mayer Brown
• Slaughter and May

Employment
• Baker McKenzie
• Deacons
• Simmons & Simmons

Energy & Natural Resources
• Herbert Smith Freehills
• Clifford Chance

Fintech
• Davis Polk & Wardwell
• Linklaters

Insurance
• Clyde & Co
• Deacons

Intellectual Property
• Baker McKenzie
• Deacons
• Mayer Brown
• Oldham, Li & Nie
• ONC Lawyers
• Bird & Bird
• Wilkinson & Gratt

International Arbitration
• Baker McKenzie
• DLA Piper
• Pinsent Masons

IT/Technology
• Allen & Gledhill
• Deacons
• Eversheds Sutherland
• ONC Lawyers

Litigation and Dispute Resolution
• Baker McKenzie
• Clyde & Co
• Deacons
• King & Wood Mallesons
• Pinsent Masons
• Mayer Brown

Maritime & Shipping
• Clyde & Co
• HFW
• Howse Williams

Projects and Project Financing
• King & Wood Mallesons
• Linklaters

Real Estate/Construction
• Bryan Cave Leighton
• Paines
• Mayer Brown
• Pinsent Masons
• Deacons
• Hogan Lovells
• Jones Day
• King & Wood Mallesons

Taxation
• Deacons

Telecommunications, Media & Technology
• Bird & Bird

MOST RESPONSIVE FIRMS OF THE YEAR, HONG KONG

INTERNATIONAL
• Allen & Overy
• Baker McKenzie
• Clifford Chance
• Hogan Lovells
• King & Wood Mallesons
• Linklaters
• Ashurst
• Clyde & Co
• Davis Polk & Wardwell
• DLA Piper
• Herbert Smith Freehills
• Mayer Brown
• Simmons & Simmons

DOMESTIC
• Deacons
• ONC Lawyers
• Woo Kwan Lee & Lo
SyCip Salazar Hernandez & Gatmaitan (SyCipLaw), one of the Philippines' largest law firms, was voted by the members of the In-House Community as a “Philippine Firm of the Year 2019.” It was also recognized for various practice areas, particularly for Corporate and M&A, Employment, Banking and Finance, Alternative Investment Funds, and Projects & Project Finance. One of the in-house counsel testimonials regarding the firm stated: “We always get timely and relevant advice from SyCipLaw.”

“We have an excellent working relationship with SyCipLaw and they give very practical advice”
- In-House Community survey client response

This year marks the 75th anniversary of SyCipLaw. It was founded in Manila by Alexander SyCip in 1945, shortly after WWII, and has grown to become one of the largest law firms in the Philippines, with three branch offices in the cities of Cebu and Davao and in the Subic Freeport area.

SyCipLaw’s Managing Partner, Hector M. De Leon Jr. (right) spoke to us about the firm’s diamond jubilee year.

What are some of your reflections about SyCipLaw’s 75th anniversary?
Our 75th anniversary is a significant milestone in the history of SyCipLaw. It is a great opportunity to appreciate what Alexander SyCip began in 1945 and how far we’ve come since he established offices in the garage of a wooden house in Reina Regente Street, Binondo, Manila. In its 75 years of existence, SyCipLaw accomplished many things we are proud of. We have received recognition and awards for our work, including for our pro bono work (by TrustLaw, the global pro bono legal program of the Thomson Reuters Foundation). Our clients have given us the privilege to work on mega-deals, cutting-edge cases, and pioneering transactions.

We are also grateful to the people comprising SyCipLaw, our lawyers and non-legal staff. Our firm is the institution we are proud of today because of the foundation laid by those who were here before us. Through example and training, our founders and former partners established the firm’s core values. Their vision, work ethic, and dedication contributed immensely to the success of the firm.

What are your plans for the future?
We intend the firm to last over 100 years. Hence, the principle of stewardship is important for us. In the words of one of our name partners, Benildo Hernandez, the partners’ true heirs are the young lawyers who came after them; their inheritance is the firm of which the partners were as much its stewards as owners.

Bearing in mind the principle of stewardship, we will pursue various initiatives to build on our success and ensure that we remain one of the leading law firms in the country.
Key issues and concerns

Growth continues to be a focus for many legal teams in India, with roughly half of the survey respondents in Mumbai saying that they expect the size of their team to grow during the coming 12 months, which is much higher than in most jurisdictions in the region. The other half of respondents are expecting their teams to stay the same size, with no respondents saying they expected to lose headcount.

More generally, the most common challenges for legal counsel in India are familiar to teams across the region — timeline pressure from the business side, constrained budgets and staying up to date with the latest legal developments at home and abroad. Indeed, the domestic regulatory environment can pose particular challenges, not only in terms of staying abreast of changes, but also with regards to how government policies will be interpreted by the relevant authorities and agencies.

Technology was also mentioned as a challenge in India, though legal departments commonly use e-signatures, smart contracts and matter management solutions. They also make use of the country’s strong legal tech and legal process outsourcing sector that affords in-house counsel with a good range of home-grown, affordable solutions. Respondents said that they spend on average around 40 percent of their legal budget externally, which is higher than in many jurisdictions in Asia and reflects the large range of options available. Besides litigation and dispute resolution, the most common area outsourced is corporate/M&A.

**Respondent profile:**

Avg team size: 12
Dominant industry: Financial services
Ethics/compliance within legal team: 63%
Multinational/Local: 81%/19%

**How is your legal budget split between internal and external spending?**

- **Internal:** 60%
- **External:** 40%
Key issues and concerns
Economic growth is expected to remain stable at 5 percent in Indonesia, helping to support business expansion. Slowing growth in China is a potential brake on Indonesia’s exports, but there is rising demand in other export destinations that should help to offset this.

Indonesia’s in-house lawyers consistently complain about uncertain and inconsistent regulation, as well as the government bureaucracy that implements legislation, as many local companies judge that in-house lawyers should handle matters, including litigation, on their own. Some of these challenges could be more effectively remedied if the profession was better organised, but respondents have complained in the past of a lack of coordination by the bar association.

It is ranked 73rd among 190 economies for ease of doing business, according to the latest World Bank annual ratings, and is the 89th least corrupt nation out of 180 countries, according to the 2019 Corruption Perceptions Index reported by Transparency International.

In the World Economic Forum’s Global Competitiveness Index, Indonesia ranks 50th overall, behind both Malaysia and Thailand, and is down five places from 2018. The WEF comments that the country boasts a vibrant business culture and a stable financial system, and a high rate of technology adoption relative to the country’s stage of development, although the quality of access remains relatively low. Innovation capacity remains limited, but is increasing.

Reform priorities according to the OECD should focus on improving the regulatory environment for infrastructure and the government has made some steps in this direction, including increasing for land acquisition. There is also a need to ease barriers to entrepreneurship and investment, and to strengthen institutions to fight corruption. Measures have been taken to reduce the time it takes to process licences and ease the hiring of foreign workers.
MALAYSIA
RESPONDENT PROFILE
Avg team size: 8
Dominant industry: Real Estate/Construction
Ethics/compliance within legal team: 63%
Multinational/Local: 40%/60%

Key issues and concerns
Legal counsel in Malaysia are among the most pessimistic in the region in regard to legal team growth, with just 19 percent expecting team expansion during the coming 12 months. The country’s economy is sensitive to global and regional growth, and with both showing weakness Malaysia’s economic outlook is muted and this is weighing on legal teams.

This reflects a common issue raised by respondents at our Kuala Lumpur event relating to the perception of the legal department in many Malaysian companies. Several counsel said that they have struggled to change the perception of the legal team as a cost centre or merely as a final hurdle to be cleared in transactions. “This means that legal always comes into deals late, often after an issue has already arisen,” said one. This failure to acknowledge the proper role of the legal team inevitably results in under-resourcing, which means that many general counsel find it difficult to retain talent, invest in technology or even stay up to date with legal and regulatory developments. In some cases, problems can run even deeper, with several legal teams complaining about management who ignore governance rules, and directors and shareholders who “cross the line” in terms of their roles or duties.

One problem common to all legal teams in Malaysia, as well as elsewhere in the region, is that communication between in-house counsel and their clients is not privileged, which was cited in our survey as a challenge when trying to work with the business side.

Respondents on average said they spend 35% of their legal budget on external advice, mostly for litigation and dispute resolution, but also corporate/M&A, employment, banking/finance and intellectual property.

In the coming 12 months, how will the size of your in-house legal team change?

- Grow
- Shrink
- Remain the same

19% Grow
4% Shrink
77% Remain the same

(Continued over ...)

Azmi & Associates is a full-service law firm based in Kuala Lumpur, Malaysia with 75 lawyers + 22 trainee lawyers. We function as a one stop centre for legal services to meet various needs of clients. Through its Global Network Azmi & Associates has access to more than 23,500 lawyers in major cities including 2,150 lawyers in Asia Pacific.

Azmi & Associates is the first Malaysian law firm to have been granted with a licence by the Bar Council of Malaysia to employ a Foreign Qualified Lawyer.
## Aviation
- Shook Delamore

## Banking and Finance
- Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Adnan Sundra & Low
- Azmi & Associates
- Christopher & Lee Ong

## Capital Markets
- Adnan Sundra & Low
- Kadir Andri & Partners
- Shook Lin & Bok
- Zaid Ibrahim & Co
  - (a member of ZICO Law)

## Compliance/Regulatory
- Christopher & Lee Ong
- Haeme Hashim & Co
- Raja, Darryl & Loh
- Wong & Partners (Baker McKenzie)
- Zul Rafique & Partners

## Corporate and M&A
- Adnan Sundra & Low
- Azmi & Associates
- Rahmat Lim & Partners
- Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Abdullah Chan
- Kadir, Andri & Partners
- MKP
- Sidek Tech Wong & Dennis

## Employment
- Lee Hishammuddin Allen & Gledhill
- Zul Rafique & Partners
- Raja, Darryl & Loh
- TKP Law
- Zaid Ibrahim & Co
  - (a member of ZICO Law)

## Energy & Natural Resources
- Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Christopher & Lee Ong

## Environmental
- Christopher & Lee Ong
- Max & Moideen
- Shook Lin & Bok

## Insurance
- Shook Lin & Bok

## Intellectual Property
- Shearn Delamore
- Wong & Partners (Baker McKenzie)
- Azmi & Associates
- Joel & Mei
- Bustaman
- Sharizat Rashid and Lee
- Shook Lin & Bok
- Tay & Partners
- Wong Jin Nee & Teo

## International Arbitration
- Shook Lin & Bok
- Mohanodoss Partnership
- Skrine

## Islamic Finance
- Azmi & Associates
- Shook Lin & Bok
- Adnan Sundra & Low
- Zain Megat & Murad

## Litigation and Dispute Resolution
- Skrine
- Harold Lam & Partnership
- Raja, Darryl & Loh
- Shearn Delamore
- Wong & Partners (Baker McKenzie)
- Wong Lu Peen & Tunku Alina

## Projects and Project Financing
- Adnan Sundra & Low
- Christopher & Lee Ong
- Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Zul Rafique & Partners

## Real Estate/Construction
- Shook Lin & Bok
- Zul Rafique & Partners

## Restructuring & Insolvency
- Kadir Andri & Partners
- Raja, Darryl & Loh

## Taxation
- Lee Hishammuddin Allen & Gledhill
- Shearn Delamore

## International
- Baker McKenzie
- Herbert Smith Freehills
- Trowers & Hamlins
- Allen & Overy
- Clyde & Co
- Norton Rose Fulbright

## Domestic
- Azmi & Associates
- Christopher & Lee Ong
- Lee Hishamuddin Allen & Gledhill
- Shearn Delamore
- Skrine
- Wong & Partners
  - Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Zul Rafique & Partners

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

**INTERNATIONAL**
- Baker McKenzie
- Herbert Smith Freehills
- Trowers & Hamlins
- Allen & Overy
- Clyde & Co
- Norton Rose Fulbright

**DOMESTIC**
- Azmi & Associates
- Christopher & Lee Ong
- Lee Hishamuddin Allen & Gledhill
- Shearn Delamore
- Skrine
- Wong & Partners
  - Zaid Ibrahim & Co
  - (a member of ZICO Law)
- Zul Rafique & Partners

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**FIND A LAWYER**

Search by Practice and Industry at www.inhousecommunity.com

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*(Malaysia continued ...)*
PHILIPPINES

RESPONDENT PROFILE
Avg team size: 15
Dominant industry: Financial Services
Ethics/compliance within legal team: 65%
Multinational/Local: 43%/57%

The way I am project-managing legal work is:
- Entirely in-house: 16%
- Majority in-house: 35%
- Balanced mix: 49%
- Majority outsourced: 35%
- All outsourced: 16%

Key issues and concerns
In-house legal teams in the Philippines face challenges that are all too familiar in the region. Leaner teams, more work and limited resources for outside counsel were all commonly mentioned in the survey carried out at our event in Manila, where pressure on counsel is growing due to “constantly changing regulations”. However, the Philippines was the only jurisdiction where “lack of millennial drive” was cited as a challenge for legal departments.

Faced with these challenges, some teams would like access to more sophisticated technology to reduce their workload, but cost-cutting is increasingly the norm as budgets and spending are shrinking in line with business constraints. At the same time, failure to upgrade technology and associated resources can create security issues, with cybercrime becoming a growing problem, and can also make complying with data privacy and consumer protection rights more difficult.

Disputes are also increasingly a source of challenges for legal departments, with several respondents citing delays due to the slow response time from courts, as well as difficulties in finding the technical expertise needed in arbitral disputes. Such issues are becoming more common as the Philippines increasingly relies on private investment in various parts of its economy. Issues around real estate and construction are another by-product of this environment. Another facet of public-private interactions that was mentioned by respondents is the need to manage politics, bureaucracy and corruption.

Given the strength of the local legal process outsourcing sector, it is perhaps not surprising that more than a third of respondents said that they use a balanced mix of internal and external resources to handle projects, with external spend typically consuming slightly more than one-third of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, immigration, corporate/M&A, employment, tax and intellectual property.
ASIAN-MENA COUNSEL – In-House Community Survey 2019

PHILIPPINES
As voted for by in-house counsel
Winners in bold, honourable mentions in italics

Alternative Investment Funds
(including private equity)
- ACCRALAW
- SyCip Salazar Hernandez & Gatmaitan
- Villaraza & Angangco
- Quitarabing Torres (Baker McKenzie)
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Anti-Trust/Competition
- ACCRALAW
- Puyat Jacinto & Santos
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- Poblador Bautista & Reyes
- Platon Martinez Flores San Pedro & Leaño
- Quitarabing Torres (Baker McKenzie)
- Villaraza & Angangco

Aviation
- ACCRALAW
- Ocampo & Manalo
- Platon Martinez Flores San Pedro & Leaño

Banking and Finance
- Picazo Buyco Tan Fider & Santos
- Quitarabing Torres (Baker McKenzie)
- SyCip Salazar Hernandez & Gatmaitan
- ACCRALAW
- Poblador Bautista & Reyes
- Platon Martinez Flores San Pedro & Leaño
- Quitarabing Torres (Baker McKenzie)
- Villaraza & Angangco

Capital Markets
- Picazo Buyco Tan Fider & Santos
- Quitarabing Torres (Baker McKenzie)
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- Zambrano & Gruba Law

Compliance/Regulatory
- ACCRALAW
- Quitarabing Torres (Baker McKenzie)
- Picazo Buyco Tan Fider & Santos
- Puno & Puno
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- Vasig Abarquez Lumauig

Corporate and M&A
- ACCRALAW
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- Picazo Buyco Tan Fider & Santos
- Puyat Jacinto & Santos
- Platon Martinez Flores San Pedro & Leaño
- Quitarabing Torres (Baker McKenzie)
- Villaraza & Angangco

Employment
- ACCRALAW
- SyCip Salazar Hernandez & Gatmaitan
- Platon Martinez Flores San Pedro & Leaño
- Siguan Reyna, Montecillo & Ongsiako

Energy & Natural Resources
- Puyat Jacinto & Santos
- Puno and Puno
- ACCRALAW
- Cruz Marcelo & Tenefrancia
- Platon Martinez Flores San Pedro & Leaño
- Quitarabing Torres (Baker McKenzie)
- SyCip Salazar Hernandez & Gatmaitan

Environmental
- ACCRALAW
- Vasig Abarquez Lumauig

Fintech
- ACCRALAW
- Quitarabing Torres (Baker McKenzie)

Insurance
- ACCRALAW
- Romulo Mabanta Buenaventura Sayoc & de los Angeles

Intellectual Property
- ACCRALAW
- Quitarabing Torres (Baker McKenzie)
- Bengzon Negre Untalan
- Cruz Marcelo & Tenefrancia
- Heschemov, Bugao, Vilchez & Andaya-Racadio
- Omeo Bacoero Oduola Calma and Carbonell
- Platon Martinez Flores San Pedro & Leaño
- Poblador Bautista & Reyes
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan

International Arbitration
- ACCRALAW
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- Quitarabing Torres (Baker McKenzie)

Islamic Finance
- ACCRALAW

Life Sciences
- ACCRALAW

Litigation and Dispute Resolution
- ACCRALAW
- Poblador Bautista & Reyes
- Villaraza & Angangco
- Cruz Marcelo & Tenefrancia
- Del Rosario & Del Rosario
- DivinaLaw
- Picazo Buyco Tan Fider & Santos
- Platon Martinez Flores San Pedro & Leaño
- SyCip Salazar Hernandez & Gatmaitan
- Villanueva Tanay Trinidad Darwin

Maritime & Shipping
- ACCRALAW

Projects and Project Financing
- Picazo Buyco Tan Fider & Santos
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- SyCip Salazar Hernandez & Gatmaitan
- ACCRALAW
- Villaraza & Angangco
- Vasig Abarquez Lumauig

Real Estate/Construction
- ACCRALAW
- Aguilera Barola Mendoza
- DivinaLaw
- JGLaw
- Puno and Puno
- Vasig Abarquez Lumauig

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

Taxation
- Du-Baladad and Associates
- ACCRALAW
- Cruz Marcelo & Tenefrancia
- Gatmaitan Yap Patacsi Gutierrez & Patacsi
- Reyes Taccandang & Co.
- Salvador Llomillo & Bernardo

Telecommunications, Media & Technology
- ACCRALAW
- Puno and Puno
- Quitarabing Torres (Baker McKenzie)

Most Responsive Firms of the Year, Philippines

INTERNATIONAL
- Allen & Overy
- Baker McKenzie
- Clifford Chance
- DLA Piper
- Latham Watkins

DOMESTIC
- ACCRALAW
- DivinaLaw
- Picazo Buyco Tan Fider & Santos
- Romulo Mabanta Buenaventura Sayoc & de los Angeles
- Puyat Jacinto & Santos
- Platon Martinez Flores San Pedro & Leaño
- Quitarabing Torres
- SyCip Salazar Hernandez & Gatmaitan
- Villaraza & Angangco

Volume 17 Issue 2, 2020

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Key issues and concerns

Given Singapore’s role as a regional financial centre, counsel in the city frequently cite the difficulty of providing legal support in unfamiliar jurisdictions where the business is operating. For smaller legal teams, covering multiple countries and answering a broad range of questions leaves little time for other aspects of the role, such as strategy. Another related challenge is overseeing business growth into neighbouring, high-risk jurisdictions while adhering to ethical and compliance standards.

Needless to say, these issues play out against a background that all legal teams in the region are familiar with—cost management, increasing workloads, flat headcounts and constant updates to the legal and compliance environment that the business is operating in. Indeed, 73 percent of respondents in Singapore expect that the size of their team will stay the same during the coming 12 months.

As a major jurisdiction that is home to many multinational companies and some large legal teams, budgets are more generous than in many other jurisdictions and we see greater use of legal tech tools, such as e-discovery, smart contracts and contract templates. But sometimes a bigger budget can create new problems. Survey respondents at our event in Singapore mentioned the challenge of finding legal support technology that is compatible with the corporate IT architecture or agonising over which technology investment is the best fit.

Close to three-quarters of respondents said that they handle the majority of work in-house, with external spend typically consuming around one-third of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, corporate/M&A, antitrust and intellectual property.

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**SINGAPORE**

**RESPONDENT PROFILE**

Avg team size: 18
Dominant industry: Energy/Natural Resources
Ethics/compliance within legal team: 70%
Multinational/Local: 94%/6%

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**Do you use these technology tools?**

<table>
<thead>
<tr>
<th>Tool Type</th>
<th>Respondents</th>
</tr>
</thead>
<tbody>
<tr>
<td>e-Discovery tools</td>
<td>13</td>
</tr>
<tr>
<td>Legal research platforms</td>
<td>20</td>
</tr>
<tr>
<td>Matter management solutions</td>
<td>13</td>
</tr>
<tr>
<td>e-Signatures</td>
<td>13</td>
</tr>
<tr>
<td>Smart contracts</td>
<td>17</td>
</tr>
<tr>
<td>Board Portal</td>
<td>3</td>
</tr>
<tr>
<td>Client relationship management tools</td>
<td>3</td>
</tr>
<tr>
<td>Contract template services</td>
<td>2</td>
</tr>
<tr>
<td>AI</td>
<td>0</td>
</tr>
</tbody>
</table>

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**POBLADOR BAUTISTA & REYES LAW OFFICES**

ANA PATRICIA R. TOBIAS
JOSEPH C.M.D. DE JESUS
SANDRA MAE T. MAGALANG
MARIE MICHELLE B. CO

JESUS M. MARAVIEJO
OSWALD P. IMBAT
JAYSON C. AGUILAR
JUSTA AUREA G. BAUTISTA
CHARLES RICHARD C. AVILA, JR.
DESIREE N. SOKOREN
RYAN ANDREW S. MALIT
AUDREY NICOLE Y. NG
DENIS ANDREW T. FLORES
CARLOS S. HERNANDEZ JR.
ERVIN FREDRICK H. DY
LEE EDSON P. YARCIA
JUN MARR M. DEMILA
JOSE BEN L. CAMPOS
FRANCIS NORIEL V. GRUPO
VANESSA GLORIA S. VEGA
ARTIKARIO HAN L. VILLANUEVA
KRIZELIE MARIE F. POBALCION

CONSULTANT

5TH AND 26D FLOORS, SEDECO I BUILDING, 120 RADA CIR. LEGASPI STREETS,
LEGASPI VILLAGE, MAKATI CITY 1229 METRO MANILA, PHILIPPINES
TELEPHONE NO. (632) 8893-7623 FAX NO. (632) 8893-7622 E-MAIL: central@briw.com.ph
SINGAPORE
AS VOTED FOR BY IN-HOUSE COUNSEL
Winners in bold, honourable mentions in italics

Alternative Investment Funds
(including private equity)
• Sidley Austin
• Allen & Overy
• WongPartnership

Anti-Trust/ Competition
• Allen & Gledhill
• Dentons Rodyk
• Rajah & Tann
• Norton Rose Fulbright
• WongPartnership

Aviation
• Clifford Chance

Banking and Finance
• Allen & Overy
• Simmons & Simmons JWS
• Linklaters

Capital Markets
• Allen & Gledhill
• Linklaters
• Rajah & Tann

Compliance/ Regulatory
• Alen & Gledhill
• Eversheds Harry Elias
• WongPartnership
• Drew & Napier
• Rajah & Tann

Corporate and M&A
• Allen & Gledhill
• Baker McKenzie Wong & Leow
• WongPartnership
• Clifford Chance
• Rajah & Tann

Employment
• Allen & Gledhill
• Rajah & Tann
• Bird & Bird ATMD

Energy & Natural Resources
• HFW
• King & Spalding

Insurance
• Rajah & Tann
• Ince

Intellectual Property
• Dentons Rodyk
• WongPartnership
• Amico Law
• Gateway Law

International Arbitration
• Reed Smith
• Stephenson Harwood
• Allen & Gledhill
• WongPartnership

Litigation and Dispute Resolution
• Drew & Napier
• Rajah & Tann
• Dentons Rodyk
• Genesis Law
• WongPartnership

Maritime & Shipping
• Clyde & Co
• Reed Smith
• Stephenson Harwood

Projects and Project Financing
• King & Spalding
• Allen & Gledhill
• Reed Smith

Real Estate/ Construction
• WongPartnership
• Rajah & Tann

Restructuring & Insolvency
• Drew & Napier

Taxation
• Mayer Brown
• PwC

Telecommunications, Media & Technology
• Baker McKenzie Wong & Leow
• Linklaters
• Rajah & Tann
• Reed Smith

MOST RESPONSIVE FIRMS OF THE YEAR, SINGAPORE

INTERNATIONAL
• Baker McKenzie
• Bird & Bird ATMD
• Clifford Chance
• Herbert Smith Freehills
• Hogan Lovells
• HFW

DOMESTIC
• Allen & Gledhill
• Rajah & Tann
• WongPartnership
• Drew & Napier
Key issues and concerns

South Africa is the only jurisdiction included in this report where most respondents expected to see the size of their team grow during the next 12 months. However, many legal departments are operating under budget constraints and a quarter expect their teams to shrink.

The legal market in South Africa is mature and this is reflected in the use of technology within in-house teams. E-discovery, matter management solutions, e-signatures, smart contracts, board portals and contract templates are all commonly used — and much more so than in any Asian jurisdictions we surveyed.

Despite the wide deployment of legal technologies, counsel in South Africa report many similar frustrations to their peers in Asia. Even when companies are gearing up for growth and investing in such, the legal team is often the last in line “as we are seen as a cost”. Staying on top of the rapidly changing legislative landscape is another common challenge, particularly for respondents who reported that their team is undersized. Some counsel even expressed difficulty in finding external counsel with the right level of expertise for their business.

As a regional hub, South African teams also face some similar challenges to their counterparts in Singapore, such as supporting the business in jurisdictions with different perspectives, time zones and cultures, “some with less appreciation for the role of legal and having us proactively involved in the business”.

Roughly two-thirds of respondents retain the majority of legal work in-house, with external spend typically of around one-third of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, corporate/M&A, antitrust and banking/finance.
In the coming 12 months, how will the size of your in-house legal team change?

- Grow: 56%
- Shrink: 38%
- Remain the same: 6%

Key issues and concerns

More than two-thirds of responding in-house counsel in Seoul said they expected their legal teams to grow in the next 12 months. That is almost double the number in the previous year and higher than in most other developed Asian markets.

This optimism may be partly explained by the fact that Korea is the only market we visited during the past year where manufacturing was the dominant industry represented by respondents. It is also a more mature legal market. The result is that many legal teams are well-established and represent companies that address a global export market, which provides more stability than we see elsewhere. Having said that, teams are generally quite small, with an average size of eight among the survey respondents at our event in Seoul.

Among the challenges that counsel are facing in Korea, respondents mentioned regulatory changes, the need to balance internal external legal resources, compliance requirements and a lack of relevant expertise to match the business's requirements.

Around 40 percent of respondents said they use a balanced mix of internal and external legal resources, while half said they did the majority of work in-house. On average, legal spend was split 60 percent internal and 40 percent external. The most common areas that are outsourced are corporate/M&A, litigation and dispute resolution, antitrust, tax and intellectual property.

In terms of legal technology, e-signatures and board portals are now quite widely used, while e-discovery, matter management solutions and smart contracts are far less common.
THAILAND

RESPONDENT PROFILE

Avg team size: 11
Dominant industry: Financial services
Ethics/compliance within legal team: 64%
Multinational/Local: 59%/41%

Key issues and concerns

Thailand’s legal market is maturing and legal teams in the country are grappling with many of the challenges that are common in developed markets. Counsel are striving to be more than just a cost centre and add genuine value to the business unit through strategic advice that informs commercial decision-making.

However, like many of Asia’s more advanced markets, there are also many of the same pressures from frozen headcounts and cost cutting, as well as keeping up with complex new laws and regulations, in particular those related to digital transactions and personal data protection, which were mentioned repeatedly by survey respondents in Bangkok.

There are pockets of optimism regarding the outlook, with roughly one-third of respondents saying they expect to see the size of their team grow during the coming 12 months. The average size of teams currently is 11, according to survey respondents, but 5 percent employ more than 50. This is in stark contrast to neighbouring Malaysia or Indonesia, where most teams are small.

Another difference is the prevalence of local companies at our event in Bangkok. While multinationals tend to make up the overwhelming majority in most jurisdictions, in Thailand the proportion of local companies is much higher.

Most teams said that they handle the majority of legal work in-house and the average external legal spend in Thailand is one of the lowest in the region at just 26 percent of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, corporate/M&A, employment, tax, banking/finance and intellectual property.

When it comes to legal technology, e-signatures are quite widely used, while e-discovery, matter management solutions, smart contracts and board portals are much less common.
THAILAND

AS VOTED FOR BY IN-HOUSE COUNSEL

Winners in bold, honourable mentions in italics

Alternative Investment Funds
(including private equity)
• Baker McKenzie
• Thanathip & Partners
• Charin & Associates

Anti-Trust/Competition
• Baker McKenzie
• Chandler MHM
• DFDL
• Slaughter and May

Aviation
• Pillsbury Winthrop Shaw Pittman
• Watson Farley & Williams

Banking and Finance
• Baker McKenzie
• Allen & Overy
• DFDL
• Linklaters

Capital Markets
• Baker McKenzie
• Kudun & Partners
• Weerawong, Chinnavat & Partners
• Linklaters
• Thanathip & Partners

Compliance/Regulatory
• Baker McKenzie
• Kroll

Corporate and M&A
• Baker McKenzie
• LS Horizon
• Weerawong, Chinnavat & Partners
• Chandler MHM
• Kudun & Partners
• Linklaters
• Thanathip & Partners

Employment
• Baker McKenzie
• R&T Asia
• DFDL
• DLA Piper
• Siem Premier
• Tilleke & Gibbins

Energy & Natural Resources
• Baker McKenzie
• Chandler MHM
• Linklaters

Environmental
• Baker McKenzie
• Chandler MHM

Fintech
• Baker McKenzie

Insurance
• Baker McKenzie
• Thanathip & Partners

Intellectual Property
• Tilleke & Gibbins
• DFDL
• Thanathip & Partners

International Arbitration
• Herbert Smith Freehills
• R&T Asia

Islamic Finance
• Baker McKenzie

Life Sciences
• Baker McKenzie

Litigation and Dispute Resolution
• Baker McKenzie
• LS Horizon
• Watson Farley & Williams
• ES Counsel
• Herbert Smith Freehills
• R&T Asia
• Tilleke & Gibbins

Projects and Project Financing
• Baker McKenzie
• Chandler MHM
• Linklaters

Real Estate/Construction
• Baker McKenzie
• R&T Asia
• Chandler MHM

Restructuring & Insolvency
• DLA Piper
• Linklaters

Taxation
• Baker McKenzie
• Kudun & Partners
• Law Alliance
• DRIK
• KPMG
• PwC

Telecommunications, Media & Technology
• Baker McKenzie
• DFDL

Most Responsive Firms of the Year, Thailand

International
• Allen & Overy
• Baker McKenzie
• DLA Piper
• Herbert Smith Freehills
• Latham & Watkins

Domestic
• Chandler MHM
• Tilleke & Gibbins
• Weerawong, Chinnavat & Partners
• Kudun & Partners

Finding Ways

“Absolutely top notch in South Korea, this is one of the top law firms- Commercial and transactions”

-Benchmark Litigation Asia-Pacific 2020

Firm of the Year 2019 in South Korea

Legal Services of the highest caliper

Yoon & Yang LLC is a leading full-service law firm in Korea with more than 620 attorneys and other professionals. Committed to excellence and integrity, our professionals respond to the needs and challenges of our clients with creative and practical solutions, drawing upon our expertise and experience in a broad array of industries and legal practices.

www.yoonyang.com

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• Linklaters
• Thanathip & Partners

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• Kroll

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• Weerawong, Chinnavat & Partners
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• Kudun & Partners
• Linklaters
• Thanathip & Partners

Employment
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• DFDL
• DLA Piper
• Siem Premier
• Tilleke & Gibbins

Energy & Natural Resources
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• Chandler MHM
• Linklaters

Environmental
• Baker McKenzie
• Chandler MHM

Fintech
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Insurance
• Baker McKenzie
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Intellectual Property
• Tilleke & Gibbins
• DFDL
• Thanathip & Partners

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• R&T Asia

Islamic Finance
• Baker McKenzie

Life Sciences
• Baker McKenzie

Litigation and Dispute Resolution
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• ES Counsel
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• R&T Asia
• Tilleke & Gibbins

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• Linklaters

Real Estate/Construction
• Baker McKenzie
• R&T Asia
• Chandler MHM

Restructuring & Insolvency
• DLA Piper
• Linklaters

Taxation
• Baker McKenzie
• Kudun & Partners
• Law Alliance
• DRIK
• KPMG
• PwC

Telecommunications, Media & Technology
• Baker McKenzie
• DFDL

Most Responsive Firms of the Year, Thailand

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Domestic
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• Weerawong, Chinnavat & Partners
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www.yoonyang.com

Firm of the Year 2019 in South Korea

Legal Services of the highest caliper

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www.yoonyang.com
UAE

RESPONDENT PROFILE
Avg team size: 10
Dominant industry: TMT
Ethics/compliance within legal team: 72%
Multinational/Local: 56%/44%

Key issues and concerns
As a regional centre for business operations across the Middle East and Africa, in-house counsel in the UAE face many complex challenges both domestically and regionally. Some common issues that were mentioned by survey respondents at our events in Abu Dhabi and Dubai include a lack of English translations of procedures and outcomes in local litigation, variance between laws as written and in practice, and a lack of transparent sources of information on companies or properties.

In the UAE specifically, respondents noted that some important new laws had yet to be tested in court, including those related to data and privacy protection, and competition. Some also complained about the quality and speed of external advice.

With a depressed local economy, many teams are facing the familiar challenges of constrained legal budgets. “In-house departments are seen as fee burners rather than fee earners,” said one delegate. Just 26 percent of respondents said that they expected the size of their team to grow during the following 12 months, while 73 percent expected to see it shrink. However, some counsel are responding to the difficulties they face with steadfast resolve: “We challenge the challenges,” said one respondent.

Most teams in the UAE handle the majority of legal work in-house and the average external legal spend is low at just 27 percent of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, corporate/M&A, intellectual property and employment.

With regards to legal technology, e-signatures and smart contracts are commonly used, e-discovery is less prevalent and matter management solutions, e-billing and board portals are rare.
V&A Law was founded in the year 1980. With more than 60 lawyers recognized by their peers to be at the top of the legal profession and with at least 60 highly trained non-legal staff, the Firm offers professional services of the highest caliber. With decades of experience in serving a full spectrum of clients’ interests, its lawyers are equipped to skillfully handle the most intricate problems and provide comprehensive solutions that deliver results. The Firm has been at the forefront of the Philippine legal landscape and has gained the trust and confidence of leading multinational corporations, financial institutions and conglomerates. V&A Law is a full service law firm with specialization in areas of litigation, corporate and intellectual property law.

**LITIGATION & DISPUTE RESOLUTION**

The Firm is involved in commercial, civil, tax and criminal representation and trial advocacy in every forum. V&A Law provides efficient and effective strategies capitalizing on alternative methods of dispute resolution. The litigators have successfully handled cases in all appellate levels of the judicial system and routinely handle appeals from quasi-judicial agencies. The Firm represents a wide array of banks and financial institutions, both local and foreign. V&A Law has been involved in almost all major corporate recovery projects in the country, both litigated and non-litigated. The lawyers of V&A Law have extensive exposure and high level of competence in handling matters involving labor standards and labor relations law. Moreover, the Firm handles labor litigation before the regular courts and quasi-judicial bodies, such as the National Labor Relations Commission (NLRC).

**CORPORATE & COMMERCIAL LAW**

The Firm is involved in major mergers and acquisitions in strategic industries, including banking and finance, telecommunications, transportation, manufacturing, food retail, business process outsourcing, insurance, entertainment, and pharmaceuticals. V&A lawyers are experts in the field of power and energy. The Firm provides transactional advice on capital markets, securities regulation and finance and serves as counsel on major foreign investments in the country. The corporate lawyers in the Firm are equipped with experience in giving comprehensive legal assistance in various property development and real estate transaction projects at all stages. The Firm is counsel to major mining and exploration companies on a broad range of matters, including compliance with nationality and capitalization requirements and obtaining government licenses. V&A lawyers are known for providing innovative solutions to efficiently manage the taxation burden of individuals and entities doing business in the Philippines. The Firm plays an active role in the country's leading public utilities and infrastructure projects under public-private partnership projects, build-operate-transfer, joint venture, and procurement projects.

**INTELLECTUAL PROPERTY**

The intellectual property lawyers of V&A assist in trademark and patent prosecution such as the preparation and maintenance of both Philippine and foreign trademark, patent, utility model and industrial design. The Firm represents clients in the registration and deposit of copyrights and other related rights. The Firm assists clients to ensure that full commercial value is realized through intellectual property commercialization, licensing and franchising. V&A lawyers are experienced litigators who have extensive practice in intellectual property litigations. The Firm provides efficient and responsive programs for the enforcement of intellectual property rights in the Philippines. The lawyers are equipped with competence in advising media, entertainment and broadcasting entities in the promotion and protection of their intellectual property rights consistent with their strategic business objectives. The Firm gives advice in border control measures and in the preparation of the application for the registration of intellectual property rights. The clientele of V&A includes large food, drugs and cosmetics corporations, which the lawyers assist in obtaining License to Operate and Certificate of Product Registration.

V&A LAW CENTER
11th Avenue corner 39th Street
Bonifacio Triangle
Bonifacio Global City 1634
Metro Manila, Philippines
P.O. Box 3559 Makati Central
Tel. No.: +632.8988.6088 | Email: info@thefirmva.com | www.thefirmva.com
VIETNAM

RESPONDENT PROFILE
Avg team size: 6
Dominant industry: Financial services
Ethics/compliance within legal team: 84%
Multinational/Local: 82%/18%

In the coming 12 months, how will the size of your in-house legal team change?

- Grow: 45%
- Remain the same: 50%
- Shrink: 5%

Key issues and concerns

Many of the challenges legal teams face in Vietnam are typical of an emerging market. In particular, several respondents mentioned the heavy dependence on relationships with the authorities, lack of regulatory clarity and the effect of licensing and permit requirements on the business’s ability to grow. There is also a lack of deep legal knowledge available in some specialist areas, which can make it difficult to provide timely, accurate advice to help the business capitalise on fast-moving opportunities.

More generally, teams are challenged by the difficulty of keeping pace with the changes to local laws and regulations, and internally they must often contend with a lack of investment in legal resources and a lack of understanding from the business side with regards to the role of in-house counsel. Five percent of respondents at our events in Hanoi and Ho Chi Minh City said that they expect the size of their team to shrink during the coming 12 months, and many reported headcount freezes.

Several respondents discussed the challenges posed by legal technology adoption, which is still in its infancy in Vietnam but clearly at the front of mind for many. Smart contracts and e-signatures are already quite common, and even contract templates are being used, but e-discovery, matter management solutions, e-billing and board portals are rare.

Roughly two-thirds of teams handle the majority of legal work in-house and the average external legal spend is 29 percent of the legal budget. The most common areas that are outsourced are litigation and dispute resolution, corporate/M&A, intellectual property, tax and employment.
IN-HOUSE TESTIMONIALS...

**PHILIPPINES**
“We have a dedicated partner assigned to us by SyCip Law, and we always get timely and relevant advice from them”

**THAILAND**
“Weerawong, Chinnawat & Partners provide great value for money. They are responsive and take time to learn about our requirements”

**PHILIPPINES**
“ACCRA Law are the best and brightest law firm in Philippines”

**INDIA**
“We have been using Crawford Bayley for several matters and their responsiveness has been excellent”

**MALAYSIA**
“Azmi & Associates have a diverse team with strong knowledge and excellent in their fields”

**SOUTH KOREA**
“Bae, Kim & Lee lawyers truly understand how to work with in-house counsel, and know exactly what the client wants”

**CHINA**
“It could be observed on the advice we received from the lawyers at AnJie that they actually spent time to learn about our group and its subsidiaries”

**SOUTH AFRICA**
“Bowmans have collaborative lawyers with great industry knowledge”

**UAE**
“Despite not being given very much time by us, the lawyers at Hadef & Partners turned around their very useful advice to us in a thorough and organised manner”

**INDIA**
“Phoenix Legal are very good in advising on [issues related to] the energy business, in a very timely manner and with sharp analysis”

**INDONESIA**
“Lubis Ganie Surowidjojo partner Dr. Kiki Gani, is one of the most outstanding arbitrators you can find”

**SINGAPORE**
“Rajah & Tann have always provided clear and useful advice on time and (usually) under budget.”

**VIETNAM**
“Indochine Counsel are experts in their areas, understanding and reasonable”

**THAILAND**
“Allen & Overy benefit from highly skillful lawyers with international experiences that can help in difficult situations”

**VIETNAM**
“YKVN are great local lawyers that can offer both conservative and flexible advice when you need them”

**INDIA**
“Khaitan & Co – A great team of lawyers providing realistic advice at good rates”
**HONG KONG**
“Clifford Chance consistently provides high-levels of service across the globe, commercial as opposed to overly conservative and willing to step outside of their role to add value”

**CHINA**
“Fangda are really the best. As our PRC legal counsel in an M&A deal, the team was hardworking and flexible. The partner helped with our negotiations with counter parties and provided valuable advice to our questions”

**PHILIPPINES**
“PJS Law is very knowledgeable on energy laws in the Philippines”

**MALAYSIA**
“Adnan Sundra & Low – Legal advisory at its best!”

**INDIA**
“Chandhiko & Mahajan are absolutely clued in on anti-trust activities and understand the regulators’ psyche”

**INDONESIA**
“AKIH lawyers have extensive knowledge and expertise in their practice areas, and maintain a good impression in the legal industry”

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### TOP MULTIPLE CATEGORY WINNERS BY JURISDICTION

<table>
<thead>
<tr>
<th>JURISDICTION</th>
<th>FIRM</th>
<th>CATEGORY WINS</th>
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<tbody>
<tr>
<td><strong>CHINA</strong></td>
<td>Domestic (independent)</td>
<td>Zhong Lun</td>
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<tr>
<td></td>
<td>International</td>
<td>King &amp; Wood Mallesons</td>
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<tr>
<td></td>
<td></td>
<td>4</td>
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<tr>
<td></td>
<td></td>
<td>9</td>
</tr>
<tr>
<td><strong>HONG KONG</strong></td>
<td>Domestic (independent)</td>
<td>Deacons</td>
</tr>
<tr>
<td></td>
<td>International</td>
<td>Baker McKenzie</td>
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<td>6</td>
</tr>
<tr>
<td><strong>INDIA</strong></td>
<td>Domestic (independent)</td>
<td>Cyril Amarchand Mangaldas</td>
</tr>
<tr>
<td></td>
<td>International</td>
<td>Allen &amp; Overy</td>
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<td>8</td>
</tr>
<tr>
<td><strong>INDONESIA</strong></td>
<td>Domestic (independent)</td>
<td>Assegaf Hamzah &amp; Partners</td>
</tr>
<tr>
<td></td>
<td>Domestic (associated)</td>
<td>Hadiputranto, Hadinoto &amp; Partners (Baker McKenzie)</td>
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<td>7</td>
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<tr>
<td></td>
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Note: For the above table, where multiple firms have an equal number of category wins in a particular jurisdiction, the number of honourable mentions has been taken into account.

Most responsive international firm of the year in most jurisdictions: Baker McKenzie
India’s buy-out boom

Aakash Choubey of Khaitan & Co discusses the development of private equity players in India with Asian-mena Counsel.

How has the PE/VC landscape changed over the years in India?
This year marks almost two decades of private equity in India. In that time, it has almost come through a full cycle, starting out as a minority investment player in a largely untapped economy to a key economic driver with a number of owned business. There have been ups and occasional downs, with a lot of learning in the process.

The first 10 years of private equity were slow and cautious with a limited number of PE firms opening shop in India (Warburg Pincus, General Atlantic, Blackstone and KKR being among them). Some of these were buy-out firms globally, but adopted a minority-only strategy in the initial years in India.

Having seen the lay of the land, the next 10 years witnessed ample innovation at work. KKR ramped up its credit play with a number of promoter financings, with ease of foreign law on real estate; Blackstone became the largest owner of commercial and residential real estate; Advent and Apax took controlling stakes in large Indian listed companies; and PE firms overall got comfortable with even being regarded as “promoters” of Indian companies.

Private equity in India is now a major source of capital and is a catalyst for significant M&A in the country.

What are some key trends are you seeing in the sector now and in the coming year?
We have witnessed an increased bias for buyouts, and we consider that this trend will continue as PE becomes more confident in India. We also consider that bolt-on
transactions will be on the up, and PEs would like their portfolios to become of scale, including through M&As, before exiting.

With the recent NBFC [non-bank financial company] crisis in India, we consider that private debt offerings will reduce in the short term. Investor confidence has substantially eroded. Having said this, in light of some positive judicial pronouncements, the market is almost ready for distressed debt funds to invest and bring along the eco-system and, more importantly, the mindset of turnaround.

This year should see a significant update in distressed debt play.

“Our outlook for the Indian PE industry in 2020 is very strong. The year has commenced with the largest amount of dry powder in the history of the PE industry and India is expected to receive significant allocations”

What are some legal or regulatory challenges for corporations within the sector?
The biggest regulatory challenge that PE buy-out firms face in India is the rule against financial assistance. Leverage is the most critical part of a private equity eco-system and drives the IRR [internal rate of return]. Indian law does not permit onshore leverage-based structures. While there are arguments on both sides, the penetration of PE in India would require India’s legislature to look at this law once again with a fresh pair of eyes.

However, a more important aspect is certainty of implementation of the laws as they stand. India has seen its fair share of blips, especially on tax and bankruptcy laws. It is critical that laws, and their interpretation, does not change frequently.

How does the firm work with PE/VC firms in navigating these challenges?
Khaitan & Co regularly acts for a number of marquee global PE firms, including Apax Partners, Advent International, Blackstone, Brookfield, Temasek, TA Associates and the like, and is at the forefront of resolving these challenges with its clients.

Having been in the profession of law for almost 110 years and having closely seen law and its practice unfold in India, we understand this landscape and help clients take practical decisions based on risks and its associated measured outcomes.

In addition to our 200-plus lawyer, partner-led PE and M&A practice, our practice offering includes a high-quality disputes resolution team, tax practice, management incentives practice, white collar crimes practice and regulatory practice, among others. We bring best-in-class talent to our clients to anticipate, find and implement solutions.

How is the PE/VC outlook for 2020?
The Indian economy faced a tough year in 2019, yet it witnessed record volume of PE deals. The aggregate value of such deals was also higher than ever before.

Our outlook for the Indian PE industry in 2020 is very strong. The year has commenced with the largest amount of dry powder in the history of the PE industry and India is expected to receive significant allocations.

In addition to general investment themes, we expect exits also to pick up in 2020, with LPs [limited partners] getting good returns on invested capital.

Reits [real estate investment trusts] and InvITs [infrastructure investment trusts] have seen substantial interest in 2019, and we expect those products to also deepen Indian capital markets, especially as avenues of PE capital.

https://www.khaitanco.com
People, ideas, machines — in that order


By Patrick Dransfield, In-House Community
Lawyers generally have an inbuilt scepticism regarding any form of coaching, which imposes a high bar on authors targeting an audience of busy managing partners. The Real Deal: Law Firm Leadership That Works by Paul Smith and Sally Dyson vaults over that bar with consummate ease and is an invaluable contribution to the sparse literature surrounding the business of law.

As David Tang, Asia managing partner for K&L Gates, has long maintained, “the law is a mature profession and an immature business”. To bring your own legal practice up to snuff you need to get a copy of this book. The Real Deal is a must-read for any managing partner who genuinely wants to lead her firm to greater glory — or to steer it to calmer waters to simply survive. But more than that, the book is important reading for any stakeholder involved in the business of law. To ascertain the viability of a firm, the book should be read by accountants, human resources, marketing and business development professionals, as well as clients (and in-house counsel especially). As the demise of Coudert and also Dewey LeBoeuf testify, the disruption to a major client when a law firm goes down can be very significant indeed.

Taking a lead from Thomson Reuters’ 2018 Report on the state of the US legal market, the book puts firms into two categories: “static firms” and “dynamic firms”. However, the Real Deal goes beyond the report to flesh out these definitions and thereby help the reader determine whether their firm is heading for the rocks or likely to survive and even prosper in the coming decade.

“‘Dynamic’ firms had proactively addressed the needs of their clients by adopting more flexible pricing models, using innovative technologies, having flexible staffing models and implementing improvements in work process,” write Smith and Dyson.

Interestingly, on the question of marketing, dynamic firms increased their marketing and business development costs by 4.8 percent, while static firms increased their marketing costs by just 1.8 percent. Dynamic firms reported increased expenditure on facilitating more client meetings and on coaching lawyers in business development and brand development also. Therefore, a sure sign of your management’s re-arranging of deck chairs on the Titanic is the moment that your firm decides to cut its marketing budget and client-development spend.

So far so good, but analysis of research by Thomson Reuters only gets you so far. Where the book really scores highly in my opinion is the sections marked with Smith and Dyson’s personal perspectives. In these sections, Smith especially establishes the credentials that furnished him with the ability to lead Eversheds Sutherland so successfully and provides often humorous and always straightforward and practical advice for the managing partner faced with any particular dilemma (and every day a managing partner is faced with a particular dilemma). We have asked him to provide an exclusive box-out on the crucial topic of sustainable, profitable growth for Asian-mena Counsel (see below):

Paul’s Perspectives: the exponential growth of Eversheds with an eye on profitability

I left Freshfields and joined a small firm in Leeds with 15 partners, which joined embryonic national firm Eversheds and grew through 65 mergers to become what it is today. I was on the board and latterly chairman for most of this time, guiding the change. In the early days, profitability was poor but it improved by various means. The mergers enabled substantial economies of scale, taking out duplicate services and support functions. The number of equity partners sharing in the profit was reduced considerably over time. This is the key driver of profit per equity partner. We were early adopters of project management and the use of process in handling client matters, billing and reporting, which improved efficiency, client satisfaction and profitability. We also realised early on that the UK market was very competitive and that we needed to grow internationally. I pushed this hard at a time when the firm was not receptive. Most of the growth now comes from the international offices. There was also a concentrated move to reduce the number of clients we acted for and to concentrate on the clients that would be profitable and which would fit in with our strategic aims of greater international coverage and expansion. I also expanded our services, setting up a consulting arm that is now a very profitable part of the business. As chairman I concentrated on what I called the little data, looking at profitability and utilisation across the firm to get deep information on comparative performance between practice groups and teams. Monitoring cash flow daily and input of hours worked is key. The basic disciplines of billing the work and collecting the cash as soon as possible is fundamental. Double counting is an issue. Practice groups that are client focused and sector groups will claim the same revenue. This also applies with global clients where credit is claimed for the same revenue by various offices.
An example from the book of Paul's Perspectives relate to a previous chief executive of Eversheds, David Gray, and the manner by which even as early as 2006 he established the ground work and strategy that enabled Eversheds to grow from its northern England origins to a billion dollar business with 69 offices in 34 countries. The example holds some very valuable perspectives — especially for some of the major regional law firms in China as they contemplate local and international expansion. These perspectives include:

1. A clear goal: “making Eversheds the most client-centred international law firm”;
2. Consultation with stakeholders to agree a set of values;
3. Consistency in the implementation of those values; the key words of which included: client-focused; straightforward; team work; mutual respect; accountability; and continual improvement;
4. Implementation through a “vision and value committee”;
5. A profitability scheme that tied adherence to the Eversheds values to financial rewards; and
6. Zero tolerance for ‘un-Eversheds’ behaviour such as unnecessary rudeness.

Gray was not creating a firm of clone warriors however. As a successful managing partner he recognised the need to balance the majority of conservative souls within a law firm with the self-confessed mavericks such as Smith, who by the nature of law and successful client relationships (and material reward) are drawn to the profession. Balancing the dynamic relationship between the core and the outliers within the firm is the magic sauce that managing partners need to attempt to conjure. When the mavericks take over the asylum, the firm can very quickly spiral out of control. Examples of this are legion, and if one wanted to read an exhaustive (and exhausting) case study, then look no further than the New Yorker account of the demise of Dewey Leboeuf (“The Collapse — How a top legal firm destroyed itself”, by James Stewart, October 2013).

I had always assumed that Eversheds was shaped by the Tyco experience as recorded in two books by the EMEA general counsel, Trevor Faure. Reading Smith’s account, I learned that Gray enshrined the principle of continuous improvement at Eversheds in 2006 — several years before the Tyco mandate. This was something of a revelation to me. Evidently, Gray had the qualities that make a great leader and proved a great mentor to Smith.

Smith and Dyson conclude that what makes a great law firm leader is the same as what makes any great management leader. It is just that, as most law firm leaders are lawyers, they invariably have a number of inherent character traits to overcome to get to that promised land. The key components of an emotionally intelligent leader are self-awareness, self-management, empathy and social skills. Based on the work of Jim Kouzes and Barry Posner of Santa Clara University, Smith and Dyson translate this into a few tips for effective law firm leadership:

- Set a good example;
- Inspire a shared vision to evoke an emotional response;
- Take risks and learn from mistakes;
- Enable others by fostering collaboration, building
a climate of trust, cementing relationships and removing obstacles; and
• Show respect and offer appropriate reward.

The general characteristics of lawyers as defined by Dyson and Smith also has validity as, of course, they are both lawyers themselves. These characteristics certainly ring true to me: during an over-ambitious training session for the entire partnership of one law firm (more than 500), the valiant trainer wrote the word ‘Empathy’ on the projected board and at least a quarter of those present wrote the word down as though it was an alien concept. Drawing on the work of Larry Richard, Smith and Dyson note that the general characteristics of lawyers are:
• Scepticism;
• Task-focused rather than people focused;
• Intolerance of any form of bureaucracy;
• Low in psychological resilience;
• ‘Needy’ for feedback and validation; and
• Likely to repeat behaviour that created previous success, no matter how inappropriate to present situation.

I have to admit that when scanning the list of chapters my eye was immediately drawn to the chapter titled Disasters — with subheadings such as Under Attack and Lessons From The Fallen — and naturally read this chapter first. What emerged from these pages is rather different from the prevailing doom and gloom peddled by non-managing partner legal media pundits (mea culpa, such as myself) and is a testament to the wide scope, unprejudiced and refreshing perspective of Smith and Dyson. For example, the high-street solicitors of England and Wales, far from being in terminal decline, are thriving.

Reading the Preface last, it was interesting for me personally to consider that the book was inspired by Richard Susskind. And as it was the In-House Community that brought Smith and Susskind together in 2014 on the Macau ferry heading towards our executive lawyers’ retreat, we can lay claim to some credit ourselves. Many partners in the industry, with the casual arrogance of not having bent the spine of any of Susskind’s books, have labelled him as a prophet of doom. Interesting then that Smith is on the whole very optimistic for the general prospects of the law firm model. Why? In my opinion this is not just the Pollyanna mixture of optimism and madness essential in the make-up of any prospective and ex-managing partner (only the mad would want to do this job, anyway). Smith’s optimism is born of real and practical experience. He quite correctly parses the partnership structure from the billable hour. One is sustainable, the other (apart from perhaps North America) surely not.

According to Thomson Reuters Peer Monitor there is an annual 10 percent differential between ‘worked’ and ‘collected’ billable time and shows, according to Faure in his book Smarter Law, “increasing client pushback to rate increases and suggests that realisation rates must be declining”. For “static” firms whose only solution to the profitability conundrum is to increase their hourly rates annually, the future is in my opinion bleak indeed.

As the book ably points out, the actual business of law is quite simple and “managing cash flow is the key to financial success ensuring that there is money there to meet liabilities as they arise”. Smith and Dyson observe that it is “surprising how many law firm leaders have a limited understanding of law firm economics”. Perhaps it is less surprising that multinational clients are more attuned and keenly focused on the bottom line, especially as procurement departments are becoming more involved in both the assessment of pricing of legal services, and also the process by which external law firms are hired. Truly international law firm billing rates are a relatively new phenomena and a growing trend to watch will be how multinational companies look at the macro trends of billing. Discounts and fixed fees that were wrangled from the emerging market offices of international law firms are increasingly being re-exported to home cities in the US, for example. Therefore, a consistent and seamless approach to global billing is likely to move from being the exception to becoming the rule. As Eversheds Sutherland has been a pioneer in the internationalisation of client billing, the practical advice provided by The Real Deal is important for future-proofing the international law firm.

On the crucial area of law firm governance, The Real Deal’s practical and level-headed approach really rings true. Defining the business of a law firm in relatively simple terms and talking about viable margins of profitability, Smith and Dyson provide practical pointers to the everyday headaches that besiege managing partners. Some of these are merely irritating but others can potentially destroy the whole firm.

“Not hiring jerks” should be a mantra placed firmly above every managing partner’s head and is quoted in one of the early chapters. After all, why add to your headaches by importing in another psychopath? But what to do about the jerks that you
already have working within the firm? The experience of Dewey LeBoeuf's former chairman Steven Davis boils down to his deteriorating relationship with 10 super jerks as he sold the firm's considerable silver to keep them temporarily satisfied. If you are indeed looking for an array of solutions to this perennial problem, I urge you to buy a copy of the book and find out. My experience of working within law firms tallies with Smith and Dyson in that they are not, nor should they be, democratic institutions. Indeed, the nearest that I have come to regarding precedents for running a law firm previous to The Real Deal comes from Mao Tse Tung and his musings on democratic centralism: “Education in democracy must be carried on within the Party so that members can understand the meaning of democratic life, the meaning of the relationship between democracy and centralism, and the way in which democratic centralism should be put into practice. Only in this way can we really extend democracy within the Party and at the same time avoid ultra-democracy and the laissez-faire that destroys discipline.”

The brass plate on the door may be uniform, but the structures of governance that lie behind it are myriad. They range from the sole (usually male) boss — the (one hopes) enlightened and virtuous emperor, to firms run by quite large executive committees. But curiously, very little has been written about law firm governance, so Smith and Dyson's contribution is invaluable.

“Managing partners are well aware that they lead by the consent of their partners and are accountable to those partners and that edicts issued from on high are likely to be ignored if insufficient preparatory groundwork has been undertaken,” they write.

Apart from providing an almost blueprint definition of Mao’s democratic centralism, Smith and Dyson provide a principal that should be tacked above the heads of even the most dictatorial of managing partners, as even in the most compliant of institutions partners can and often do vote with their feet. The question of what constitutes a partner is another question — it seems to be a given in the book that a partner is an equity partner and therefore by definition has a monetary stake in the law firm. Actually, business cards can be misleading and the term “partner” can mean anything from equity partner to local partner (having no stake in the law firm so not really a partner at all). One very large firm’s managing partner has individual employment contracts with each senior lawyer in the firm, which is a situation that goes beyond definition. The whole question gets fudged to the point of mendacity for the benefit of those AmLaw 100 tables of course — a metric that obsessed Dewey LeBoeuf’s Davis, for one. An increasing problem for firms that promise an international full service is the disparity between the value ascribed by clients to litigation to that ascribed to employment, for example. On a lock-step basis, this may prove unsustainable — at least for the top earners — for firms in excess of 150 partners. Being clear about who you are and what you deliver is therefore essential for the managing partner to grasp if the firm is going to survive and prosper.

**Expert witnesses**

The book also features box-outs where Smith and Dyson open up to other experts to share their insights. These can be partners, managing partners and other professionals in the field of legal business. One of the most useful is taken from a headhunter who goes into some detail regarding the best way to set about hiring lateral partners. Remembering the maxim ‘don’t hire jerks’ that opens the chapter, the box-out systematically explores the mistakes associated with such lateral hires and sets out some useful tips on how to bring in new talent without upsetting the fabric of the firm. As most law firms are very poor at correctly evaluating the value-add and potential cultural misfit of lateral partners, this section alone is worth the price of the book.

In conclusion, the Eversheds Sutherland mission of putting the client first was surely right and accords with management guru Peter Drucker's analysis of a viable business model. However, equally important in Eversheds-Sutherland's continuing success (and also a tenet of Drucker's) is the laser-like focus on cash flow and profitability — an area that allows for no complacency but a lesson for us all. Watching out for hubris, and not believing too much in the legal media's rankings, is also an important criteria for continuing success. Don’t believe your own press!

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**The Real Deal: Law Firm Leadership that Works by Paul Smith and Sally Dyson is published by Sweet & Maxwell and is available to order online at www.sweetandmaxwell.co.uk.**
### Law Firms — Asia

#### Cambodia/Laos/Myanmar

**Cambodia:**

**Bun & Associates**

- **Tel:** (855) 23 999 567
- **Email:** info@bun-associates.com
- **Contact:** Bun Youxly
- **Website:** www.bun-associates.com

**MAR & Associates**

- **Tel:** (855) 23 964 876, (855) 23 987 876
- **Email:** boranav@mar-associates.com
- **Contact:** Varavudh Meesaiyati
- **Website:** www.mar-associates.com

**SCL SP&P Company Limited (Cambodia) (SCL Law Group)**

- **Tel:** (856) 21 222 732-3
- **Email:** varavudh@la.scl-law.com
- **Contact:** Varavudh Meesaiyati
- **Website:** www.mar-associates.com

**Laos:**

**SCL Law Offices Limited (Lao PDR) (SCL Law Group)**

- **Tel:** (856) 21 222 732-3
- **Email:** info@la.scl-law.com
- **Contact:** Niborn Tangprasit
- **Website:** www.scl LAW.com

**Myanmar:**

**Myanmar Legal Services Limited**

- **Tel:** (951) 657792, (951) 650740
- **Email:** info@mlslyangon.com
- **Contact:** Daw Khan Cho Kyi (tckyi@mlslyangon.com), Guillaume E. Stafford (gustudi@mlslyangon.com)
- **Website:** www.myanmarlegalservices.com

**Siam City Law (Myanmar) Company Limited (SCL Law Group)**

- **Tel:** (951) 653348-49
- **Email:** siamcitylaw@siamsacitylaw.com
- **Contact:** Vira KMamree
- **Website:** www.siamcitylaw.com

#### China

**AWA IP (Beijing) Co., Ltd.**

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- **Email:** ai-lean.lim@awa.com
- **Contact:** Ai-Leen Lim
- **Website:** www.awa.com

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- **Tel:** (86) 10 8513 1818
- **Email:** broadbright@broadbright.com
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- **Tel:** (86) 10 6590 6639
- **Email:** Beijing@east-concord.com
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- **Website:** www.east-concord.com

**Elia Cheong & Alan Chiu, Solicitors & Notaries**

- **Tel:** (852) 3752 3852
- **Email:** elia.cheong@ellalan.com
- **Contact:** Elia Cheong
- **Website:** www.ellalan.com

**HHP Attorneys-At-Law**

- **Tel:** (86) 21 31358666
- **Email:** master@hhp.com.cn
- **Contact:** Yao.Rao@hhp.com.cn
- **Website:** www.hhp.com.cn

**Linkin Law Offices**

- **Tel:** (86) 21 31358666
- **Email:** master@linkinlaw.com
- **Contact:** CINDY CHEN
- **Website:** www.linkinlaw.com

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- **Contact:** Vincent To
- **Website:** www.wkto.com

#### Hong Kong

**AWA Asia Limited**

- **Tel:** (852) 3959 8880
- **Email:** ai-lean.lim@awa.com
- **Contact:** Ai-Leen Lim
- **Website:** www.awa.com

### India

**Anand and Anand**

- **Tel:** (91) 11 4213 0000, (91) 22 4910 0000
- **Email:** info@classlaw.com
- **Contact:** Viret Anjale, Mitali Motiwala
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- **IF** Islamic Finance
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Tel: (852) 2294 3454  
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Contact: Kristy Dougan, Managing Director, Vario Asia  
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Email: switchche@thinkbrg.com; mhadi@thinkbrg.com  
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Tel: (65) 6622 5397, (65) 6622 5396  
Email: tgglasgow@imf.sg  
Contact: Tom Glasgow - Investment Manager (Asia)  
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**Law In Order**  
Singapore Office:  
Tel: (65) 6714 6655  
Email: singapore@lawinorder.com  
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**LegalComet Pte Ltd (LEGALCOMET)**  
Tel: (65) 8118 1175  
Contact: Michael Lew, Founder & CEO  
Email: michael@legalcomet.com  
Website: www.legalcomet.com

**Mintz Group**  
Tel: (852) 3427 3717  
Contact: Jingyi Li Blank  
Email: jblank@mintzgroup.com  
Website: www.mintzgroup.com

**—— LAW FIRMS —— NORTH AMERICA**

**CANADA**

**Fasken Martineau**  
Tel: (416) 366-8381  
Email: mstrinson@fasken.com  
Contact: Mark Stinson, Primary Contact  
Website: www.fasken.com

**Meyer Unkovic Scott**  
Tel: (412) 456-2833  
Email: du@muslaw.com  
Contact: Dennis Unkovic  
Website: www.muslaw.com

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Tel: (27) 11 386 6000  
Email: johannesburg@fasken.com  
Contact: Blaize Vance - Regional Managing Partner  
Website: www.fasken.com

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Contact: Mr. Terence Xu (许捷)  
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