

# asian-mena Counsel

Volume 17 Issue 6, 2020



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along the New Silk Road

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**Ronald Yu** was an adviser to the World Intellectual Property Office's WIPO Green initiative, a former board member for an international non-profit organisation, advises a biotech startup and has been a judge in the International Blockchain Olympiad. He is currently preparing a policy paper and book on international data transfer and taught a class on fintech at the Chinese University of Hong Kong.



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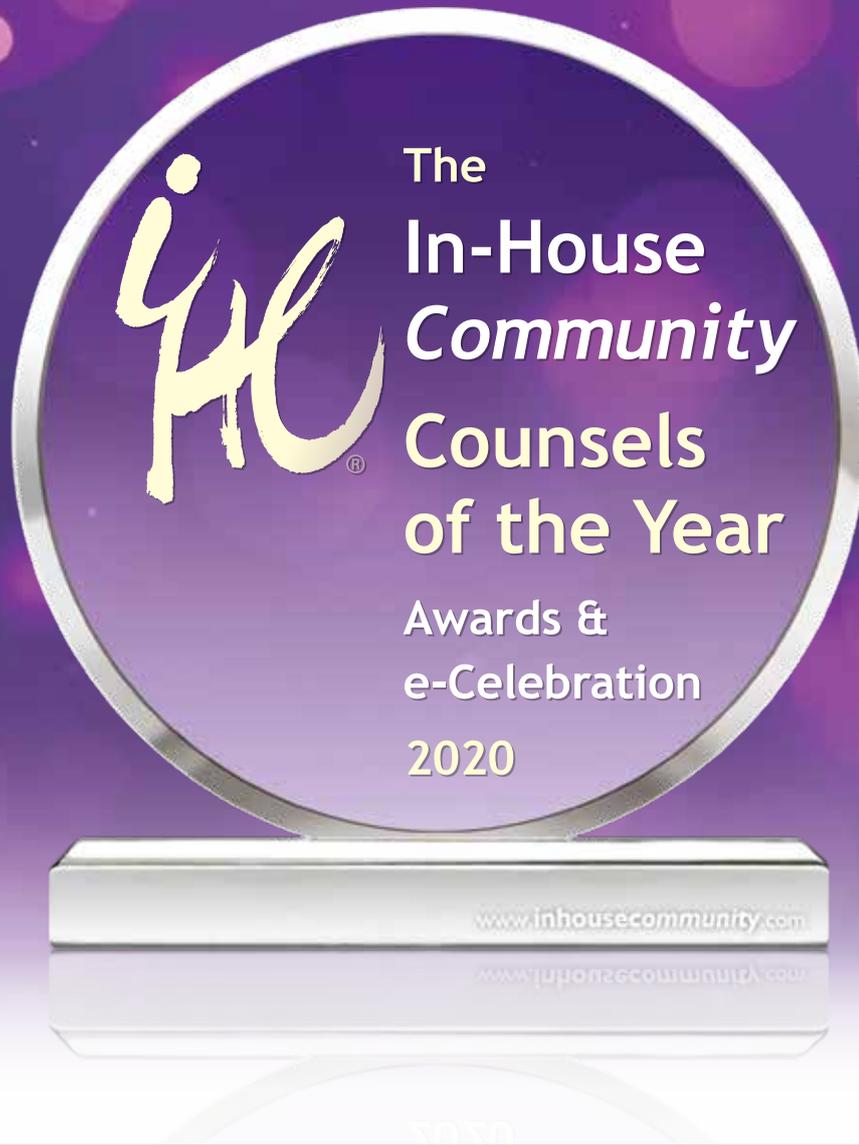


## About the IN-HOUSE COMMUNITY

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

The In-House Community comprises over 20,000 individual in-house lawyers and those with a responsibility for legal and compliance issues within organisations along the New Silk Road, who we reach through the annual IN-HOUSE CONGRESS circuit of events, ASIAN-MENA COUNSEL magazine and WEEKLY BRIEFING, and the In-House Community online forum.





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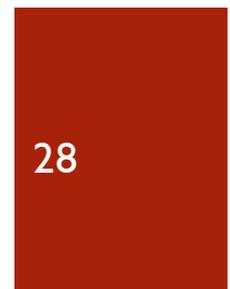
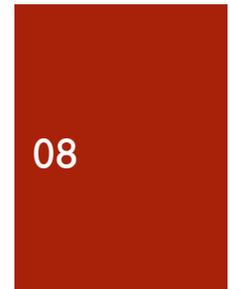
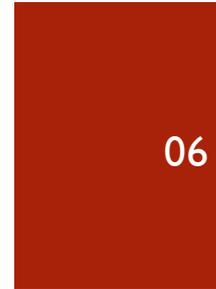
The tax particularly targets intangible goods and services provided by foreign tech companies that lack a physical presence in Indonesia, write Dewi Savitri Reni and Greita Anggraeni of SSEK.

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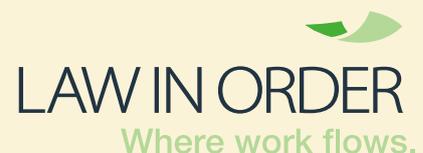
The pandemic has exposed confusing inconsistencies in privacy laws, and once again highlighted the need to scrutinise AI, writes Ronald Yu

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## PHILIPPINES



ACCRALAW®

By **Hannah  
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## Travel restrictions, work permit and visa status of expats in the Philippines

While the coronavirus disease (Covid-19) knows no nationality or race, most countries have taken the approach, among others, of closing their respective borders to prevent it from spreading. The Philippines, which is home to a multitude of foreign nationals with varied purposes for their stay, also adopted these measures.

Even prior to the implementation of local community lockdowns, the government already started closing the country's borders to foreign nationals in an attempt to limit exposure given how fast the virus was spreading globally. Initially, inbound travel restrictions were only imposed on foreign nationals travelling from or had travel history, lay-over or connecting flights from countries with high number of identified cases.

As Covid-19 continued to increase in more countries and cases of local transmission were identified, the government adopted stricter measures by implementing lockdowns in varying degrees from Enhanced Community Quarantine (ECQ) to Modified Enhanced Community Quarantine (MECQ) to General Community Quarantine (GCQ). The coverage of inbound travel restrictions was then expanded to cover all foreign nationals regardless of country of origin and visa status as previously issued by the Philippine government, save for certain exceptions. Priority for entry and provision of quarantine facilities are accorded first to Filipino citizens, particularly repatriated Overseas Filipino Workers.

The temporary travel restrictions on inbound foreign nationals during the ECQ was issued by the Bureau of Immigration (BI) on March 20, 2020. This covers foreigners outside the country either with immigrant, non-immigrant or special visas, except for foreign spouses and children of Filipino nationals, accredited foreign government and international organisation officials and their dependents, and foreign airline

crew. The Department of Foreign Affairs likewise suspended visa-free entry privileges and the issuance of tourist visas by its Philippine Foreign Service Posts and cancelled all previously issued tourist visas. On a favourable note, the said temporary suspension and cancellation of visas have no impact on foreign nationals who are already in the country.

On the other hand, foreign nationals are permitted to exit the country at any time even during the community quarantine. Despite the suspension of several immigration-related transactions pursuant to the BI Advisory dated March 19, 2020, the BI has continued to operate on a skeletal workforce to accommodate limited transactions with foreign nationals, particularly, those who intend to depart from the country.

While returning to their home country was a common reaction for those who fear experiencing the impact of the global pandemic away from home, a good number of foreign nationals have decided to remain in the country. Subject to certain conditions set by the government, most of them are currently employed by local companies and they may continue to stay and work legally in the country during the ECQ despite suspension of immigration-related transactions by the BI.

In acknowledgment of the uniqueness of the surrounding circumstances, the government granted certain concessions to foreign nationals whose visas expired during the ECQ. The BI has clarified in its Advisory dated March 26, 2020 that it will waive all fines and penalties, as long as the foreign nationals file their respective applications for extension within 30 days from the lifting of the ECQ. Pursuant to its Labor Advisory No. 16 and Department Order No. 213 Series of 2020, the Department of Labor and Employment will also accept applications for Alien Employment

Permits without penalty if they are filed within 45 working days from the lifting of the ECQ or GCQ.

While the economy has been severely impacted by the closure or suspension of operations of various business establishments, there is now a conscious attempt to jumpstart the economy following the announcement of the President on May 12, 2020 that Metro Manila, Laguna province and Cebu City which were previously on ECQ will shift to MECQ starting May 16, 2020. Under the MECQ, certain businesses may now operate albeit in a limited capacity.

In line with this, the BI has now resumed its operations by accepting and processing applications for Special Work Permit (SWP), Provisional Work Permit (PWP), and updating of tourist visas in order to file the SWP or PWP pursuant to its latest Note with Recommendation dated May 15, 2020. With the resumption of the applications for SWPs and PWPs while inbound travel restrictions remain in effect, this means that local companies may only hire or renew the contracts of foreign nationals who are already in the country.

We are undeniably entering a "new normal" with the virus changing the way we live, as well as the way we do business. Filipinos may be well known for their hospitality, but the re-opening of our doors might have to wait until we can do so safely or until we can find an acceptable balance between the impact of the virus on the economy vis-a-vis public health. As we endure this uphill battle against an unseen and still seemingly evolving enemy, only one thing is for certain, we will need to always be on the lookout for the ever-changing landscape on the rules on immigration that come along.

*This article is for informational and educational purposes only. It is not offered and does not constitute legal advice or legal opinion.*

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## VIETNAM



By **Tran Cong Quoc**

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## Release of long-awaited guidance on Competition Law

The long-awaited guidance on the Competition Law — the Decree 35/2020/ND-CP (Decree 35) — was issued on March 24, 2020 with effect from May 15, 2020, and casts light on certain prominent provisions of the Competition Law, such as economic concentration.

Under the Competition Law, economic concentration includes, among other things, acquisition of a company to the extent of controlling or dominating the acquired company or its business line. Decree 35 now further defines “controlling or dominating” as:

- holding up to 50 percent voting right shares, or 50 percent total assets related to any or all business line, of acquired company; or
- having right to, directly or indirectly, appoint or remove majority of member(s) or chairman of the board, or chief executive officer, or amend the charter, or decide critical issues, of acquired company.

Under Decree 35, the thresholds that trigger mandatory pre-merger notification include:

- involved party’s total assets in the Vietnam market exceeding VND3,000 billion in the preceding fiscal year;
- involved party’s total turnover exceeding VND3,000 billion in the preceding fiscal year;
- the value of the transaction exceeding VND1,000 billion (not applicable in case of transaction outside the territory of Vietnam); or
- combined market share exceeding 20 percent in preceding fiscal year.

These thresholds are more stringent for transactions involving credit institutions, securities or insurance companies, in particular:

“Under the Competition Law, economic concentration includes, among other things, acquisition of a company to the extent of controlling or dominating the acquired company or its business line”

- involved parties’ total assets in the Vietnam market exceeding VND15,000 billion;
- involved credit institutions’ total assets exceeding 20 percent of the whole credit institution system;
- turnover of involved insurance companies exceeding VND10,000 billion, or of involved securities companies exceeding VND3,000 billion;
- involved credit institutions’ turnover exceeding 20 percent of the whole credit institution system;
- value of transaction involving credit institution exceeding VND3,000 billion or 20 percent of credit institution system’s total charter capital in the preceding fiscal year; or
- the combined market share exceeding 20 percent in preceding fiscal year.

After the 30 days upon the pre-merger notification filing, an economic concentration transaction may be implemented if it falls under either of below cases, among others:

- the combined market share is below 20 percent;
- the combined market share exceeds 20 percent but post-merger aggregate of square number of each involved parties’ market shares is less than 1,800;
- the combined market share exceeds 20 percent, and post-merger aggregate of square number of each involved parties’ market shares exceeds 1,800, but the amplitude increase of the aggregate of square number of each involved parties’ market shares between pre-merger and post-merger is below 100; or
- involved parties in relevant supply/manufacturing chain have 20 percent combined market share.

Otherwise, an economic concentration shall undergo an official review to determine whether it may cause significant competition-restraining impact and subsequently should be banned. The official review shall base on, among others, market share combination, threat to cause or reinforce market power, ability to increase ability for correlation or collusion, relationship between involved parties in the manufacturing and supply chain, competition advantage, ability to increase price or profit margin ratio.

In addition, Decree 35 also introduces various criteria in determining the significant competition-restraining impact on market of a cartel conduct, including, among others, development of market share of involved parties, barriers to market access or expansion, restriction on research, development and technological innovations, increase of costs and time for customers to purchase goods or services.

In respect of competition dispute settlement, Decree 35 gives further detail on requirements on evidence collection, usage and examination. Decree 35 further provides for procedure on implementing certain interim injunctions during competition investigation.

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IN-HOUSE

### Funds 5-8 Years | Hong Kong

A well-known global asset manager is looking for a funds lawyer to join its legal team. You should have authorised funds experience from another reputable asset manager, though lawyers with general funds experience from law firms are also welcome to apply. You will provide legal support across Asia. Business level Chinese language skills preferred. AC8378

### Data Privacy 2-20 Years | Hong Kong

A regulatory body is looking for two lawyers to focus on data privacy matters. The senior role requires candidates to have strong, prior relevant experience. The junior role will consider those without data privacy experience but have solid legal training from reputable organisations. Chinese skills required for both. AC8374

### Commercial 10+ Years | Hong Kong

European chemical technology company is looking for a senior lawyer to head up its legal and compliance function in the APAC region. This role will be general commercial, and you will be expected to manage a team in the region. Business level Chinese skills are required. AC8331

### Energy Company 10+ Years | Hong Kong

A household name in the energy sector is looking for a senior lawyer to look after the legal aspects of its China-related projects. You should have International firm experience, the ability to handle PRC transactions, and good knowledge of PRC laws and regulations. PRC qualified lawyers are preferred. AC8365

### Investigation Counsel 3+ Years | Hong Kong

Unique role for Hong Kong qualified solicitors who are looking to transition out of a fee-earning role. You will play a key role in maintaining the integrity of the Hong Kong legal system in an investigating capacity. Chinese languages needed. AC7270

### Funds 3-5 Years | Hong Kong

Leading US firm is looking for a funds lawyer for its investment management team. Opportunity to work for a variety of investment advisers and sponsors throughout Asia in fund formation and other related internal funds issues. Strong academics and experience from another US or top International firm required. Mandarin language skills not essential. AC8328

### Litigation 2-7 Years | Hong Kong

Due to growing business, this reputable offshore firm is currently looking for an experienced litigator with strong Mandarin skills to join its BVI/Cayman Islands office with an option to return to Asia. Quality work and excellent working culture on offer. AC6313

### Corporate Finance 3-6 Years | Hong Kong

Excellent opportunity for mid-level associates to join the corporate finance team of a leading US law firm in Hong Kong. This role will focus on HK IPO work and experience in prospectus drafting is an advantage. Mandarin is essential. AC8259

### R&I Disputes 7+ Years | Hong Kong

An International firm is looking for a Hong Kong qualified disputes lawyer to join its leading R&I practice as a senior associate/counsel. Additional common law qualifications are advantageous but not essential. Excellent career progression and top-quality work on offer. AC7903

PRIVATE PRACTICE

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### Offshore 2020 – themes and trends

With the first quarter of 2020 behind us, Richard Hall of Conyers Dill & Pearman's Hong Kong office looks at the themes that are emerging for Bermuda, Cayman and British Virgin Islands entities, both in Hong Kong and globally.

#### General themes

The first four months of 2020 have seen a variety of factors influencing clients and work flows: the US/China trade war, which proved a drag on business out of, and direct investment into, China in 2019 reached a temporary truce, only for the shut down during February of much of China's business operations to prolong the difficulties faced by China, in particular, and the Asia region as a whole. The long term global impact of the coronavirus will be far reaching across much of the world, and has already led to significant drops in economic activity in most countries; certain industries (aviation, hospitality, tourism in particular) are likely to require significant restructuring and will emerge in very different forms to those that existed pre COVID-19. The uncertainty around Brexit has been (temporarily) alleviated with the passing of the Brexit bill, though the hard work of negotiating the UK's relationship with Europe remains.

#### Hong Kong and China

There has been an understandable increase in corporate advisory, disputes and litigation work, as clients seek to work around the obstacles they face. With the social distancing laws in Hong Kong coming into effect in the middle of listed company annual general meeting season, a considerable amount of time has been spent working with listed companies on how (or even if) to proceed with general meetings, the use of virtual, hybrid and electronic meeting facilities, and postponements or adjournments of such meetings. Many companies are taking the

“The revelation of Luckin Coffee’s accounting scandal has caused a number of clients to question the US route and look again at a Hong Kong or, increasingly, a PRC listing”

opportunity to amend their articles or bye-laws to accommodate virtual, hybrid or electronic only meetings to enable them to use the latest technology available.

Proposed privatisations (with schemes of arrangement (Hong Kong) and statutory mergers (US) the preferred routes) are also increasingly popular, as share values fall and assets increasingly represent better value to be taken off market.

Despite the issues faced by many Chinese-related entities currently listed on such markets, there was a marked increase in the number of clients seeking new listings on New York/Nasdaq. However, the revelation of Luckin Coffee's accounting scandal has caused a number of clients to question the US route and look again at a Hong Kong or, increasingly, a PRC listing. Instructions for Hong Kong IPOs remain consistent with 2018 levels, helped to an extent by the 2018 changes to permit the listing of companies with weighted voting rights (dual class shares) and Biotech companies that don't meet the usual financial eligibility tests for listing.

China Resources Microelectronics Limited pioneering red-chip listing on the Sci-Tech Innovation Board of the Shanghai Stock Exchange, or SSE STAR Market, (see <https://www.conyers.com/publications/view/conyers-advises-china-resources-microelectronics-limited-on-its-pioneering-red-chip-listing-on-the-sci-tech->

[innovation-board-of-the-shanghai-stock-exchange-or-sse-star-market/](https://www.conyers.com/publications/view/innovation-board-of-the-shanghai-stock-exchange-or-sse-star-market/)) has opened the door for other offshore companies to look to list their shares directly in the PRC, and we are seeing clients viewing this as an alternative to a Hong Kong or US listing

#### Cayman

The changes implemented by the Cayman government in the Mutual Funds (Amendment) Law and the Private Funds Law introduced new registration requirements for “limited investor funds” and closed-ended “private funds”, respectively, which had previously fallen outside the scope of regulation in the Cayman Islands. The firm is assisting clients work through the impact of this legislation on their fund structures.

On the financing side, there has been a marked increase in the number of fund financings, as clients look to lock down access to capital to fund acquisitions ahead of an anticipated credit squeeze in the third or fourth quarter of the year.

#### Bermuda

The Bermuda Registrar of Companies announced that the online portal for the filing of declaration forms for economic substance went live on May 1, 2020 (see <https://www.conyers.com/publications/view/bermuda-economic-substance-declaration-e-filing-portal-opens/>). With thousands of Bermuda entities potentially subject to a filing obligation, lawyers have been kept busy assisting clients to meet the first filing deadline of June 30, 2020.

#### BVI

In *Yao Juan v. Kwok Kin Kwok and Crown Treasure Group*, the court ruled that the fees in respect of work done by Hong Kong based fee earners were recoverable (see <https://www.conyers.com/publications/view/bvi-court-issues-key-decision-on-recoverability-of-costs/>), providing a boost to the ability of law firms to service the needs of Asian based clients without affecting their rights of recoverability of such costs.

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## MESSAGE FROM THE TEAM AT ALS INTERNATIONAL

Many of our clients and candidates are facing incredibly challenging issues and feeling anxious about their jobs, families and friends. If there is any help we can provide we will. Feel free to call us if you need any support and we will provide whatever help we can.

Despite facing a significant downturn there are still some roles that we are working on details of which are below:

### SENIOR CORPORATE

**HONG KONG 12+ PQE**

Established Fintech has created an exciting new role for a senior corporate/commercial lawyer with good commercial acumen to join the legal team. Work involves a broad range of legal work. Experience with a top tier firm and some in-house experience is critical as is fluency in Cantonese. (IHC 18421)

### LEGAL COUNSEL

**SINGAPORE 8-10 PQE**

Major US-listed company in the IT space is looking for a legal counsel to join their team based in Singapore. The ideal candidate should be qualified in either Singapore, Australia or the UK and have good corporate experience. (IHC 18328)

### SENIOR LEGAL COUNSEL

**HONG KONG 12+ PQE**

Conglomerate seeks an experienced commercial lawyer with IT experience to advise on commercial legal matters with an IT focus. Strong in-house experience handling commercial work and a proven track record in people-management is necessary. Cantonese required. (IHC 18422)

### PRIME BROKERAGE

**HONG KONG 8+ PQE**

International investment bank seeks a lawyer with prime services experience to take responsibility as the lead adviser to its prime business. Experience of prime brokerage agreements, ISDA's and global swap agreements important. Asia Pac role. No language requirements. (IHC 18304)

### LEGAL DIRECTOR

**SINGAPORE 6-12 PQE**

Growing asset management firm with a focus on private client is looking for a legal counsel to manage all legal affairs based in Singapore. The ideal candidate should come with some experience in either asset management, banking finance, or wealth management work. (IHC 18386)

### IT/DATA

**SINGAPORE 4-8 PQE**

Well known Fintech has a new vacancy for a data privacy lawyer to join its legal team and support an expanding business. Whilst focusing on privacy data issues you will also be involved in IT contracts and general commercial work. Private practice and / or in-house experience and fluency in Cantonese needed. (IHC 18426)

### FUNDS

**SINGAPORE 10+ PQE**

A top-tier regional law firm is looking for a partner to assist in developing its well established funds practice. You should be common law qualified with good private funds experience. In-house lawyers interested in returning to private practice will be considered. (IHC 18151)

### LEGAL COUNSEL

**SINGAPORE 4-7 PQE**

Global consulting company is looking for a mid-level counsel to join their regional legal team based in Singapore. The ideal candidate should be Singapore qualified with general corporate and/or litigation work gained in a reputable law firm. (IHC 18342)

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## MOVES

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

#### ★ HONG KONG

**Baker McKenzie** has added leading leveraged finance specialist **Kenneth Ching** as a partner in Hong Kong. Ching brings with him significant experience in advising banks, credit funds and alternative capital providers, private equity sponsors, and corporate borrowers on a variety of large-cap and middle-market financing transactions. He has counselled many leading Chinese and international companies on the financing of their outbound acquisitions in the technology, telecommunications, entertainment, real estate, consumer goods and retail industries across Asia, Europe and North America. Ching joins from Shearman & Sterling in Hong Kong.

#### 🇮🇳 INDIA

**Shardul Amarchand Mangaldas & Co** has added **Alina Arora** as a partner, with effect from May 4, 2020. A multi-faceted lawyer, Arora comes with over 22 years of rich experience spanning a variety of practices, including white collar crime and investigations, insurance, defence, M&A and compliance. She is enrolled at the bar at Delhi and holds a Masters in Law from the University of Warwick.



Alina Arora

#### 🇸🇬 SINGAPORE

**Ashurst** has added **Evan Lam** as a partner in the financial services regulatory group, based in Singapore. He joins from Allen & Gledhill, with more than 10 years of experience in financial regulation and OTC derivatives. Lam advises financial institutions on a full spectrum of Singapore financial regulations, including licensing, conduct of business, insolvency and resolution.

His clients include leading global financial institutions, such as banks, broker-dealers, clearing houses, exchanges, fund managers, insurers and trust companies. Lam also advises on OTC derivatives, and acts as opinion counsel to industry bodies on their netting and collateral opinions relating to master agreements and credit support documents.



Evan Lam

**Clifford Chance** has added **Shaun Langhorne** as a partner in its international restructuring and insolvency team in Singapore. Langhorne is a senior practitioner with vast experience in complex, multi-stakeholder and cross-border restructuring matters, covering contentious and non-contentious situations across the Asia Pacific region. His recent mandates include advising an international bank on the US\$1.9 billion restructuring of Indonesia's Borneo Lumbung group; a syndicate of lenders on the restructuring of a US\$470 million loan provided to an Indian infrastructure conglomerate; and trade lenders in the restructuring of an Australian-listed diversified minerals group. Joining from Hogan Lovells, Langhorne has been based in both Singapore and Hong Kong. He is qualified in Australia and Hong Kong, and is admitted to the Singapore International Commercial Court.

**Allen & Gledhill** has acted as transaction counsel for **Wong Ghan** and **Mdm Chin Lee**, founders of the Speedy group, on the S\$65 million (US\$46m) sale of their shares in Speedy Industrial Supplies (Speedy Singapore) to BizLink Holding. The sale was made subsequent to the transfer of all the shares of Wong in S I S Speedy Industrial Supplies (Speedy Malaysia) to Speedy Singapore, to consolidate sole ownership of Speedy Malaysia in Speedy Singapore. Speedy Malaysia is the Malaysian subsidiary of Speedy Singapore. Partners **Tan Su May** and **Michelle Fum** led the firm's team in the transaction, while partners **Chen Lee Won** and **Lum Sher Vin** of **Rahmat Lim & Partners** advised on the Malaysia law aspects.

**Allen & Gledhill** has acted as transaction counsel for **IHH Healthcare**, through a subsidiary, on the minority investment in Singapore-based telehealth company Doctor Anywhere (DA), which has raised US\$27 million in a Series B funding round to expand its platform and enter new geographies in Southeast Asia. The funding round was co-led by Square Peg and EDBI. The firm also advised Square Peg on the due diligence of the Series B funding round. Partners **Tan Su May**, **Mak Wei Munn** and **Alexander Yap** led the firm's team in the transaction.

**Ashurst** has advised New York-listed **IHS Markit**, a world leader in critical information, analytics and solutions, on its acquisition of Catena Technologies, a Singapore-based global regulatory trade reporting firm. The integration of Catena Technologies into IHS Markit's MarkitServ and other compliance platforms will enable IHS Markit to provide customers with comprehensive and efficient trade reporting services, and will enable customers to reduce costs, fulfil regulatory compliance needs and focus on strategic initiatives. Partner **Simon Brown** led the firm's team in the transaction.

#### 🇰🇷 SOUTH KOREA

**Yulchon** has added **YongSang Kim** as co-head of the international dispute resolution team from O'Melveny & Myers Seoul office, where he had been a co-representative from 2016. Kim is best known for his representation of the Republic of Korea on its first treaty-based investor-state dispute before the International Centre for Settlement of Investment Disputes.



Yong Sang Kim

His broad experience includes several large US litigation cases and matters involving antitrust, anti-corruption, international arbitration and white-collar criminal defense. He handled multiple international arbitration and litigation matters, representing Korea's Defense Acquisition Program Administration (DAPA) and obtained the first overseas litigation victory in DAPA's history. Kim earned his JD, cum laude, from Cornell Law School, his master's degree from Yale University Divinity School, and his BA from Yonsei University in Seoul. He practiced for ten years in Washington DC at Arnold & Porter, as well as O'Melveny & Myers. He then moved to Seoul in 2016, and served as the co-representative of O'Melveny's Seoul office until last month.

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## DEAL OF THE MONTH

Asian-mena Counsel  
Deal of the Month

June 2020

## Reliance Jio Platform's US\$10bn fund-raising

*In the middle of Covid-19, the Indian e-commerce platform closed a deal with Facebook and four other investors.*

**R**eliance Jio Platform's US\$10.32 billion five-way fund-raising during the height of the pandemic was an incredible achievement.

Led by Indian firms AZB & Partners for parent company Reliance Industries and Shardul Amarchand Mangaldas for the investors, the deal saw five companies investing in the creation of an Indian e-commerce powerhouse, Jiomart. The cash will also help to relieve some of the debt pressures at Reliance.

Facebook was the principal investor and the first to close, right in the middle of the Covid-19 pandemic on April 22. The social media company paid Rs435.5 billion (US\$5.7bn) for a 9.9 percent stake, valuing the company at roughly US\$57 billion. The deal includes a licence that allows Jio to use WhatsApp as a front end.

Such a deal would normally involve bankers, lawyers and executives racking up thousands of air miles during months of discussion, negotiation and due diligence. Although the talks reportedly started before the pandemic, the critical final period was conducted remotely after Facebook had implemented its working-

from-home protocol on March 6.

As with all of the subsequent deals, Davis Polk & Wardwell acted as US legal adviser to Reliance. Hogan Lovells advised Facebook, though the company's in-house team reportedly took much of the lead in discussions.

The combination of Facebook, WhatsApp and Jio is intended to empower small neighbourhood stores in India to transact online with local customers. Between them, the three companies reach more than 400 million users in the country.

Once the Facebook deal was signed, other investors were able to piggyback on the legwork and close deals with similar financial terms.

Silver Lake agreed to invest the equivalent of US\$745 million for a 1.15 percent stake on May 3, advised by Latham & Watkins; Vista Equity Partners put up US\$1.5 billion for a 2.32 percent stake on May 8, represented by Kirkland & Ellis; General Atlantic paid US\$874.5 million for a 1.34 percent stake on May 17, counselled by Paul Weiss; and the last investor to come in was KKR with another 2.32 percent stake for US\$1.5 billion on May 22, advised by



Simpson Thacher.

An initial public offering is expected to follow, which will be another blockbuster deal for AZB to add to its track record.

The team at **AZB** advising **Reliance Industries** and **Jio Platforms** was led by partners **Ashwath Rau**, **Nilanjana Singh** and **Bharat Budholia**, while the team at **Davis Polk & Wardwell** was led by partners **Jeffrey O'Brien** and **Alan Denenberg**.

The team at **Shardul Amarchand Mangaldas** advising the investors was led by partners **Raghubir Menon**, **Natashaa Shroff** and **Sakshi Mehra**.

The **Hogan Lovells** team advising Facebook on US law was led by partners **Jane Ross** and **Nate Gallon**. The **Simpson Thacher** team representing **KKR** was led by Hong Kong M&A partner **Ian Ho** and New York tax partner **Nancy Mehlman**.

### Other recent transactions from around the region:

**Clifford Chance** has advised a **consortium of banks**, including **Citi-group**, **Deutsche Bank**, **Goldman Sachs**, **HSBC** and **Standard Chartered Bank**, as joint lead managers, on the Republic of Indonesia's US\$4.3 billion three-tranche bond issuance, under its US SEC-registered bond programme. The proceeds from the bonds will be used to help fund Indonesia's COVID-19 relief and recovery efforts. The offering marks the largest-ever issuance of dollar-denominated bonds by Indonesia, and includes a 50-year tranche, which represents the longest-ever tenor for a public US-dollar deal from Asia. Partner **Johannes Juette**, supported by partner **Gareth Deiner**, led the firm's team in the transaction.

**Skadden** has advised **Baidu**, a leading search engine, knowledge

and information-centred internet platform and AI company, on its issuance of US\$1 billion aggregate principal amount of notes. The public offering consisted of US\$600 million 3.075 percent notes due 2025 and US\$400 million 3.425 percent notes due 2030. The notes have been registered under the US Securities Act of 1933, as amended, and are listed in Singapore. The offering was priced on April 1, 2020. Hong Kong partners **Julie Gao**, **Jonathan Stone** and **Shu Du** led the firm's team in the transaction. **Maples and Calder** acted as Cayman Islands and BVI counsel to **Baidu**, led by partner **Derrick Kan**. **Davis Polk & Wardwell** and **Jingtian & Gongcheng** acted as US counsel to **Goldman Sachs** and **Bank of America Securities**, respectively, as the underwriters.



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### In-house

#### Senior Legal Counsel | 10+ yrs ppe | Shanghai REF: 15613/AC

This multinational consumer company is seeking a senior corporate lawyer to join its Shanghai office to cover its Great China operations. You will be responsible for providing legal advice and support on strategic corporate and commercial matters and serving as an expert for the team on M&A and joint venture projects. You must have a law degree in China plus over 10 years' PQE gained in both law firms and in-house environments, along with the exposure to M&A/ JV matters within the consumer/healthcare industry. An admission to a Bar or overseas education/working experience is highly desirable. A good team player with retail experience is preferred. You must have fluent English and Mandarin for the role.

#### Senior Legal Counsel | 10+ yrs ppe | Hong Kong REF: 15733/AC

This statutory body seeks a Senior Legal Counsel to provide support, advisory and advocacy on a range of legal issues in Hong Kong. We are interested in speaking with 10+PQE Hong Kong qualified lawyers with excellent academic and legal training, exposure to data privacy, enforcement, investigations, regulatory review, running or implementing legal documentation management program/ best practice program would be highly valued. Excellent communication, interpersonal and presentation skills are required and fluency in written and spoken English, Cantonese and Mandarin is a prerequisite. Familiarity of data protection and privacy landscape would be highly desirable.

#### Regional Legal Counsel, IP | 8+ yrs exp | Hong Kong REF: 15724/AC

This non-profit organization is seeking a senior IP lawyer to take up a regional responsibility of covering the Asian region. Based in Hong Kong, you will be responsible for providing legal, regulatory, and company secretarial support to its Asian members' businesses. The ideal candidate will be a qualified lawyer with over 8 years' PQE of IP licensing, ideally with a focus on international copyright. Candidates with multinational working experience plus a good understanding of the entertainment, performing arts, and music industry are preferred. You must have fluency in English and Chinese language skill is a plus. Occasional business travel is required.

#### Assistant Legal Counsel | 2+ yrs ppe | Hong Kong REF: 15735/AC

We seek enthusiastic, flexible and intellectually curious lawyers who have a real passion for working with dynamic teams and excited about new challenges. You will be responsible for handling a wide array of legal work assisting senior lawyers and investigation professionals in this prestigious public organization. You will have an excellent background and solid legal training and experience gained within a leading law firm or a dynamic in-house environment. Qualified to practice in Hong Kong, you must have strong communication and interpersonal skills, with excellent command over written and spoken English and Chinese, Mandarin language skills are advantageous. This is a great opportunity for a lawyer to make a first move in-house. Good work-life balance on offer and a high quality of work.

### Private Practice

#### Principal, Litigation | 8+ yrs ppe | Hong Kong REF: 15743/AC

An international firm is looking to hire an experienced litigator to join a very highly regarded disputes team in HK. This is an exciting opportunity for a senior associate or equivalent to develop a clear track to partnership. You will work closely with an established team on high stakes commercial litigation work for clients both in Hong Kong and China. You must have at least 8 years' financial services litigation in well-respected law firms. Candidates with a Western education background or working experience in Western countries are preferred. Asset management and hedge fund experience are highly desirable. You must have native-level Chinese and fluent English skills.

#### Litigation Counsel | 8+ yrs ppe | Hong Kong REF: 15742/AC

We have an exciting new opportunity for an experienced litigator to join a highly regarded litigation team in HK. You will have strong technical experience in contentious financial cases as well as experience of advising governments and Chinese clients. You must have the ability to carry out complex and varied litigation with proven experience of insolvency, financial misconduct or fraud matters. Candidates with a financial background and exposure to Western countries are preferred. Native-level Chinese and fluency in English, along with excellent writing skills, are required.

#### Litigation Partner | 7+ yrs ppe | Hong Kong REF: 15720/AC

This award winning offshore firm is seeking an accomplished senior litigation lawyer for its HK office. It is an exciting opportunity where you can leverage off a top-tier firm's impressive client list and build a team and a practice. Our client requires applicants to have a strong experience in commercial litigation including restructuring and insolvency, shareholder litigation and private wealth, and ideally have significant experience with disputes associated with offshore jurisdictions. Client management and associate-mentoring skills will be welcomed.

#### Litigation Associate | 4-8 yrs ppe | Shanghai REF: 15740/AC

This international law firm is seeking a litigator with proven financial services litigation experience to join their growing team. You should have strong experience from a leading local law firm or an in-house position at a major corporate. Financial litigation, commercial misconduct and fraud are key areas for this firm. You should possess a Western Law Degree (ideally at JD level), native-level Mandarin and English language skills, and 4 to 8 years' relevant PQE. A strong contact network in China would be most welcome.

#### Commercial Litigation Associate | 2+ yrs ppe | Hong Kong REF: 15721/AC

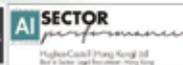
Excellent opportunities to work on high profile, complex matters with blue-chip international clients. You will have experience in restructuring and insolvency work as well as shareholder disputes, trusts issues, private wealth matters and general commercial litigation and previous exposure to offshore-related disputes. Qualification in a jurisdiction other than Hong Kong is essential as is training at a top international firm.

#### Job Search



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

### Funds Lawyer – Asset Management

5-8 yrs PQE, Hong Kong

A well-known global asset manager is looking for a mid to senior level funds lawyer to join its in-house legal team. Ideally, candidates should have authorised funds experience from another reputable asset manager, though lawyers with general funds experience from law firms are also welcome to apply. You will work closely with the business and provide legal support across Asia as it is a regional role. Business level Chinese language skills strongly preferred. [Ref: AC8378]

Contact: Samuel Edwards

Tel: (852) 2537 7630

Email: sedwards@lewissanders.com

### Regional Counsel – Music Industry

5+ yrs PQE, Hong Kong

This role is with a key player in the music industry representing the interests of its members from across the globe. The Asian Regional Office, based in Hong Kong, is looking for a mid to senior level legal counsel to join its leadership team. Key responsibilities will be monitoring, interpreting and influencing political and regulatory developments in Asia relevant to members' business including improvements to copyright law and collective management regulations; assisting with IP enforcement initiatives and actions; advising on music licensing activities, business structures and legal entities, as well as legal, compliance and risk management related issues; managing external counsel and working on commercial contracts; translating Chinese laws and regulations into English and translating policy submissions into Chinese; attending to corporate secretarial matters. You will need to have strong IP experience, be proactive, be comfortable working independently with minimal supervision and ideally have experience working at a regional or international level. [Ref: HZ 102-00007]

Contact: Jessica Deery

Tel: (65) 6808 6635

Email: jessica.deery@horizon-recruit.com

### Senior Corporate – Fintech

12+ yrs PQE, Hong Kong

An established Fintech has created an exciting new role for a senior corporate/commercial lawyer with good commercial acumen to join the legal team. Work involves a broad range of legal work. Experience with a top tier firm and some in-house experience is critical as is fluency in Cantonese. [Ref: IHC 18421]

Contact: Andrew Skinner

Tel: (852) 2920 9111

Email: a.skinner@alsrecruit.com

### Senior Legal Counsel, Asia – Investment Management

6-12 yrs PQE, Hong Kong

This global investment manager is seeking an experienced and commercially savvy lawyer to provide legal advice and support to the business units across Asia. You will be responsible for reviewing, assessing, and addressing legal and regulatory issues in multiple jurisdictions and a multicultural environment. The ideal candidate will have a minimum of 6 years' PQE handling asset management matters from a top-tier law firm, with experience advising the financial services sector in different Asian jurisdictions. Reporting to the Head of Legal, the Senior Legal Counsel will be able to work independently, but also be a good team player, with strong communication skills, and willingness to lead and mentor junior members of the team. Excellent drafting and negotiation skills and fluency in English and Mandarin Chinese is required. [Ref: 15753/AC]

Contact: Katherine Fan

Tel: (852) 2520 1168

Email: kfan@hughes-castell.com.hk

### Corporate M&A/VC Jr-Midlevel US Associate

1+ yrs PQE, Singapore

The head partner of a firm with a Silicon Valley-style practice is currently hiring junior to mid-level (1st year / 1 year PQE upward) corporate associates into his team. Candidates can be qualified in the US, UK, or Australia. We placed his two most senior associates, and we also placed him into his current and former roles. Candidates with EC / VC experience are preferred, so they can hit the ground running. BigLaw training from a top US or Magic Circle firm is crucial. [Ref: JVIHC-0031]

Contact: Alexis Lamb

Email: alexis@evanjowers.com



Erick Gunawan  
Global Head of Forensics, Law In Order  
erick.gunawan@lawinorder.com

## Information Governance: Preserving Data and Being Prepared for Investigation

Organisations need to ensure their rules around information governance are being enforced. Many US organisations have an information governance officer in their IT, legal or risk team ensuring the procedures are promoted. In Australia, we see more hybrid roles where IT and record managers take on parts of governance.

Increasingly, corporates in Australia are ensuring their data is compliant with local law and critical data is preserved.

### Identifying the Data

Organisations need to know where their data is before attempting to capture it. In the event of a litigation or investigation, relevant data sources need to be identified.

For example, regarding an IP infringement and possibly loss of communication data, HR data won't be relevant. Necessary data would probably include emails and Skype chat data. There would likely be one target custodian and therefore, it's possible to narrow the investigation to that person. It wouldn't be necessary to examine everyone's emails and Skype messages.

### Collecting the Data

It's important to have a plan to collect data effectively from a workflow and time perspective, particularly taking into account the multiple platforms, eg social media, iOS, Android, etc.

Defensibility is essential so evidence is admissible in court. Consider a murder case. When evidence is collected, gloves are used so evidence isn't contaminated. Similarly, data should be collected preserving its integrity.

Thought should be put into doing the

collection internally or hiring a third-party forensics expert. Sometimes organisations miscalculate the friendship between the IT department and the custodian. This may jeopardise the investigation, so these factors must be taken into consideration.

### Processing the Data

Once data is collected, it needs to be processed before it can be reviewed. Different data types can be difficult to review on the different platforms, eg emails on Outlook, chat on Skype, sales data on Salesforce, etc.

Processing extracts the text and metadata and puts everything into a single review platform where multiple reviewers can review the data and all work product is preserved.

### The Role of Analysis

The next step is to add analysis to make the review more efficient and faster.

One tool is email threading which allows reviewers to only look at the last email in a chain, so only the most inclusive email is reviewed. This will probably contain all the content from previous emails in the chain.

Artificial Intelligence can learn the reviewing patterns of the reviewer so the most relevant material amongst the data is prioritised according to the way the reviewer is reviewing.

Deletion analysis lets a reviewer know when emails are missing. Computer forensics is then used to potentially recover lost emails and process them ready for review.

It's possible to do high level analysis as well. This gives reviewers a sense of the type of data they are working with. For example, how are two suspects

communicating? How often and what times are they communicating? Are there others that need to be looked at? This creates an overview of the conversation.

Email deletion analysis can also produce information. For example, if there is a drop in emails, it could be because of a holiday or an issue with the email system or perhaps people are deleting documents to cover tracks. When it's time to do the document review, in-depth analysis can be done using duplicate analysis, keyword searching, conceptual searching, etc.

Once analysis is completed and the relevant data found, the pertinent documents for court have ultimately been produced.

Another highly significant benefit, having produced those documents for court, the organisation has been through an information governance learning process about how to preserve data and prepare itself for future investigation. This may change the way an organisation looks at their protocols and how they retain documents and data.

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# In-House Community Councils of the Year, 2020

The latest innovations and cultural transformations from our award-winning in-house teams in Asia, the Middle East and South Africa.

By Patrick Dransfield and Nick Ferguson



Olivia Tong from KPMG China was among the many winners who joined us live-online for the e-Ceremony



Tan Yin Scene and the team from AEON celebrate



Bernard Tan of Agilent Technologies



A winner's wave from Jardine Cycle & Carriage's Jeffery Tan

For the past five years we have provided a written review of the latest innovations achieved by the In-House Community through the Awards submissions so as to share 'best practice' information and also provide the opportunity to benchmark your team's performance with the cream of South Africa, Asia and the Middle East. This year, the first thing we wish to share is the fact that we ourselves as event organisers have had to rise to the technical challenge of delivering The In-House Community Councils of the Year Awards online as a consequence of the Covid-19 pandemic. So, the first thing we quickly had to learn was how to provide a virtual platform where more than 180 people from around the world could gather together for one hour in a 'live', safe and conducive environment.

"If the shift to digital was a looming need a few months ago, it is now a stark reality. For some sectors, such as small businesses, it is a matter of survival" - James Ding, APEC

The correct platform was found and the In-House Community team rose to the challenge of making it work. We'd also like to thank all those that participated in the awards process, and especially those that trusted our ability to provide a stimulating online awards experience and joined us on May 28. For those of you who missed it, well, you had to be there! We are proud that our awards programme was shared with people in the following jurisdictions: Abu Dhabi, Australia, China, Dubai, Hong Kong, India, Indonesia, Japan, Malaysia, Philippines,

Singapore, South Africa, South Korea, Thailand, the UK, US and Vietnam.

We are all human. The judging process for the 2020 awards straddled the coronavirus crisis as its shadow swept from Asia to Europe and the Americas. So, while the submissions were all completed in the latter part of 2019 (the deadline for submissions was January 2020), our panel of judges for the in-house teams were clearly attracted to those in-house counsel team submissions that encouraged empathetic working cultures and working practices that would prove resilient through the crisis – and especially to those innovations that are proving positively significant to society at large. This trend will be even more pronounced when in 2021 we come to look at the activities of individual lawyers and also departments during and post-crisis.

## Innovation

Who knows what the future holds? Those in-house departments that put in place procedures and innovations that will help themselves and their stakeholders to be able to endure are celebrated in these awards. One of the most telling innovations that many of our in-house teams have been working on during the past 12 months have been attempts to use technology to become more efficient, especially through contactless innovations and other initiatives revolving around integration with other departments and stakeholders. To quote James Ding, chair of the economic committee of the Asia Pacific Economic Cooperation: "If the shift to digital was a looming need a few months ago, it is now a stark reality. For some sectors, such as small businesses, it is a matter of survival."

Outstanding innovators include: AEON, with its paperless personal employment information

hub. Agilent Technologies’ legal team worked with the IT department to create internal eTools for the legal function. And Gartner supported the sales team with a ‘shared contracts box’. Jardine Cycle & Carriage has certainly aided its board by embracing a board document digital platform – an initiative we will surely see more of as senior board members attempt to minimise their air travel in the near to medium term at least. KPMG Greater China was busy with the creation of a new office of the general counsel in China, Macau and Hong Kong, with all the supporting technological platform that entails. Landmark Group created a ‘single window’ legal help desk; and Shell Companies in the Philippines created an FAQ portal covering job contracts, handling competitive information; employment discipline, finance management and finally performance management. Finally, Telstra International, which has been ahead of the game in many of these areas for a number of years, continued its agile working commitment with the development of LawVu engagement legal portal. Indeed, Telstra has extended its technical prowess with a commitment to help young people in Hong Kong with the Telstra Foundation.

“We predict that global deals closely monitored by engaged international in-house teams will very quickly become the new normal in the procurement of legal services”

**Going Digital**

Time was when in-house legal departments relied on outside counsel for knowledge management. This is evidently no longer the case. Indeed, as global in-house departments join up digitally, international private practice law firms will have to quickly keep up as the negotiated deals in Asia will become negotiated deals for in-house departments’ US and London offices. On this evidence we predict that global deals closely monitored by engaged international in-house teams will very quickly become the new normal in the procurement of legal services.

An ability to collaborate has become an essential skill for companies to survive during the crisis and Sanofi China’s collaboration with a

***In-House Counsel of the Year - Shortlist***

- Anthony Luna - IBM Japan*
- Carina Wessels - Alexander Forbes*
- Chungjin Chung - KOGAS*
- Irina Kovalchuk - Zakher Marine International*
- Leiming Chen - Ant Small and Micro Financial Services Group*
- Neeta Thakur - EFG Hermes*

Note: Alphabetical order by first name



Carina Wessels of Alexander Forbes

**In-House Community Counsel of the Year**

- ‘Empathy First’ approach for external clients
- Broad and diverse experienced team in Japan
- Knowledge sharing with Japan In-House Community on legal tech, compliance & diversity
- Risk assessment & prioritization of Contracts to increase efficiency and reduce workload
- Comprehensive ‘Engagement Program’ for department’s continual improvement

**Anthony Luna**  
IBM Japan

pioneering tech company in the development and commercialisation of a digital AI platform in the field of medical information will definitely save lives in both the short and medium term. Further, in-house teams have been challenged with the increasing importance of intellectual property in general and patent protection in particular. Alibaba / Ant Small & Micro Financial Services Group issued more than 1,700 patent applications last year, including blockchain patents. Insurance sector competitor Taikang Insurance Group was one of the first submissions that we can recall coming from a compliance department and the firm is committed to the protection of the personal data of their clients. Taikang also applied for 688 patents in the past year. FedEx Express took the lead in the area of compliance by viewing compliance as an actual competitive advantage and was also making strides in its risk mapping by looking for vulnerabilities within the organisation long before the pandemic struck. It always surprises the judges that a small group of dedicated professionals can provide the coverage required for major companies in Asia and Yum! combined the all-important access to food through the franchises of KFC and Pizza Hut across Asia with just five professionals. The logistics of lockdown



The team from Telstra were clearly thrilled with their recognition ...



... as was Madelene Sachi of Yum! Asia Franchise



Sri Devi Venkatasamy of Grab



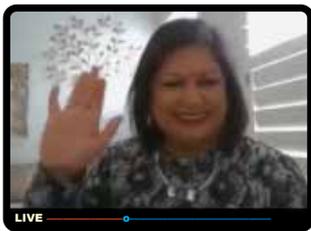
*Rob Keylock of Macey & Sons drummed up support, and dollars for our charity auction*



*AFGRI Group's Pieter Badenhorst*



*Jannet Regalado of Shell Companies in the Philippines*



*Pariksha Seetul of Netcare*



*Aboitiz Power Corporation's Maria Mercado*



*WSP Asia legal team members*

and access to cooked meals has been a priority for many of us during the crisis period and where would we be without Grab! Like many other in-house teams, Grab's legal department has also been tasked with the 'business as usual' aspects of legal work and along with other outstanding legal teams handled with great aplomb complex and company-defining deals and financings on behalf of its stakeholders. Similarly, for Alexander Forbes Group Holdings in South Africa with matters relating to sensitive human resources issues. And MTR Corporation's legal team proved instrumental in winning major rail mandates from as far as Australia with the Sydney Metro and the UK with parts of the new Elizabeth Line in London. And AFGRI's legal team executed a complex cross-border deal with the South Africa Bank of Athens.

“Given the importance of liquidity right now, Abu Dhabi Global Markets’ legal department’s hard work facilitating the passporting of security products throughout the UAE looks especially prescient”

**Environment, society and governance**

We also looked at the many companies that could prove that their legal teams are making an invaluable contribution to society at large. Aboitiz as ever led the pack by continually briefing the Philippines government and economic zone authorities regarding the ever-changing energy market. Flash Entertainment FZ made an effort to share with the business community at large the IP infringement risk in sports photography. Given the importance of liquidity right now, Abu Dhabi Global Markets’ legal department’s hard work facilitating the passporting of security products throughout the UAE looks especially prescient. Meanwhile, Manulife (International) worked hard in 2019 to widen the retirement net for Hong Kong citizens. It is also important not to lose sight of the environment, and Netcare’s team in South Africa helped its company with the legal and compliance work for a truly original charity initiative – ‘My Walk Shoes’ project which uses recycled PVC to make school shoes for under-privileged students in South Africa. Hindustan

Coca-Cola showed an innovative way of environmental compliance through road-mapping and solving waste management issues.

Penultimately, initiatives in mindful and empathetic management proved especially important. Our In-House Counsel of the Year, Anthony Luna, a North American working in Japan as general counsel of IBM Japan, clearly defined the job in his department mission statement of: “Continual learning, subject matter expertise, providing value-added services and focusing on outcomes – not problems – and always with integrity.” Similarly, Nestle’s legal department’s maxim of “putting others ahead of yourself and putting your legal team members ahead of everything else” with an emphasis on approachability and friendliness initiates a corps d’esprit that will help the company endure. WSP takes the notion of the T-shaped lawyer very seriously by extending the potential areas of expertise beyond the law to embrace areas such as fraud detection, data privacy, enterprise risk management and business continuity management – how prescient was that?

**See Winners on pages 21**

Finally, I would like to mention the Mindful Business Charter ([mindfulbusinesscharter.com](http://mindfulbusinesscharter.com)), which was truly the initiative of an in-house counsel, Phil Aiken, head of legal for European consumer lending at Barclays Bank in London. The charter represents a specific code of conduct that, while recognising that the legal job in all its manifestations is clearly not without stress, strives to mediate the undue stress that mindless, inconsiderate and senseless business practices and cultures can and often do impose on the individual. It is for this reason that Barclays, which is pioneering the charter’s roll-out from the UK to Asia and the rest of the world, and also extending it beyond the legal department, won the corporate social responsibility award. Key support institutions to the legal profession are now evangelised to aid the individuals within the profession to be able to identify and talk through their emotional issues without stigma and thus begin to improve the culture of the legal profession generally.

The Law Society of England & Wales is in many ways a vanguard of protecting mental health for lawyers and we finish this section with a word from its current president: “*In my experience, solicitors are empathetic warriors, often tough on themselves, perfectionists and good at taking problems from other people’s*

shoulders....A positive work culture is one which helps solicitors maintain a sense of perspective, tolerates mistakes and treats each and every person as an individual with unique personalities and needs. One which encourages everyone to treat others with decency, kindness and humour, whatever their position in the firm or client.” Simon Davis, president of the Law Society of England & Wales.

“A positive work culture is one which helps solicitors maintain a sense of perspective, tolerates mistakes and treats each and every person as an individual with unique personalities and needs” - Simon Davis, Law Society of England & Wales

**Visionaries**

To determine our Visionary Client Service Providers, we once again challenged New Silk Road-based legal service providers to

demonstrate that they can truly stand inside the shoes of their clients and provide inspiring service. Our 2020 winners identify the very best examples of client excellence. In the law firm category, the judges’ evaluation was based on assessing each firm’s strategic, systematic and institutional level planning and execution, with impact beyond a single matter or client, while keeping a contextual eye to the operating environment.

In the non-law firm category we have created new sub-groups to reflect the diverse range of services they offer. The judges analysed submissions by looking at the context of the solutions being delivered, the client impact and the broader market effect.

See Winners on pages 23

**Thanks**

We congratulate all of you for keeping the home lights burning during what is proving to be one of the greatest crises of the 21st century. Thank you all for supporting the awards, which are in turn intended to give back to the community at large by honouring best practice in the in-house legal field for the benefit of all.



Michael Ting of Manulife (Int'l)



Fraser MacKiven from Flash Entertainment FZ



Richard Lin and Carrie Suen from Ant Financial



Shengsi Li of Sanofi (China) Investment



Doreen Jaeger-Soong, MD of Hughes-Castell announced our Visionary Law Firms for 2020



And it's goodnight from us!

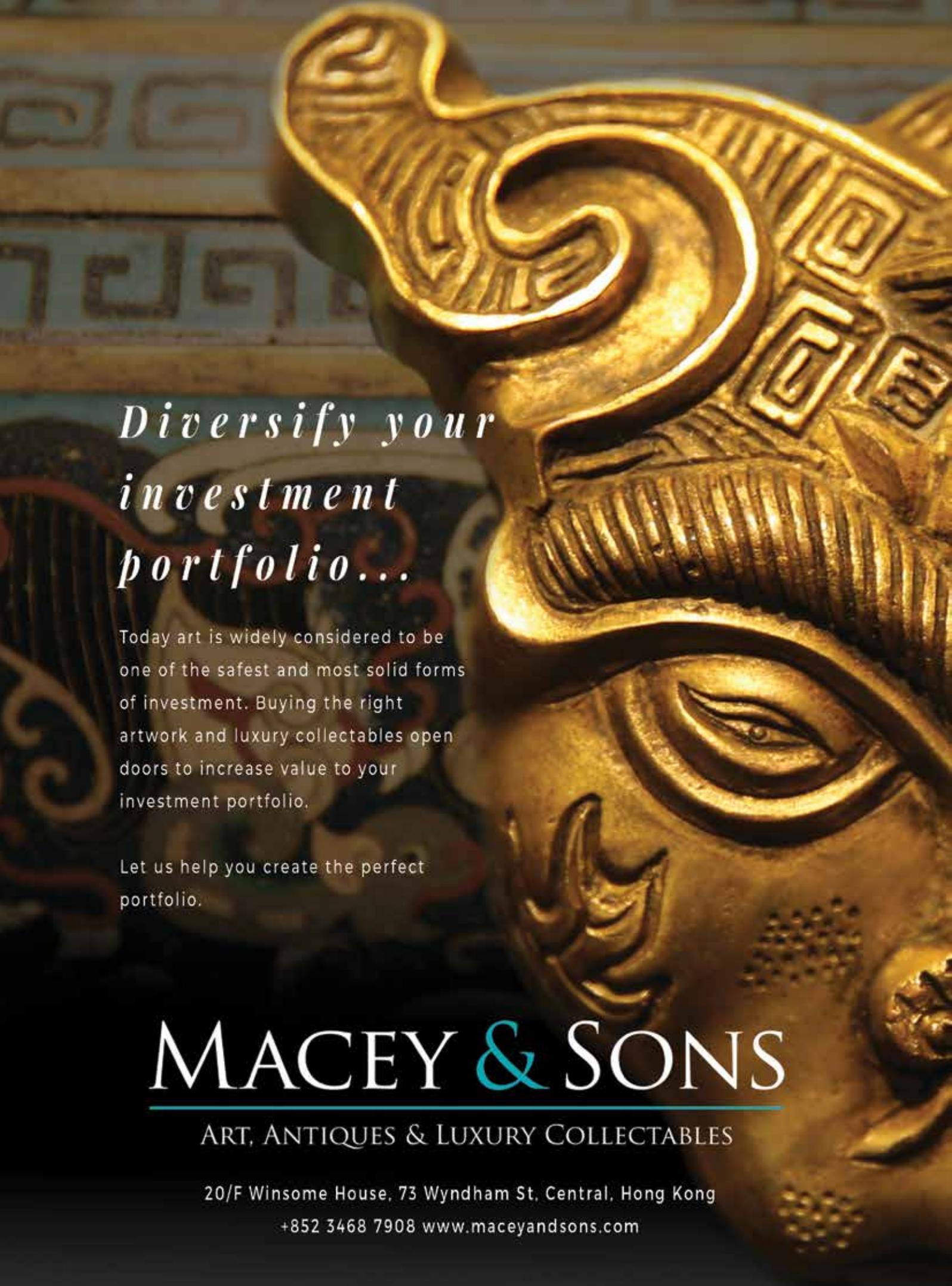
**A message from Charles Keller, scientific director of the Children’s Cancer Therapy Development Institute (CC-TDI)**

“Childhood cancer is a global health issue touching the lives of at least 300,000 children each year, according to WHO estimates, but likely as many as 400,000 children with a quarter of these children going undiagnosed in developing countries. Even for children in nations with state-of-the-art care, one in five children will not survive. Pharmaceutical companies and their internal champions now more than ever are reaching past the new regulatory requirements to test adult cancer drugs for effectiveness in children; however, while US FDA approvals for adult cancer drugs number on average 12 or more each year – for children, effective drugs for pediatric cancer have only been approved eight times in the last 42 years.

The 2019 fundraising support of In-House Community super-charged childhood cancer research at the Children’s Cancer Therapy Development Institute (cc-tdi.org), and this year promises to make an even bigger impact. Highlights of supported work at cc-TDI this past year include a machine-learning project to help improve the diagnosis of children with cancer in developing countries, and developed ones. This project was piloted with the Intel spinout OmicsAutomation.com, and complemented by design of a pocket microscope slide scanner by a capstone engineering team at the University of Idaho. The project is hoped to move to the IBM World Community Grid Smash Childhood Cancer Project, led by Godfrey Chan (Hong Kong University), and for which cc-TDI is a major participant. This project is a key example of how it takes a community to address a question that may not have a profit margin, but has priceless impact for children and affected families. In-House Community leads the way.”

For more on CC-TDI, visit [www.cc-tdi.org](http://www.cc-tdi.org)





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## WINNERS: COUNSELS OF THE YEAR, 2020

### In-House Community Counsel of the Year, 2020

**In-House Counsel of the Year, 2020,**  
**Anthony Luna, IBM Japan**

*'Empathy First' approach for external clients, Broad and diverse experienced team in Japan, Knowledge sharing with Japan In-House Community on legal tech, compliance & diversity, Risk assessment & prioritization of Contracts to increase efficiency and reduce work load, Comprehensive 'Engagement Program' for department's continual improvement.*



### In-House Community Legal Teams of the Year, 2020

**Asia, In-House Team of the Year 2020 (Joint Winner)**

**Ant Small and Micro Financial Services Group**

*Continued expansion of block-chain based cross-border payment service, AlipayHK eWallet for China and Japan, Vanguard acquisition US\$5.9 trillion.*

**Asia, In-House Team of the Year 2020 (Joint Winner)**

**KPMG China**

*10 principles of the Office of the General Counsel.*

**Middle East, In-House Team of the Year 2020**

**Nestle Middle East FZE**

*Internal Client Satisfaction program, Mutual Trust as the watchword in legal department, Implementation of Legal Automation.*

**South Africa, In-House Team of the Year 2020**

**AFGRI Group**

*ABBA 'influencers' project in hydroponic farming, Legal department as 'profit centre' generating profit after tax through innovative conveyancing, 5 member team coverage of 11 jurisdictions.*

### In-House Community Industry Legal Teams of the Year, 2020

**Conglomerate**

**Jardine Cycle & Carriage**

*Acquisition of Vietnam Dairy Co. (US\$1.2 billion), 'Mind Gym Learning'.*

**Energy & Natural Resources - Asia**

**Aboitiz Power Corporation**

*1,800 transactions with 93% on-time, Education of industry regarding pressing issues.*

**Energy & Natural Resources - S.Africa**

**AFGRI Group**

*ABBA 'influencers' project in hydroponic farming, Legal department as 'profit centre' generating profit after tax through innovative conveyancing.*

**Financial Services**

**Abu Dhabi Global Market**

*'Gender Equality Initiative', China Gateway agreements with Chinese SOEs.*

**Insurance**

**Taikang Insurance Group**

*50,000 contracts involving 10 billion Rmb, 668 patents applied for in 2019, Data Protection implementation.*

**Life Science & Pharma**

**Sanofi (China) Investment**

*Digital AI in field of medical information.*

**Manufacturing & Engineering**

**WSP Asia**

*Education beyond the law - including fraud examination, Data Privacy, Enterprise Risk Management.*

**Other Industries - Asia (Joint Winner)**

**KPMG China**

*Creation of the Office of the GC (OGC) for Greater China, OGC Portal.*

**Other Industries - Asia (Joint Winner)**

**Shell Companies in the Philippines**

*FAQ guidance on each key legal matter to all divisions, Christmas Party at children's cancer charity Child Haus Manila.*

**Other Industries - Middle East**

**Nestlé Middle East FZE**

*Internal Client Satisfaction program.*

**Property, Infrastructure & Logistics**

**FedEx Express**

*Clients' self-help automation throughout China.*

**Retail & Healthcare - Asia**

**AEON (M)**

*'Anytime Anywhere' online system for all employees, 'AEON Wellness' - offering East Meets West trad. Chinese medicine & western medicine.*

**Retail & Healthcare - S.Africa**

**Netcare**

All women legal team fully integrated in Netcare business units, 'My Walk Shoes' project - recycling of PVC waste into school shoes.

**Technology, Media & Telecoms - Asia (Joint Winner)**

**Ant Small and Micro Financial Services Group**

Continued expansion of block-chain based cross-border payment service.

**Technology, Media & Telecoms - Asia (Joint Winner)**

**Telstra International**

Agile working practices, including sprint structure and stand-up meetings.

**Technology, Media & Telecoms - Middle East**

**Gartner**

Comprehensive Training & Cooperation with Sales Team, Support of expansion in region.

**Travel & Leisure - Asia**

**Grab**

Series H fundraising of US\$5.6billion, Grab-Food expansion.

**Travel & Leisure - Middle East**

**Flash Entertainment FZ**

Sharing with business community the risk of IP infringement in Sports photography.

**In-House Community Best Practice Legal Teams of the Year, 2020**

**Change Management**

**Alexander Forbes Group Holdings**

Management of highly-sensitive labour matters and related litigation.

**Compliance**

**Manulife (International)**

Work to extend retirement net for HK citizens, BuySimple.com, E-Claims system.

**Corporate Social Responsibility (Joint Winner)**

**Barclays**

Initiation of the Mindful Business Charter, 'Line Managers' Wellbeing Commitment'.

**Corporate Social Responsibility (Joint Winner)**

**Hindustan Coca-Cola Beverages**

Environmental Compliance Roadmap, Innovation around plastic waste management.

**Diversity - Asia**

**Aboitiz Power Corporation**

Raising money for a gay community care home, Breaking silos & fostering cooperation.

**Diversity - Middle East**

**Landmark Group**

Child development and women's empowerment, Landmark Beat Diabetes program with Dubai Sports Council.

**Innovation - Asia**

**Ant Small and Micro Financial Services Group**

AlipayHK eWallet for China and Japan.

**Innovation - Middle East**

**Abu Dhabi Global Market**

UAE Fund Passporting regime.

**Integration - Asia (Joint Winner)**

**Agilent Technologies**

AI translation tool and eTool for certification developed with IT colleagues.

**Integration - Asia (Joint Winner)**

**IBM Japan**

Knowledge sharing with Japan In-House Community on legal tech, compliance & diversity, Risk assessment & prioritization of Contracts to increase efficiency and reduce work load, Comprehensive 'Engagement Program' for department's continual improvement.

**Integration - Middle East**

**Nestlé Middle East FZE**

Mutual Trust as the watchword in legal department.

**Small Team - Asia**

**Yum! Asia Franchise**

5 member team servicing KFC, Pizza Hut in Asia-Pacific.

**Small Team - S. Africa**

**AFGRI Group**

5 member team coverage of 11 jurisdictions, Group of the Bank of Athens M&A.

**Technology**

**Telstra International**

'Project Morpheus' - legal guidance automation.

**Transactional (Joint Winner)**

**Ant Small and Micro Financial Services Group**

Vanguard acquisition US\$5.9 trillion.

**Transactional (Joint Winner)**

**MTR Corporation**

Award of Sydney Metro City & South West PPP project, London's Elizabeth Line between Paddington and Reading, Phase 1 of Hangzhou Line 5.

**Visionary Client Services Firms of the Year, 2020**

**Law Firms**

**Visionary Client Service Law Firm of the Year, Asia**

**Tilleke & Gibbins**

Among a wealth of mandates it handled during the past year, Tilleke & Gibbins stood out in particular for its partnership with an artificial intelligence company to develop better Thai-language tools for natural language processing, which is notoriously difficult given the script's complex structure and positioning of vowels and inflection marks, lack of spacing between words and indeterminate separation between sentences, as well as relatively low resources to build upon.

**Visionary Client Service Law Firm of the Year, International**

**Pinsent Masons**

Pinsent Masons' Hong Kong office partnered with Dow Jones to design and deliver a bespoke digital training programme for HSBC's 1,500-strong global in-house legal team, and also launched a local chapter of the Mindful



Alvin Ho received on behalf of Pinsent Masons

Business Charter, a programme focused on improving mental health and wellbeing, with Barclays and Addleshaw Goddard.

**Visionary Client Service Law Firm of the Year - Newcomer**

**Kudun and Partners**

Founded in 2015, Kudun and Partners has sought to disrupt the Thai legal industry and deliver a different level of client service through a carefully executed team recruitment strategy and continued adherence to a "client-care" approach, which stresses accountability, assurance, responsiveness and empathy. It's working.

**Non-Law Firms**

**Visionary Non Law-Firm Services Provider**

**- Consulting & Suppliers**

**Joint Winner: KorumLegal**

Hong Kong's KorumLegal continues to have an impact across the region, focusing on the business of law and working on a number of fronts to develop the industry's effectiveness, efficiency and evolution – as demonstrated by an impressive list of client solutions delivered in 2019. Long before Covid-19, it has been helping clients to leverage tools such as Zoom and Slack to manage projects efficiently.

**Joint Winner: Law In Order**

Law In Order has continued to make impressive strides during the past year, including its support for virtual arbitration, which has proven to be a timely innovation in light of the global pandemic. The company has once again demonstrated that its collaborative team of in-house innovation, consulting and development experts are actively involved in industry development.

**Visionary Non Law-Firm Services Provider - Legal Technology**

**Lawcadia**

Lawcadia impressed the judges with the approach it is taking to onboard and engage stakeholder groups. In 2019, it released its latest product, Lawcadia Connect, a highly configurable workflow for new legal requests coming from the business (internal clients) to the in-house legal teams, and also to allow in-house legal teams to better manage their external legal spend using Lawcadia's existing suite of products.

**Visionary Non-Law Firm Services Provider - Newcomer**

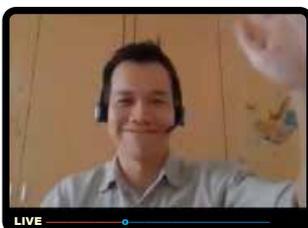
**docQbot**

docQbot is China's first bilingual cloud-based AI contract service platform. It has led the creation of a full suite of Foreign Investment Law-compliant templates and knowhow in cooperation with a cross-law firm/law department expert committee for a unique solution. This sort of innovation is significant in itself, and is likely an area where significant industry and user gains will be made.

**Most Responsive Firm of the Year, 2019**

**Baker McKenzie**

Voted most responsive international firm of the year in the most jurisdictions by members of the In-House Community.



Erick Gunawan of Law In Order



Rico Zheng gives us a thumbs-up for docQbot's recognition



The Lawcadia team raise a glass to toast another award-winning year



Titus Rahiri (right) celebrates KorumLegal's award

## Commended External Counsel of the Year, 2020

Nominated entirely by in-house counsel and corporate decision-makers in the *In-House Community*, the following external counsel all received the outstanding recommendation of their clients. From our Commended Counsel we also announced the In-House Community External Counsel of the Year. Congratulations to all those below:

### China

Jiang Junlu, King & Wood Mallesons

Kimi Liu, Clifford Chance



**Zhan Hao**

*AnJie*

“Hao is a responsive lawyer and takes time to learn your business structure” – *In-house Testimonial*

*Dr. Zhan Hao has focused on legal practice for more than 20 years with rich case experiences. He has gained great reputation in both fields of insurance law and competition law and was awarded as both The Band 1 Insurance Lawyer and The Band 1 Anti-trust Lawyer in China by Chambers & Partners. He is willing and also fully prepared to continue to provide more professional legal service to clients based on insightful understanding of both law and business.*

Katherine Wang, Ropes and Gray

### Hong Kong

Baldwin Cheng, White & Case

Alvin Ho, Pinsent Masons

Dominic Wai, ONC Lawyers

Donovan Ferguson, King & Wood Mallesons

Lokekhoon Tan, Baker McKenzie

Lorna Chen, Shearman & Sterling

Martin Rogers, Davis Polk & Wardwell

### India

Ajay Raghvan, Trilegal (left)

Darius Khambata, One Essex Court

Dhaval Vussonji, Dhaval Vussonji & Associates

Anupam Verma, J. Sagar Associates

Trinath Tadakmalla, Phoenix Legal

Shivanshu Thaplyal, Khaitan & Co

### Indonesia

Daniel Pardede, Hadiputranto, Hadinoto & Partners (Baker McKenzie)

Dwi Anita Daruherdani, Rahayu & Partners (HFW)

M. Idwan Ganie, Lubis Ganie Surowidjojo

Marisa Iskandar, Law Offices Amir Syamsudin and Partners

Andi Yusuf Kadir, Hadiputranto, Hadinoto & Partners (Baker McKenzie)

### Japan

Eric Roose, Withers

Nick Wall, Allen & Overy



**Tetsuya Oi**

*TMI Associates*

“Tetsuya stands out in Japan with strong expertise in tech laws” – *In-house Testimonial*

*I have been involved in technical cyber attack investigation cases and subsequent system development litigation between vendors and users, with a focus on cases involving both cybersecurity cases and Privacy Act compliant cases over the last year. We have established a new consulting firm, TMI Privacy & Security Consulting Co., Ltd in Big Data analytics, digital forensics and cyber attack investigative analytics as a subsidiary of our law firm in order to expand not only legal sector but also into the technology sector.*

Jeremy White, Baker McKenzie

### Malaysia

Valerie Ngooi Ming Hui, Christopher & Lee Ong

Deepak Sadasivan, Adnan Sundra & Low

Jalalullail Othman, Shooklin & Bok

Lam Wai Loon, Harold & Lam Partnership

Rodney Gomez, Shearn Delamore

Tunku Alizan R.M.Alias, Zul Rafique

**Oman**

Jeffrey Greene, Al Alawi & Co

**Philippines**

Francis Ed. Lim, ACCRA Law

Ricardo Ma. P.G. Ongkiko, SyCip Salazar Hernandez & Gatmaitan

Arnell Uychocho, Law Offices of Attorney Arnell Uychocho



**Maria Concepcion Simundac**  
V&A Law

“Maria not only has the legal knowledge and expertise, but does her work with integrity, and professionalism” – *In-house Testimonial*  
*Overwhelming gratitude to the In-House Community and all the in-house counsels who have voted for me for this recognition. I could not have accomplished this achievement without the invaluable support of my Firm, Villaraza & Angangco, and my team – who deserve to share in this award. I will continue to give the same dedication and excellence and go the extra-mile in all my work. I look forward to working hand-in-hand with clients as they flourish and grow in their respective fields for more years to come.*

Franchette Acosta, V&A Law

Monalisa Dimalanta, PJS Law

**Singapore**

Alistair Henderson, Herbert Smith Freehills

Ameera Ashraf, WongPartnership

Celeste Ang, Baker McKenzie

Muralidharan Pillai, Rajah & Tann



**External Counsel of the Year**  
**Richard Nelson**  
King & Spalding

“Richard Nelson is the best energy lawyer in Singapore. He is able to efficiently resolve all types of complicated legal and commercial issues on an energy project” – *In-house Testimonial*

Timothy Cooke, Stephenson Harwood

**South Africa**

Aslam Moosafee, ENS Africa

Christo Els, Webber Wentzel

Fritz Malan, ENS Africa

Jean Meijer, Herbert Smith Freehills

**South Korea**

Andrew White, Kim & Chang

Anthony Chang, Bae Kim & Lee

Tong-Chan Shin, Yulchon

Soongki Yi, Yoon & Yang

Young Kyun Yun, Yoon & Yang

**Thailand**



**Dhiraphol Suwanprateep**  
Baker McKenzie

“Khun Dhiraphol’s vast experience is apparent in how business focused he is” – *In-house Testimonial*

*I am extremely honored and grateful to receive the Commended External Counsel award this year. This award not only reflects the high quality and world class legal services our Baker McKenzie team provides, but also recognizes the high level of client satisfaction we strive for. Our firm and I look forward to continuing to serve our clients in the future, especially during this difficult time period we all face.*



**Kudun Sukhumananda**  
Kudun and Partners

“Khun Kudun is both legal and business solution oriented” – *In-house Testimonial*

*I am honored to be recognized as the “In-house Community Commended External Counsel of the Year 2020” alongside some of the most senior and well-respected lawyers in the market. I’m also incredibly proud of what our firm has achieved in the space of just five short years. Our core philosophy - “Business advisors with great legal minds” - combined with our commitment to a more client-focused way of practicing, continues to break barriers, enabling us to consistently meet and exceed our clients’ expectations and commercial objectives.*



**Nam-Ake Lekfuangfu**

**Baker McKenzie**

“Nam-Ake is a very knowledgeable lawyer and is pragmatic in his approach” – *In-house Testimonial*

*I am sincerely honored to be recognized and to know that our assistance to clients over the years has successfully demonstrated the breadth and depth of our Bangkok Employment practice, which is very capable of providing a full range of advice from general advice to complex employment aspects of M&As, massive workforce restructuring and emerging HR trends like modern workforce and work equality. I look forward to continue to help our clients navigate through these issues.*

**UAE**



**Christopher Gunson**

**Amereller**

“Chris is among the best private practice lawyers in the Middle East. He provides top quality advice on numerous subject areas and is highly trusted as a skilled adviser for resolving difficult commercial and legal issues” – *In-house Testimonial*

*I am very happy to receive this recognition for the fifth year in the row. I am honored to be recognized for client service. I will continue to dedicate my career to demystifying the Middle East for multinational companies.*



**Dina Mahdi**

**Hadef & Partners**

“Dina very quickly understands a situation and finds the answer, or any other way she can help” – *In-house Testimonial*

*I am honored and humbled to receive this recognition. I thank the In House Community for the award and IHC members for the nomination. I have been very fortunate with my career in the UAE and with Hadef & Partners. Being a member of this profession and serving our clients is a great privilege, which would not be possible without endless support from my colleagues, to whom I am immensely thankful. Thank you to our clients for your confidence in us. We shall continue to strive to meet and exceed your expectations.*

Fraser Dawson, Gibson Dunn

**Jasmin Fitch, Fichte & Co**



**Jonathan Noble**

**Amereller**

“Jonathan is not only knowledgeable, but he has excellent business acumen and provides solutions rather than answers. As an in-house lawyer this is a valuable asset for me” – *In-house Testimonial*

*I am grateful to be acknowledged by clients for a single minded focus on delivering actionable, business-oriented legal solutions. My attention will remain on helping clients succeed in an increasingly volatile legal and economic environment.*



**Nicholas Sharratt**

**Stephenson Harwood**

“Nicholas is outstanding in his client service and project management skills” – *In-house Testimonial*

*I am grateful for this award and to the clients who provided feedback. I continually aim to provide a premium service, which is commercially focussed and aligned to our client’s needs through leading colleagues to be seen, and trusted, as an extension of their in-house team. The current landscape is set to see many challenges ahead, but we will continue to work with our clients to position their businesses to be as robust and adaptable as possible during these testing times.*

**Vietnam**



**Bui Ngoc Hong**

**LNT & Partners**

“Bui Ngoc Hong stands out among lawyers in Vietnam” – *In-house Testimonial*

*This is the fourth time in a range I have been awarded Commended External Counsel of the Year. For my team and me, the past year is most memorable when assisting our clients in a landmark M&A transaction, and a sophisticated corporate investigation. Accepting this award, I am very happy and grateful for your kind recognitions. I will never take your trust for granted. I urge myself to keep learning to be more efficient and win your continued trust. Hope we can meet, in person, at next year’s ceremony.*



**Nguyen Ha Quyen Hoang**

LNT & Partners

“Ms. Hoang is a lawyer who listens, with outstanding business knowledge” – *In-house Testimonial*

*It was an incredible year for me and my colleagues at LNT & Partners. We are privileged to have had the opportunities to be the advisors behind some of the most significant transactions in Vietnam in 2019. Our client's interests are at the forefront of everything we do, so being voted Commended External Counsel of the Year by members of In-house Community is a massive honour for me as well as LNT & Partners.*



**Nguyen Huu Minh Nhut**

Russin & Vecchi

“Mr. Nhut is one of the most outstanding lawyers in Vietnam” – *In-house Testimonial*

*“It is my great honor to receive the award. Many thanks to Asian-mena Counsel/In-house Community for organizing the survey. Special*

*thanks to all clients and colleagues who have voted for me. This shows your appreciation and recognition of my and our firm's work for which I am most grateful. For us external lawyers, clients' support is valuable, enabling us to serve better. I'm truly gratified for all support from our clients, and hope to have your continued support.*



**Vo Ha Duyen**

VILAF

“Duyen truly stands out as one of the top lawyer's in Vietnam” – *In-house Testimonial*

*I am honored to be recognized for the award. I feel blessed about having had the opportunities to accompany our clients in their business journeys with all the joys, challenges and legal issues and to contribute to the development of younger legal talents. Spending time with clients and with our lawyers has been truly an inspiration to me and I am grateful for it.*

Vinh An, Lawyer VN

## Our panel of independent judges



- Andrew Cooke, General Counsel, Fnatic
- Clinton Swan, Business Development, Marketing, Legal Tech Advisor and Start-up Coach
- Jessica Bartlett, Director of Financial Crime Legal - APAC, Barclays
- Kirsty Dougan, Managing Director of Vario Asia
- Michelle Gon, Senior Advisor, Yuanda Law Firm
- Paul Smith, Head of Professional Services, calls9
- Peter Connor, Founder & CEO of AlternativelyLegal
- Dr Zhang Xi, Vice President & General Counsel, iCarbonX Group



**In-House Community Judges:**

Patrick Dransfield, Director, In-House Community

Nick Ferguson, Managing Editor, Asian-mena Counsel

## The In-House Community's sincere thanks goes to:

Our Sponsors:



# Iain MacDonald



The Lloyd's Register general counsel for Asia, Middle East and Africa discusses the challenges of his role, the in-house role under Covid-19 and legal podcasts.

**Can you describe your professional background and your current role?**

I did my LLB in Law with French Language at the University of Glasgow, spending my Erasmus year in Strasbourg, France. I then did a Masters degree in European and International law at the College of Europe, Bruges before doing the Legal Practice Course at the Oxford Institute of Legal Practice. My training contract was with Norton Rose in London from 2004 to 2006, with seats in Brussels and Singapore, before I joined Clyde & Co in their corporate practice. I spent two and a half years there before going in-house and joining Lloyd's Register in March 2009 as part of the Europe, Middle East & Africa team based in London. I was transferred to Dubai in 2012 in order to set up a number of regional entities and provide a more localised source of legal advice there. This posting lasted five years during which I became area general manager for Middle East & Africa in 2014 and then subsequently general counsel for South Asia, Middle East & Africa in 2016. I then became general counsel for the whole of Asia, Middle East and Africa in 2017, moving to Singapore at the same time.

My current role involves being responsible for the provision of legal services throughout Asia, Middle East and Africa to our business streams of: marine and offshore, energy, business assurance and inspection, and data-digital. As well as commercial law we advise on labour issues; corporate activities; litigation; real estate; IPR; anti-bribery, corruption and compliance (including leading investigations); data protection; sanctions; as well as any other legal issues that arise. In parallel with this we are constantly striving to get

closer to the business by means of continuing customer journey exercises and business partner initiatives.

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

There are four of us in the Asia, Middle East and Africa team with two lawyers based in Singapore, one in Hong Kong and one in Shanghai. Although we are geographically spread out we have regular team and one-to-one meetings, including purely social calls. The other three lawyers report to me and I report to the group GC Michelle Davies, who is based in London. It's beneficial for everyone in the team to get as broad an experience in-house as possible and so – although we do tend to specialise in certain regions – I encourage my team to share work so that each lawyer can get experience in each region we cover. In addition, I try to ensure that each lawyer in the team gets experience in a diverse range of legal issues so that we all have as rounded a skillset as possible.

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

Geographically, we advise on jurisdictions from Morocco all the way to New Zealand with a variety of legal systems and practices. Culturally, some clients, due to their size and power, have little incentive to amend their terms, which can make it challenging to reach agreement while complying with our commercial requirements. From a commercial perspective, the growing importance of data-digital means that we are focusing on the application of this in our core areas such as shipping. As with all

in-house departments, retaining talent and ensuring that there is a career path for everyone is a key area of focus. At the moment Covid-19 is top of everyone's list of challenges, and advising the business on various aspects such as labour law, force majeure, government policies with respect to insolvency and signing issues is taking a lot of our time. However, all of these challenges make our jobs more interesting and varied, and enable us to demonstrate the value that we add to the business.

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

I think first and foremost is integrity. This is important in any organisation, however Lloyd's Register prides itself on providing an impartial voice that our customers can trust. Our values can be summarised as: 'We care, we share, we do the right thing', and therefore it's absolutely fundamental that our in-house lawyers and general counsels share that ethos and demonstrate integrity in terms of the decisions and actions we take.

Understanding the business is key to being a successful in-house adviser. We regularly sit in on business meetings across the streams so that we are up to date with their progress, financial results and forthcoming projects, and so that we can understand their worries and concerns. More specifically it's important to continually meet with and listen to the business so that we can identify areas where we can improve and where our advice can be more focused and tailored to their needs.

Lastly, I think it's important that general counsels are able to make decisions, and to learn from experience. The business looks to us for advice and not simply to list the possible options open to them. As lawyers sometimes our instinct can be to want every possible piece of information in front of us before forming a conclusion, however, given time constraints and workload this is not always possible and so it's important to be able to identify the key facts and to make a call based on them.

#### **Has the in-house legal function changed significantly during your career?**

I've been in-house for 11 years and during that time I think the major change I've seen is the legal function getting closer to the business in terms of becoming business partners rather than being a separate function advising on specific issues. Perhaps in the past the focus was more on protecting the business whereas now there is a greater focus on supporting and advising the business with a view to meeting their aims while at the same time ensuring that potential

risks and mitigations are understood and form a fundamental part of an overall conversation.

#### **What do you look for in external counsel?**

Responsiveness is key, an ability to meet deadlines and keep us in the loop about developments. Another factor is being pragmatic and taking a view, rather than simply quoting the black letter law. Clearly, being flexible on costs is also an important element. We have a list of lawyers who we have used in the past and intend to use going forward, however we are not tied to a panel structure and so often the individual relationships with external counsel means more than the firm they represent.

#### **What type of work do you outsource to external firms?**

We tend to only utilise external firms for larger corporate transactions, specialised local matters such as setting up new legal entities in particular countries, or localised litigation and employment matters. We really try to do as much as possible in-house and, where we do go external, we continue to oversee matters and remain accountable for key decisions. We also ensure that we share that advice within the team so that we all have the benefit of it going forward and can add it to our internal know-how.

#### **What advice can you give to young lawyers starting out in their careers today?**

I would advise cultivating a skill that will differentiate them from the other lawyers – something to make them stand out from the crowd: for me that was taking a language (French) with my degree. For working in-house my view is that it's good to keep your skillset as wide as possible so that you have a number of strings to your bow both in terms of jurisdictions and areas of law if possible. Keeping on top of broader commercial and legal issues is very important and something that I've found helpful is subscribing to a number of legal/industry podcasts – there are a lot about and some are really excellent.

#### **What are your interests outside of the legal profession?**

I have two young children and love spending as much time as possible with them, especially swimming and on our bikes. I love reading and am a big fan of Charles Dickens. I enjoy travelling and feel very fortunate to be based in Singapore, which is a great base to see other countries from. I try to go jogging in the evenings and enjoy playing the guitar and – more unusually – the bagpipes (although I'm not sure that enjoyment is shared by my family)!

# Indonesian government imposes VAT on imported digital goods and services

By Dewi Savitri Reni and Greita Anggraeni, SSEK



Dewi Savitri Reni

Indonesia's Minister of Finance ("MOF") recently issued a regulation on the imposition of value-added tax ("VAT") on intangible taxable goods and services, including digital goods and services, from foreign technology companies that are utilized in Indonesia.

These new rules on VAT are contained in MOF Regulation No. 48/PMK.03/2020 regarding Procedures for the Appointment of Collectors and for the Collection, Deposit and Reporting of VAT for the Use Inside the Customs Area of Intangible Taxable Goods and/or Taxable Services from Outside the Customs Area through Electronic System Trade Activities ("MOF Reg. 48/2020").

MOF Reg. 48/2020 is an implementing regulation for Government Regulation in Lieu of Law No. 1 of 2020 regarding State Financial Policy and Financial System Stability for the Management of the Coronavirus or COVID-19 Pandemic and/or in Facing Threats to the National Economy and/or Financial System Stability ("GR 1/2020"). That emergency regulation has since been adopted into law, as Law No. 2 of 2020.

## Tax Objects

Effective as of July 1, 2020, 10% VAT will be imposed on intangible taxable goods and/or services (hereinafter referred to as "goods and/or services")

from outside Indonesia that are utilized in Indonesia through electronic system trade activities (Perdagangan Melalui Sistem Elektronik or "PMSE"). That includes digital goods and/or services.

Pursuant to MOF Reg. 48/2020, VAT will be imposed for the utilization of intangible taxable goods as follows:

- a. Utilization or right to use copyrights for literature, art or scientific works, patents, designs or models, plans, formulas or confidential processes, trademarks, or other forms of intellectual property rights or industrial rights or other similar rights;
- b. Utilization or right to use industrial, commercial or scientific tools/equipment;
- c. Utilization of scientific, technical, industrial or commercial knowledge or information;
- d. Utilization of support for the utilization or right to use the rights referred to in item (a), utilization or right to use tools/equipment referred to in item (b), or the provision of knowledge or information referred to in item (c), in the form of:
  - i. Receiving or right to receive picture or voice recording or both, which are distributed to users through satellite, cable, optical fiber or technology of the like;
  - ii. Utilizing or right to utilize picture or voice

- recording or both, for television or radio broadcasting using satellite, cable, optical fiber or technology of the like; or
- iii. Utilizing or right to utilize all or part of the radio spectrum;
- e. Utilization or right to use motion picture films, films or videotapes for television broadcasting, or voice tapes for radio broadcasting; and
- f. The obtainment of all or part of the rights relating to the utilization or the granting of intellectual property rights or industrial rights or other rights as referred above.

The utilization of intangible taxable goods includes digital goods, which are defined by MOF Reg. 48/2020 as any intangible taxable goods in the form of electronic or digital information. This includes goods that were originally in electronic form but that have been converted, including but not limited to software, multimedia and/or electronic data. Digital services are defined as services provided through the internet or an electronic network, which are automatic in nature or have minimal human involvement, and may not be provided without information technology, including but not limited to software-based services.

### Collection and Payment

If the utilization of goods and/or services from outside Indonesia in the country is the result of a transaction between foreign traders or foreign service providers and the purchasers, the VAT will be directly collected, paid and reported by these foreign parties. The foreign traders or foreign service providers will be appointed by the Directorate General on Taxation (“DGT”) as the PMSE VAT Collector.

If transactions between the foreign traders or foreign service providers and the purchasers are made through foreign PMSE providers or domestic PMSE providers, the VAT may be collected, paid and reported by the foreign traders, foreign service providers, foreign PMSE providers or domestic PMSE providers appointed by the DGT as PMSE VAT Collectors.

To qualify as a PMSE VAT Collector a party must (a) have a transaction value with Indonesian purchasers that exceeds a certain threshold within 12 months; and/or (b) a traffic volume or number of persons who accessed the platform that exceeds a certain threshold within 12 months. These thresholds will be further regulated by the DGT.

VAT will be collected upon payment by the purchasers for the relevant goods and/or services.

PMSE VAT Collectors will prepare a document evidencing the VAT collection, which may be in the form of a commercial invoice, bill, order receipt or other documents of the like showing the payment has been made and VAT has been collected. This document shall be treated as equivalent to a tax invoice (*faktur pajak*).

The VAT shall then be paid to the DGT by the PMSE VAT Collectors electronically to the state’s cash account, in rupiah (using an exchange rate stipulated by the MOF at the time of payment), US dollar or other foreign currency stipulated by the DGT.

Administrative-wise, PMSE VAT Collectors will be provided an ID number that serves as their tax ID for the purpose of VAT payment to the DGT.

### Reporting

PMSE VAT Collectors must submit a quarterly report on the payment of collected VAT. The report shall be submitted electronically through an application or system to be provided by the DGT. The DGT may also ask PMSE VAT Collectors to submit a detailed report on VAT transactions for every period of one calendar year.

This VAT imposition particularly targets intangible taxable goods and/or services provided by foreign tech companies that lack a physical presence in Indonesia, from which the MOF has in the past struggled to collect VAT, despite their significant economic presence in Indonesia. The MOF is using the momentum created by the significant increase in the use of streaming apps and subscription services during the COVID-19 pandemic to realize the effort to tax these foreign tech companies.

As an inevitable impact on the imposition of this VAT, users of streaming apps and subscription services should expect an increase in subscription fees.



**Greita Anggraeni**

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# Data protection and Covid-19: beyond data privacy



Ronald Yu

*This is an excerpt from a speech given by Ronald Yu as part of the inaugural Empowering Transformation webinar series examining the impact of cross border data flows.*

The pandemic has exposed confusing inconsistencies in privacy laws, and once again highlighted the need to scrutinise AI, writes *Ronald Yu*.

**C**ovid-19 has brought about radical disruptions both to peoples' lives and routines as well as corporate behaviours and national policies.

It also prompted several technology companies and governments to respond. For example:

- On April 10, 2020, Apple and Google announced a partnership to develop APIs and operating system-level technology to assist in contact tracing
- A network of infectious disease epidemiologists launched the Covid-Mobility 19 Data Network in partnership with Facebook, Camber Systems and Cuebiq to provide aggregated data sets for epidemiologists to use
- Unacast launched a pro bono Covid-19 Toolkit for public health experts, policymakers, academics, community leaders and businesses
- Facebook announced an expansion of its Data for Good initiative to use aggregated data to provide Covid-19 related tools for policymakers
- Google announced it is providing mobility reports for Covid-19 efforts, to show movement trends over time by geography.

But there were also unpredictable developments.

## **New developments, new consequences**

Who would have thought that Apple and Google would join forces to use Bluetooth technology to help governments and health agencies reduce the spread of Covid-19 worldwide only to find themselves at loggerheads with France, once one of the staunchest advocates for personal data privacy, over security technicalities in operating systems and questions of how to store contact tracing data because France wanted Google and Apple to relax privacy rules for contact tracing purposes?

Covid-19 also sent compliance and HR departments scrambling to make sense of inconsistent national privacy laws for example discovering that:

- While you could ask employees about whether they have symptoms in Australia, Denmark, Germany or Spain, you can only do so with limitations in Poland or Italy, and you cannot do so in France
- In the Netherlands you cannot ask employees or gig economy or agency workers if they have symptoms nor can you ask about their



travel history, but you can ask visitors if they have symptoms and ask about their travel history

- While you can take the temperature of employees, gig economy or agency workers, and visitors in the UAE, you cannot do the same in Sweden or Finland. You can, however take the temperature of employees and gig economy or agency workers with limitations in Hungary, though Hungarian law bans you from taking the temperature of visitors
- You can ask about any symptoms in an employee's, gig worker's, agency worker's, or visitor's household in Hong Kong and Singapore, and you can do the same in China and Germany but with limitations, but would be barred from doing so in France. In the Netherlands, while you cannot ask an employee, gig worker or agency worker about symptoms in his/her family, you can ask a visitor such questions.

While most companies and people have examined the issue of population and individual reactions to Covid-19 from a data privacy standpoint, there are other very important developments that have almost been overlooked.

#### **Non-standard standard setting**

Shortly after the blow-up between France, Google and Apple (and Germany) regarding the storage of contract tracing data, the UK trialled its own contract tracing app that pooled the data collected into a single database operated by the National Health Service (NHS), arguing this would provide greater insight into the spread of Covid-19 and allow the NHS to decide which users are most at risk. However, as this app was incompatible with the contact tracing system developed by Google and Apple, the UK system did not work as advertised.

“Who would have thought that Apple and Google would join forces to use Bluetooth technology to help governments and health agencies reduce the spread of Covid-19 worldwide only to find themselves at loggerheads with France?”

While not only embarrassing, it also highlighted the ability of technicians and technocrats in California to affect policy initiatives in Europe.

Furthermore, this instance of de facto standard setting was accomplished without the typical lengthy industry-wide consultation that typically accompanies standards-setting exercises, but instead with the agreement of two major technology players. Though the ostensible purpose of this was for public health, the anti-trust implications as well as the ability of tech giants to effectively impact policy abroad and, by extension, the operation of companies using their platforms should not be ignored.

### Upsetting AI

Second, the Covid-19 crisis has caused major shifts in behaviour: e-commerce sales have risen in many places, more students are taking classes online, more meetings are now being conducted online, more people are using tele-medicine, more people are having their food and groceries delivered to their homes and more people are working from home. The permanence of these trends remains to be seen but while much has been made of the supply chain disruptions brought about by Covid-19, these changes have also begun affecting AI systems as machine-learning models trained on normal human behaviour have now discovered that 'normal' has changed. This has caused hiccups for the algorithms that run behind the scenes in inventory management, fraud detection, marketing and more.

Companies will now have to update their AI systems to incorporate the latest data so their AI systems remain competitive, that their operations are not compromised, yet at the same time continue their cybersecurity vigilance against bad actors who might try to inject bad data in an attempt to poison a company's datasets. Thus companies must constantly oversee their AI systems to make sure they do not misbehave.

### Continuous, constant oversight is needed

While the primary objective of such oversight is to ensure these systems are providing their expected design outcomes, avoiding liability is also important given the growing list of governments and companies that have faced or are facing public backlash, if not legal action in some cases resulting in damages in the millions of dollars and even legislative investigation for poorly implemented AI.

Governments have already begun laying the groundwork for more careful scrutiny of AI systems. For example, in December 2019 the Australian Human Rights Commission released its Human Rights and Technology Discussion Paper, produced as part of a broader project examining the human rights impacts of emerging technologies, algorithmic bias, artificial intelligence, big data and the fourth industrial revolution. In the paper, the Commission proposed a principle that AI should be accountable in how it is used, that the Australian Law Reform Commission conduct an inquiry into the accountability of AI-informed decision making and proposed new legislation to require that an individual be informed where AI is materially used in a decision that has a legal, or similarly significant, effect on the individual's rights. It also proposed mandating algorithmic explicability.

Should Australia's and other similar initiatives ultimately translate into new laws, this will mean yet another set of legal concerns for companies to worry about.

“While most companies and people have examined the issue of population and individual reactions to Covid-19 from a data privacy standpoint, there are other very important developments that have almost been overlooked”

### Navigating complexity, vigilance, swift intervention

Ultimately, companies and their counsel will have to navigate this increasingly complex labyrinth of laws and even technical standards keeping in mind not just the potential legal liabilities but also the potential impact on business competitiveness and operational integrity caused by events such as the Covid-19 crisis.

Covid-19 and the impact of the behavioural changes it has ushered in shows that the need to access data in a timely manner is more important than ever given our increasing dependence on AI systems. Yet the need for vigilance and swift intervention and oversight for unpredictable occurrences remains.

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

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 Contact: Mr. Warot Wanankawit  
 Website: [www.warotbusinessconsultant.com](http://www.warotbusinessconsultant.com)

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 Contacts: Nguyen Gia Huy Chuong  
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### Russin & Vecchi **AMC** 2017 2018 2019

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 Website: [www.vilaf.com.vn](http://www.vilaf.com.vn)

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## — LAW FIRMS — MIDDLE EAST

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### Trowers & Hamlins

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Contact: Christopher Gunson  
Website: www.amereller.com

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### Horizons & Co 2019

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### Trowers & Hamlins LLP 2015 2016

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Email: dubai@trowers.com  
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Email: abudhabi@trowers.com  
Contact: Jehan Selim - Office Manager  
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Contact: Mr. Terence Xu (許捷)  
Website: www.bjac.org.cn

### Maxwell Chambers Pte Ltd

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Email: info@maxwell-chambers.com  
Website: http://maxwell-chambers.com

### Shenzhen Court of International Arbitration (Shenzhen Arbitration commission)

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Website: www.scia.com.cn

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Contact: Titus Rahiri  
Website: www.korumlegal.com

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Contacts: Stephanie Szeto, Head of Peerpoint, Asia  
Website: https://www.peerpoint.com/

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Website: https://pinsentmasonsvario.com

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Email: switchell@thinkbrg.com; mhadi@thinkbrg.com  
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Mustafa Hadi (Managing Director, Hong Kong)  
Website: https://www.thinkbrg.com/

### Law In Order

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Website: www.lawinorder.com.sg

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Email: hongkong@lawinorder.com  
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Website: www.lawinorder.com.hk

### LegalComet Pte Ltd (LEGALCOMET)

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Website: www.legalcomet.com

### SDL

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Contacts: Christy Ma  
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