

# ASIAN LEGAL BUSINESS

ALB

APRIL 2020  
ASIA EDITION


the answer company™  
THOMSON REUTERS®



MCI (P) 041/02/2020  
ISSN 0219 - 6875  
KDN PPS 1867/10/2015(025605)

## ASIA'S BEST LAW FIRMS TO WORK FOR

# EMPLOYER OF CHOICE

A large, bold, black title 'EMPLOYER OF CHOICE' is centered on the page. In the foreground, a red 3D human figure stands with its back to the viewer, facing a crowd of smaller, white 3D human figures that recede into the background. The background is a light blue-grey gradient.

**Indonesia's e-court  
streamlines the  
disputes process**

**Remote working  
raises cybersecurity  
concerns**

**We showcase India's  
best small firms**

# ALB

# Indonesia In-House Legal Summit 2020

October 6 - Jakarta



Asian Legal Business is proud to present the 7<sup>th</sup> run of the **ALB Indonesia In-House Legal Summit**, which aims to provide with valuable insights into pertinent in-house legal issues, enforcement trends and significant regulatory developments. Join us and reach out to the region's top decision-makers, leading senior-level corporate counsel and private practice lawyers.

#### Summit Agenda at a Glance

- Understanding Indonesia's **New Regulation On Electronic (Network and Information) Systems**
- **Cross-Border M&A** – Key Drivers, Challenges and Opportunities
- **Fine-Tuning Your Dispute Tactics:** Strategies That Work
- **Contracting On The Internet:** An In-Depth Look on "Click Wrap" Contracts
- The Real Cost of **Corporate Compliance in Indonesia**
- Case Study: Responding to **Regulatory Investigation**
- Gift or Bribe? Drawing The Line Between **Legitimate And Corrupt Corporate Hospitality**
- **Stepping Up Your Game:** Guide For The Modern General Counsel

*\*Summit agenda is subject to change up until the event date*

#### Get In Touch With Us Today

Sponsorship Opportunities: **Amantha Chia**, [amantha.chia@tr.com](mailto:amantha.chia@tr.com), (+65) 6870 3917

Speaking & Program Enquiries: **Marianne Tocmo**, [Marianne.tocmo@tr.com](mailto:Marianne.tocmo@tr.com), (+632) 8789 5095

For more information, visit: <https://www.legalbusinessonline.com/ihs/idihs2020>

To register for the summit, visit: <https://gevme.com/idihs2020>

Presenting Sponsor



Associate Sponsor



Presented By

ASIAN LEGAL  
BUSINESS



# CONTENTS

# 36

India Firms  
to Watch

Asia Images Group/Shutterstock.com

## COVER STORY

22

### ALB Employer of Choice 2020

Last year was widely considered a tough year, with resources shrinking, job scopes expanding, an increasingly competitive marketplace to contend with and new regulations to navigate. But this year is proving to be even more difficult, as global pandemic spreads, disrupting life and work. At this time, a good employer is more critical than ever.  
*By Elizabeth Beattie*

## FEATURES

16

### Enter the e-court

Indonesia's e-court system was launched in 2018, as the justice system moved to tackle its notoriously sluggish court system and sought

to streamline the process. Lawyers assess the impact it is having.

#### Plus:

- *Prepared for dispute, before the dispute (A glance on necessary evidence in civil litigation in Indonesia)*
- *How e-court process is impacting trial proceedings in Indonesia*

20

### Mediation central

The Singapore Convention on Mediation, set to come into force in September this year, is being celebrated as a boon for Singapore's cache as a dispute resolution hub, as well as something that breaks new ground in the global mediation landscape.

#### Plus:

- *Paradigm shift in dispute resolution rules*

28

### Done deal

With Brexit now out of the way, Asian companies may have to review their investment and trade strategies to adapt.

30

### Security in a remote world

As the global coronavirus outbreak causes employees everywhere to start working remotely, the risk of cybersecurity breaches is heightened.

#### Plus:

- *FTI Cybersecurity profile*

34

### White-collar spike

Economic slowdowns almost inevitably bring a jump in white-collar crimes. With the coronavirus outbreak raging, companies need to be more vigilant.

#### Plus:

- *The reality of compliance*

36

### India Firms to Watch

This year's list of India Firms to Watch features a diverse group. What unites them is strong commitment to client service and a great deal of ambition.

#### Plus:

- *Lex Consult profile*

38

### Green ambitions

Southeast Asia's largest economy has prioritised new renewable energy legislation that could be a chance for the country to move away from coal with renewable energy resources.

#### Plus:

- *Renewable sources of energy in Indonesia: shaping the future of renewable energy*
- *The outbreak of COVID-19 is effecting deliveries of contractual liabilities; can the contractual parties*

*claim this as force majeure event?*

42

### Spreading the word

As Chinese law firms continue to expand in size and geographies, they have begun to realise the importance of marketing in attracting and retaining clients and recruiting talent.

## BRIEFS

3

### The Briefing

4

### Forum

6

### Explainer

7

### Deals

8

### Appointments

13

### Q&A

14

### League Tables



# FROM THE EDITOR

## A supportive employer is critical in a time like this.

Even before the emergence of COVID, which has the potential to slash legal work in the short term, it was tough to be a junior employee in a law firm. The twin forces of technology and heightened competition have ensured that many law firms, chasing short-term profits, are less inclined to invest in their associates. For the associates themselves, thus, getting a start at a prestigious law firm is becoming difficult, but once they're in, difficult hours, a lack of meaningful work and little to no development of skills ensures that they are looking at alternatives like in-house roles or flexible work – that

is, if they stay on in the legal profession at all. From a law firm's perspective, skimping on the development of younger lawyers is a myopic strategy. A law firm is different from a company in the sense that relationships matter that much more; if a partner exits, retires or is for some other reason unable to continue practice, the relationship with the client in many cases dies out. It is just as important to build both bench strength and prepare for succession, and developing a core of strong, committed, accomplished associates will help you do that. And this is where the key question comes in – how can you ensure that people stay? Well, the answer starts at the top. Law firm leaders need to first recognise the importance of engagement. Enthusiasm skyrockets when they create a positive environment, promote

helpfulness, value their staff and provide the resources necessary for success. But more importantly, create a culture that fosters empowerment and accountability which motivates people to find their own solutions and make a difference. This gives your lawyers a greater sense of ownership – one of the greatest professional motivators. These will ensure they stay happy and committed to your firm for many years to come.



**RANAJIT DAM**  
Managing Editor,  
Asian Legal Business  
Thomson Reuters

Asian Legal Business is available by subscription. Please visit [www.legalbusinessonline.com](http://www.legalbusinessonline.com) for details. Asian Legal Business has an audited average circulation of 11,402 as of 30 September 2016. Copyright is reserved throughout. No part of this publication can be reproduced in whole or part without the express permission of the editor. Contributions are invited, but copies of work should be kept, as Asian Legal Business can accept no responsibility for loss.

MCI (P) 041/02/2020  
ISSN 0219 – 6875  
KDN PPS 1867/10/2015(025605)

Thomson Reuters  
18 Science Park Drive Singapore 118229 / T (65) 6775 5088 / F (65) 6333 0900  
10/F, Cityplaza 3, Taikoo Shing, Hong Kong / T (852) 3762 3269  
[www.thomsonreuters.com](http://www.thomsonreuters.com)

## ASIAN LEGAL BUSINESS

HEAD OF LEGAL MEDIA BUSINESS,  
ASIA & EMERGING MARKETS

**Amantha Chia**  
[amantha.chia@thomsonreuters.com](mailto:amantha.chia@thomsonreuters.com)

MANAGING EDITOR

**Ranajit Dam**  
[ranajit.dam@thomsonreuters.com](mailto:ranajit.dam@thomsonreuters.com)

JOURNALIST

**Elizabeth Beattie**  
[elizabeth.beattie@thomsonreuters.com](mailto:elizabeth.beattie@thomsonreuters.com)

EDITORIAL ASSISTANT

**Aparna Sai**  
[aparna.sai@thomsonreuters.com](mailto:aparna.sai@thomsonreuters.com)

COPY & WEB EDITOR

**Rowena Muniz**  
[rowena.muniz@thomsonreuters.com](mailto:rowena.muniz@thomsonreuters.com)

SENIOR DESIGNER

**John Agra**  
[john.agra@thomsonreuters.com](mailto:john.agra@thomsonreuters.com)

TRAFFIC/CIRCULATION MANAGER

**Rozidah Jambari**  
[rozidah.jambari@thomsonreuters.com](mailto:rozidah.jambari@thomsonreuters.com)

SALES MANAGERS

**Amy Sim**  
*Sales Director, SE Asia, India and Japan*  
(65) 6870 3348  
[amy.sim@thomsonreuters.com](mailto:amy.sim@thomsonreuters.com)

**Felix Cheng**  
*Sales Manager*  
(852) 2843 6943  
[felix.cheng@thomsonreuters.com](mailto:felix.cheng@thomsonreuters.com)

**Krupa Dalal**  
*Sales Manager*  
(91) 22 6189 7087  
[krupa.dalal@thomsonreuters.com](mailto:krupa.dalal@thomsonreuters.com)

**Jeremy Lim**  
*Sales Executive*  
(65) 6870 3789  
[jeremy.lim@thomsonreuters.com](mailto:jeremy.lim@thomsonreuters.com)

**Steven Zhao**  
*Account Manager*  
(86) 10 6627 1360  
[s.zhao@thomsonreuters.com](mailto:s.zhao@thomsonreuters.com)

**Yvonne Cheung**  
*Sales Director, Key Accounts and South China*  
(852) 2847 2003  
[yvonne.cheung@thomsonreuters.com](mailto:yvonne.cheung@thomsonreuters.com)

SENIOR EVENTS MANAGER

**Julian Chiew**  
[julian.chiew@thomsonreuters.com](mailto:julian.chiew@thomsonreuters.com)

AWARDS MANAGER

**Caryl Aquino**  
[mary.aquino@thomsonreuters.com](mailto:mary.aquino@thomsonreuters.com)

the answer company™  
**THOMSON REUTERS**

APR

## BRIEFS

2020

THE BRIEFING: YOUR MONTHLY NEED-TO-KNOW

30

PERCENT

Salary cuts for counsel and non-equity partners at U.S. law firm Arent Fox, according to website Above The Law. Associates and staff are having their salaries slashed by 25 percent, while equity partner distributions are being reduced by 60 percent.

COVID HAMMERS M&A  
ACTIVITY WORLDWIDE

Global mergers and acquisitions activity plunged 28 percent in the first quarter to its lowest level since 2016, according to data from Refinitiv. Deal activity in the United States dropped by half to \$252 billion in the first three months from a year ago, driving global volumes down to \$698 billion from \$964 billion in the first quarter of 2019. Asia volumes dropped 17 percent year-on-year to \$142.9 billion. However, Europe saw its deal volume more than double to \$232 billion thanks to a handful of mega-deals clinched just weeks before the virus started battering the continent's economies.

SG JUDICIARY TURNS  
TO VIDEO TO ENSURE  
SAFE DISTANCING

As part of its measures to tackle the COVID-19 outbreak, Singapore's judiciary will be enabling certain court hearings to be heard via teleconference or video conference. Pilots have been run for selected hearings in the Court of Appeal and High Court to be heard via videoconference, and more of such hearings will be increased to include trials in the High Court. These measures are on top of existing steps that were recently imposed, such as limiting the number of lawyers per litigant, and marking out seats in both the State and Supreme Courts for safe distancing.

## QUOTE UNQUOTE

"A SHOCKING DIVIDE IS EVIDENT: WEALTHY PARTNERS ARE WORKING FROM HOME, WHILE THE LOWEST-PAID, MOST PRECARIOUS STAFF ARE BEING FORCED TO COME INTO THE OFFICE. THIS IS AN OUTRAGE."

UK union Legal Sector Workers United says COVID-19 is leading to "abuse" of the industry's workers.

\$4.15  
BILLION

Global revenues of Kirkland & Ellis in 2019, making it the first law firm to pass the \$4 billion mark. Profit per equity partner was up 3 percent to \$5.2 million.

## IN THE NEWS

1

A technology tool that enables mark-ups of text for drafting has been launched by Clifford Chance with the aim of reducing time and increasing efficiency.

The CompareNow tool was launched by the Magic Circle firm's legal tech innovation lab Create+65, in collaboration with Singapore-based startup Alpha LegalTech.

2

Jones Day has again been crowned the top law firm brand in the U.S. for the fourth consecutive year by Thomson Reuters' Acritas.

The index is based on data compiled from SharpLegal 2019, a comprehensive study of the global legal market across 55 countries.

# PANDEMIC PREP

It is becoming apparent by now that COVID-19 is a once-in-a-century event, and as it sweeps across the globe, businesses – including law firms – have been caught unawares. While firms have responded by maintaining work-from-home arrangements and adjusting their protocols to minimise risks, it has also highlighted to them the need to put in place plans for similar seismic events.

**What lessons has the coronavirus outbreak taught your firm about having an infectious disease/pandemic management plan in place going forward?**



JEYARETNAM

**Philip Jeyaretnam SC, global vice-chair and ASEAN CEO, Dentons Rodyk**

Our global and regional leadership teams continue to closely consult with public health and government authorities, and to follow the required action steps and best practices as directed by these officials. As the only global law firm operating in most of the countries where there is a significant outbreak of COVID-19, our priorities are to protect the health of our 19,000+ colleagues and their families and to support our clients around the world to manage the impacts of the virus. The global CEO of Dentons is chairing a global pandemic preparedness task force to ensure we can be nimble and consider the most up-to-date information from public health agencies and government authorities, share best practices with our people around the world, and take the necessary actions to support clients as they navigate business challenges created by COVID-19. As we continue to serve clients during the COVID-19 pandemic, we have shifted operations in a limited number of more than 180 offices worldwide to a remote working status ensuring business continuity; our people in those offices are working seamlessly, and all other locations are operating as normal and following best practices.



CHO

**David Cho, Asia co-managing partner, Dechert**

This unprecedented situation is a learning experience for all. Whilst the management of a situation involving an infectious disease wasn't prepared, Dechert has conducted business continuity tabletop exercises for some years now to deal with major emergencies and disruptive incidents, as well as to mitigate risks involving Dechert's business, offices and its personnel. Tabletop exercises give people confidence to deal with crises and enhance response capability. Having a plan is essential but ideally, the plan needs to be tested ahead of time to ensure its effectiveness. We regularly test our plans to make sure they are fit for intended purposes. Dechert has adapted its existing business continuity plan to respond to this complicated situation. One can never know what lies around the corner but being prepared puts us in a much stronger position to deal with unknown contingencies. For example, preparedness exercises allowed us to react quickly to client situations amid the coronavirus outbreak. Dechert was also one of the first international law firms to implement a work-from-home arrangement, to aid in regional containment.

**Maria Woehr, senior public relations manager, Hogan Lovells**

We have had to adapt our business to be able to keep advising our clients, operate our firm, and keep our people safe. That started with travel bans, then reducing meetings, and now almost all our people globally are working from home. We've dealt with issues such as hurricanes, storms and floods before so have solid experience and plans for remote working and collaboration already in place. To respond to COVID-19, we've had to activate those plans on a global basis. As events unfold in different countries/regions we continue to learn from our experiences in each of those markets. Communication is critical. We have tried to keep up a steady flow of information to our clients and people to explain how our response is evolving. The strength of culture at an organisation is critical at a time like this. To tackle this significant challenge, organisations need to bring their people and clients together in a constructive, collaborative, and innovative way. We are problem solvers and we are applying those skills to our own business as much as to the needs of our clients. 



WOEHR



People wearing protective face masks due to the outbreak of coronavirus disease (COVID-19) walk in front of the Giant Olympic rings at the waterfront area at Odaiba Marine Park in Tokyo, Japan, March 25, 2020, after the announcement of the Games postponement to 2021. REUTERS/Issei Kato

## A POSTPONED OLYMPICS AND A STOCK MARKET CRASH: COVID-19 HITS JAPAN

■ The 2020 Japan Olympics were set to be a perfect opportunity for Japan, a country renowned for its hospitality, to excel. With a tourism boom expected, and surging global interest, expectations were soaring. Fast forward a bit, and a global pandemic that is struggling to be contained has forced priorities to be sharply readjusted. Now, with the Olympics postponed, other events cancelled, and the entire Asia region grappling with economic uncertainty, lawyers are carefully assessing the way the Japan market is headed.

Manfred Otto, who heads legal and compliance at BMW Group Japan, tells *ALB* that the impacts of the coronavirus outbreak has been “by far” the most important development in Japan. “Schools were closed, border controls ramped up, and the stock market crashed by 30 percent. The Tokyo 2020 Olympic and Paralympic Games have been postponed, and COVID-19 affects many other events and industries. The Bank of Japan announced further monetary easing and the Government promised fiscal stimulus,” he says.

The impact on legal work has however been mixed. “On the antitrust

front, cartel cases have somewhat subdued, and investigations on the abuse of superior bargaining position appear to be on the rise. In addition, data privacy and information protection-related compliance work continues to grow. The revised Civil Code with changes to contract law principles as well as labour laws under ‘equal work, equal pay’ principles for temp staff become effective in April. With the economy slowing down, many investors might consider postponing major investments. So, this could affect M&A and other investment activities, such as real estate deals,” Otto predicts.

Mitsuhiro Kamiya, Skadden’s Tokyo office leader, agrees that the outbreak is having a significant market impact — particularly on the M&A process and across “every element of the acquisition agreement.”

“As we have said in our various alerts on this topic, every page of an agreement has to be analysed using a ‘COVID-19 lens.’ Also, with share prices declining quite dramatically over the last few weeks, companies may become vulnerable to shareholder activists, and those with activists already among

their stockholders should be alert. This increased vulnerability would suggest that boards should be prepared and educated about the possibility of shareholder activism,” he says.

Among the measures that Kamiya says may be on the table include a review of fiduciary duties “in the activism context, a simulation exercise on how to respond to an activist and placing a shareholder rights plan on the ‘shelf.’”

Kamiya adds that “under current Japanese company law, shareholders meetings must be held in person within three months of the fiscal year-end, but given the current circumstances, the Ministry of Justice has issued guidelines for companies which are unable to do so in time. In any case, this situation will likely escalate companies’ efforts to use ‘hybrid’ shareholders meetings that will allow some shareholders to virtually attend or participate in the physical meeting, following the guidelines issued by the Ministry of Economy, Trade and Industry.”

Of course, the postponement and cancellation of events are also likely to continue in the coming weeks, says Otto, with this possibly to cause something of an influx of legal work. “Since the Tokyo Olympics have been postponed and many other events cancelled or scaled back, force majeure and termination rights, as well as scope of work provisions under a host of contracts, will have to be scrutinised. While restructuring deals and negotiating contract amendments, we need to keep an eye out for unique Japanese law-based competition and subcontractor protection issues,” Otto says. Another likely area of legal work is insolvencies of event planning, tourism and other travel-related businesses.

“Your own company or client might not go bankrupt, but business partners could be affected. So, change of control provisions, securitisation, and the timing to claim your rights as a creditor or to invest will become more relevant considerations,” Otto notes, adding that queries regarding employment termination and other labour-related topics “as well as data privacy of sensitive health information” may grow more frequent in coming days. ALB



## EXPLAINER

# SOUTH KOREA ROLLS OUT CRYPTO REGULATORY FRAMEWORK

In March, the South Korean National Assembly passed new legislation that will provide a regulatory framework for cryptocurrency, encompassing transactions and exchanges. The unanimous passing of this eagerly awaited development has arrived at a time when the coronavirus outbreak looms large around the globe, dominating headlines. Yet, for lawyers and businesses in the market, the news is significant. "For South Korea, this is a landmark moment," Michael Kim, a co-founder of Kobre & Kim, tells *Asian Legal Business*.

"Unlike the United States, where the general thrust of the law is 'everything that is not specifically prohibited is allowed,' the general thrust of the law in South Korea, particularly in relation to financial regulation, is 'everything that is not specifically allowed is prohibited,'" he elaborates. Additionally, by passing this comprehensive legislation, "South Korea is announcing that digital currency will be a legitimate part of the financial system—which hopefully will lead to a more stable yet innovative trading environment," Kim says.

He specifies that "by imposing a fairly strong know your customer/

anti-money laundering (KYC/AML) requirement, the new law attempts to curb the potential downsides of digital currency, such as funding illicit activities." On the flip side, while South Korea has already been gravitating towards such measures before the law was formally passed by "indirectly pressuring the banks that did business with major digital currency exchanges to impose stringent KYC/AML requirements," says Kim, noting this requirement proved "fairly effective," with South Korean authorities recently apprehending a child pornography ring called Welcome to Video by tracing transactions through a digital currency exchange. But such measures can also hamper business. "On the other hand, however, the stringent KYC/AML requirement also can mean that all but three to four of the largest exchanges in South Korea will be put out of business," warns Kim.

## 1 FROM A REGULATORY PERSPECTIVE, WHAT MORE NEEDS TO BE DONE TO HELP SUPPORT SOUTH KOREA'S CRYPTOCURRENCY MARKET?

As with any type of legislation roll out targeting businesses, lawmakers must walk a fine line between stifling innovation and protecting those in the market against predatory or illegal operations. The simple answer is, until regulatory muscle comes into action, the true impacts remain to be seen.

"There is a balance to be struck between discouraging illicit or fraudulent transactions and encouraging market activity and innovation. Although we now have the overarching framework of the law, we do not yet know exactly how South Korean regulators will strike that balance as they have only just begun the months-long process

of promulgating the rules under the new statutes," says Kim. "Once everything is put in place, only then will it be clear where the current regulatory gaps exist. In particular, whether the new compliance requirement will let mid-sized exchanges survive will be something to watch for," he adds.

## 2 WHAT KIND OF LEGAL WORK IS THIS LIKELY TO GENERATE FOR LAWYERS IN THE MARKET?

Clear legal guidelines will help stimulate new opportunities for domestic and cross-border lawyers who are working in digital currency, Kim says. "On one hand, domestic Korean transactional lawyers should see a boon in activity, as the compliance function for the digital currency trade shifted significantly from banks to exchanges. We may also see a flurry of subsequent M&A activity in the wake of these new regulations, as the mid-sized exchanges that cannot meet the compliance requirements will be acquired by the larger ones," he adds. Regulatory action can also be expected, says Kim, predicting that on the cross-border side, given the borderless aspect of digital currency, South Korean regulators will likely play a role clamping down on fraud and misconduct "with a nexus to the Korean market".

"As can be seen from the Welcome to Video child pornography ring case, a well-regulated digital currency market enables tracing illicit digital currency transactions. Lawyers around the world that practice asset recovery now have a new jurisdiction with clear guidelines set around digital currency to rely upon," he says.



### WHAT UNIQUE CHALLENGES DOES CRYPTOCURRENCY POSE FOR REGULATORS?

Cryptocurrency regulation also comes with specific challenges, requiring high levels of regulatory know how and, at times, access to additional expertise. Regulators may also encounter erratic jumps in value and challenges with classifica-

tion, compounded by a lack of geographical limits.

"The mostly 'borderless' nature of digital currencies can create ambiguity and complexity for regulators, forcing them to seek the assistance of other regulators in different countries that are also facing the same questions on how to regulate.

But the most significant challenges may linger in the

disconnect between various jurisdictions approach towards cryptocurrency. While some markets take a heavy handed regulatory approach or are simply closed off to cryptocurrency, others are actively encouraging growth. "Unless regulations follow from multiple countries, digital currency will continue to pose the same challenges it always has," says Kim. <sup>ALB</sup>

## DEALS

**\$10.6 BLN**

**Charoen Pokphand Group's acquisition of Tesco's businesses in Thailand, Malaysia**

**Deal Type:** M&A

**Firms:** Allen & Overy; Freshfields Bruckhaus Deringer; Linklaters  
**Jurisdictions:** Malaysia, Thailand, UK

**\$3.32 BLN**

**Financing of seven airports in Hokkaido**

**Deal Type:** Project

**Financing**  
**Firm:** Baker & McKenzie (Gaikokuho Joint Enterprise)  
**Jurisdiction:** Japan

**\$3 BLN**

**Copenhagen Infrastructure Partners financing of Changfang Xidao Offshore Wind Farm Project**

**Deal Type:** Project

**Financing**  
**Firms:** Baker McKenzie; Lee & Li; Linklaters; Watson Farley & Williams; White & Case  
**Jurisdictions:** Singapore, Taiwan

**\$2.6 MLN**

**Central Retail Corporation's IPO**

**Deal Type:** IPO

**Firms:** Allen & Overy; Shearman & Sterling; The Capital Law Office  
**Jurisdiction:** Thailand

**\$1.4 BLN**

**SBI Cards' IPO**

**Deal Type:** IPO

**Firms:** Allen & Overy; Cyril Amarchand Mangaldas; Herbert Smith Freehills; Latham & Watkins; Shardul Amarchand Mangaldas & Co.  
**Jurisdiction:** India

**\$926 MLN**

**Li & Fung's proposed privatisation by Golden Lincoln**

**Deal Type:** Privatisation

**Firms:** Conyers Dill & Pearman; Davis Polk & Wardwell; Kirkland & Ellis; Slaughter and May  
**Jurisdictions:** China, Hong Kong

**\$592 MLN**

**Max Financial's acquisition of Mitsui Sumitomo's stake in Max Life**

**Deal Type:** M&A

**Firms:** AZB & Partners; Cyril Amarchand Mangaldas  
**Jurisdictions:** India, Japan

**\$450 MLN**

**Qatar Holding's acquisition of stake in Adani Transmission**

**Deal Type:** M&A

**Firms:** AZB & Partners; Cyril Amarchand Mangaldas; Cleary Gottlieb Steen & Hamilton  
**Jurisdictions:** India, Qatar



## INDIA'S TRILEGAL JOINS JSA IN ELECTING NEW MPS

Rahul Matthan and Karan Singh, founding partners of Indian law firm Trilegal, will step down from their leadership roles at the end of March to make way for two elected managing partners, according to media reports.

This makes Trilegal the second known law firm in India to have elected managing partners after J. Sagar Associates (JSA), and is a sign of growing modernization in an industry where the larger firms tend to be effectively controlled by families.

From April 1, Trilegal will be led by managing partners Sridhar Gorthi and Nishant Parikh, who were elected by partners of the firm. Corporate partners in the firm's Mumbai office, both Gorthi and Parikh specialise in M&A and private equity.

After the transition, Matthan and Singh will become members of the firm's consultative board and will have supervisory roles. According to Mint, the new supervisory board will have seven members against the current four-member board. Two other people have been elected to be part of Trilegal's management committee.

Trilegal did not respond to ALB's request for comment.

Last year, JSA elected senior partner Amit Kapur and partner Vivek Chandy to become joint managing partners of the firm until March 2022. They are part of a five-member executive committee which also includes partners Amar Gupta and Upendra Sharma, and former joint managing partner Dina Wadia. <sup>ALB</sup>

## APPOINTMENTS



**TESS FANG**

**LEAVING**  
White & Case

**JOINING**  
Allen & Overy

**PRACTICE**  
Corporate

**LOCATION**  
Hong Kong



**MELODY HE-CHEN**

**LEAVING**  
DLA Piper

**JOINING**  
Ashurst

**PRACTICE**  
Corporate

**LOCATION**  
Hong Kong



**JAE-HYON AHN**

**LEAVING**  
Orrick, Herrington & Sutcliffe

**JOINING**  
Duane Morris Selvam

**PRACTICE**  
Energy & Infrastructure

**LOCATION**  
Seoul



**CHARLES MCCONNELL**

**LEAVING**  
Linklaters

**JOINING**  
White & Case

**PRACTICE**  
Banking

**LOCATION**  
Singapore



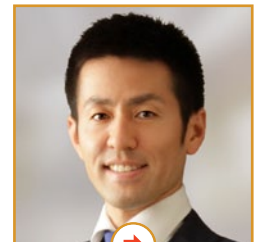
**SAMUEL NGO**

**LEAVING**  
K&L Gates

**JOINING**  
Jones Day

**PRACTICE**  
Disputes

**LOCATION**  
Hong Kong



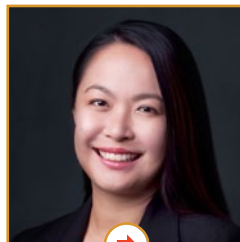
**MICHISHIRO NISHI**

**LEAVING**  
Skadden, Arps, Slate, Meagher & Flom

**JOINING**  
Clifford Chance

**PRACTICE**  
M&A

**LOCATION**  
Tokyo



**MAUREEN POH**

**LEAVING**  
Ince

**JOINING**  
Helmsman

**PRACTICE**  
Disputes

**LOCATION**  
Singapore



**JAKE ROBSON**

**LEAVING**  
Morrison & Foerster

**JOINING**  
King & Wood Mallesons

**PRACTICE**  
M&A

**LOCATION**  
Singapore



**JEREMY TAN**

**LEAVING**  
CMS Holborn Asia

**JOINING**  
Bird & Bird

**PRACTICE**  
TMT

**LOCATION**  
Singapore

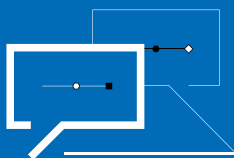
Sponsors of Hong Kong IPOs are becoming increasingly vigilant in their pre-listing due diligence in response to tougher regulatory standards. Enhanced due diligence (EDD) best practices require on-the-ground research and information from sources in jurisdictions around the globe.

Global coverage and research capability play a key role in providing best-in-class EDD reports. In addition to examination of the candidate including financial, tax, legal, commercial, IT, operational, environmental and human resource aspects, sponsors are increasingly requiring scrutiny of supply chains and the financial relationships between customers, suppliers, factories and individual business associates.

# LEADING BEST PRACTICES

With more than two decades of experience in emerging and frontier markets and a large global in-house EDD analyst team, Refinitiv sets the bar for industry best practices.

We gather intelligence from industry observers and insiders to create a complete picture of a company, its owners, operating and litigation history as well as key management and decision makers, providing insight on their backgrounds, track records, competencies, potential conflicts of interest and political and criminal links.



*"Refinitiv's EDD services gave us comfort because we knew that compared to the smaller providers of such reports, we were getting background from the most reliable source, with a presence in all the jurisdictions around the globe, and that saved us a lot of effort,"*

Mabel Lam, MD of SPDB International, a Refinitiv EDD client.

In today's increasingly stringent regulatory environment, Refinitiv EDD reports protect IPO sponsors from the risks associated with links to unfair labor practices, breaches of environmental ethics, bribery and corruption, money laundering or cybercrime.

To know more, please call (852) 3077 5499 or visit [refinitiv.com/edd](https://refinitiv.com/edd)

Refinitiv is one of the world's largest providers of financial markets data and infrastructure, serving over 40,000 institutions in over 190 countries. It provides leading data and insights, trading platforms, and open data and technology platforms that connect a thriving global financial markets community – driving performance in trading, investment, wealth management, regulatory compliance, market data management, enterprise risk and fighting financial crime.

**REFINITIV™**  
DATA IS JUST  
THE BEGINNING™ 



# IN MALAYSIA, A NEW GOVERNMENT BRINGS NEW UNCERTAINTIES

After much back and forth, Malaysia officially has a new prime minister and cabinet. Former Prime Minister Mahathir Mohamad's ousting set the tone for a controversial political period, and as the new prime minister and career politician, Muhyiddin Yassin, took charge last month, questions began swirling. What exactly does this mean for business in the country — are formerly promised reforms under threat or will things remain stable?

Leonard Yeoh, partner and Nurul Qarirah, associate at Tay & Partners say that continuing political instability within the new coalition is to be expected going forward. "In fact, such jostles for power could be seen barely after a week the new cabinet was appointed, with certain members of the newly formed coalition voicing their dissatisfaction with the distribution of ministerial positions that appears to favour MPs from one party more than others," Yeoh and Nurul say.

Among the challenges the new PM faces is having to satisfy "all component parties of the coalition and ensure that he commands enough support to lead the government".

"One example of such attempts by the PM was the appointment of a bloated cabinet, with some ministries now divided into two or three different ministries and having multiple deputy ministers, to ensure that as many parties as possible are given a slice of the cake," they say.

The new coalition is likely to be highly Malay-biased, say the lawyers, adding that "the political landscape is expected to be more divided, especially considering the lack of diversity in the new cabinet."



Malaysia's Prime Minister Muhyiddin Yassin waves to reporters before his cabinet announcement in Putrajaya, Malaysia March 9, 2020. REUTERS/Lim Huey Teng


One silver lining, however, is that much of new cabinet ministers are arriving as "seasoned politicians with years of experience in various portfolios, as compared to the Pakatan Harapan government where most were first-time ministers." Say Yeoh and Nurul: "Drawing on these experiences may help to bring some assurance and confidence in the public, which in turn would lead to greater political stability. It remains to be seen whether this will be the case."

But, of course, it isn't just local politics casting a shadow over businesses at present. The coronavirus outbreak has stymied the global economy, with Malaysia not immune either. "In addition to the political situation, Malaysia is also greatly impacted by the spread of COVID-19 in the country which had forced the country into a two-week Control Movement Order. The decline in oil prices to below \$30 per barrel is also a hard hit for Malaysia, especially considering that Budget 2020 was based on oil prices being above \$60 per barrel," Yeoh and Nurul add.

The 1MDB scandal remains a significant political hot-button topic for Malaysia and with the return of the United Malays National Organisation (UMNO) to power, all eyes will be on the new government.

"There has been a number of concerns that since UMNO is once again in power, charges against its leaders may be dropped or not properly tried. Najib Razak, Malaysia's former prime minister has reportedly stated that along with the new government he is expecting a more 'conducive environment' leading to a fair trial. The same sentiment is shared by UMNO's president Ahmad Zahid Hamidi, who is facing multiple charges; he expressed that the 'dark clouds have passed,'" Yeoh and Nurul tell ALB.

But it's not all cause for concern. The lawyers say there are some positive indicators on the horizon.

"One might also be optimistic and consider that Muhyiddin had made it a point to not appoint any MPs currently facing criminal charges as ministers. This may show Muhyiddin's commitment towards improving public confidence in the new government and to dissociate his cabinet from allegations of corruption and misconduct. The position of the Attorney General has also been filled by Tan Sri Dato' Sri Idrus Harun, a former Federal Court judge who is widely regarded as a man with integrity. It is reported that the new AG has given the green light for the prosecution team to proceed with the former Prime Minister's trial relating to the 1MDB case," Yeoh and Nurul say. 

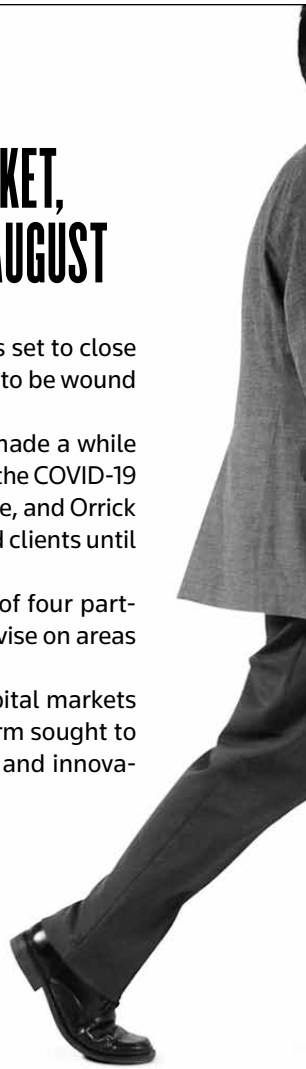
## ORRICK TO EXIT HONG KONG MARKET, WINDING DOWN OPERATIONS IN AUGUST

■ U.S. law firm Orrick, Herrington & Sutcliffe is set to close its office in Hong Kong, with operations scheduled to be wound down by August 31, 2020.

Orrick tells *ALB* that the decision had been made a while ago, but the announcement was delayed because of the COVID-19 outbreak. The firm's Hong Kong lease expires in June, and Orrick will secure temporary space to support its team and clients until the end of August.

The firm's Hong Kong team now comprises of four partners and seven other lawyers and trainees, who advise on areas including investment funds, M&A and disputes.

After losing the entirety of its Hong Kong capital markets practice in 2017 to Morgan Lewis & Bockius, the firm sought to rebuild in Hong Kong with a focus on technology and innovation, but did not see the growth it was looking for. "While our practices in Beijing, Shanghai and Taipei have thrived, we unfortunately have not been able to grow our team in Hong Kong in a way that aligns with our strategy globally and creates opportunities for cross-office collaboration," Orrick says. Additionally, its litigation and arbitration head in Hong Kong, Charles Allen, also left to join U.K. firm RPC last June. ALB



## MAYER BROWN HK TRIO TEST POSITIVE FOR COVID-19

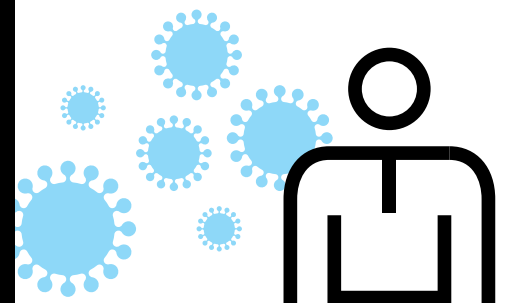
■ Three lawyers from Mayer Brown's Hong Kong office have tested positive for COVID-19, according to the firm. The lawyers recently returned from a business trip overseas, where they are thought to have contracted the virus.

"We confirm that all three of our Hong Kong-based colleagues (whose identity cannot be revealed for privacy reasons) who had recently returned to Hong Kong together from an overseas business trip have unfortunately all tested positive for COVID-19," the firm said in a statement.

There are reports, including from *The Standard*, that that group includes Hong Kong partner Menachem Hasofer. Hasofer is co-leader of Mayer Brown's international arbitration practice.

The lawyers have immediately gone into self-quarantine following the firm's policy and have not been to any of Mayer Brown's offices nor, as far as the firm was aware, have had any direct interaction with other members of the firm for around a month, the statement added. "We have allowed our lawyers and staff to work from home and have made essential shift arrangements during this period," the Mayer Brown statement further said.

A few weeks ago Alfred CY Chow, a partner at Hong Kong firm Kwan & Chow, reportedly became the first lawyer in the city to have tested positive for COVID-19. ALB



## DENTONS HELPS QUASH \$3 BLN ARBITRATION CLAIM AGAINST PNG

■ Dentons PNG, the Papua New Guinea firm of Dentons, has represented the country in obtaining from its Supreme Court a judgment quashing a \$3 billion arbitration claim brought by Independent Timbers and Stevedoring which was advised by Squire Patton Boggs, Manatt, Phelps & Philips and Leahy Lewin Lowing Sullivan.

The claim was brought by IT&S in 2015, and made against PNG's failure to act on a forestry and road project agreement in the country's Western Province.

The Dentons team, led by partners Erik Andersen and Stephen Massa, was instructed by the PNG attorney-general and state solicitor. It contested the arbitration and challenged the arbitral court's jurisdiction over the claim.

After a lengthy battle, PNG's Supreme Court ruled that a claim by arbitration is not authorised in this case, permanently staying the arbitration and awarding all costs to PNG.

According to Dentons, had the ruling not been in its client's favour, the result would have been worth a third of the country's annual budget. ALB



## CORONAVIRUS TO HIT U.S. LAW FIRM REVENUE, WITH LAYOFFS ON THE WAY

U.S. law firm revenue will take a hit and layoffs are likely on the horizon, as demand for certain legal work drops and clients take longer to pay bills as a result of the coronavirus pandemic, industry consultants said.

Before the crisis, law firms had expected a “low single digit” revenue increase for 2020, but now revenue is expected to be “absolutely flat” or “lower single digit down” for the year, said Mehrnaz Vahid, the head of Citi Private Bank’s law firm group, which provides financial advice and services to law firms, in an interview with Reuters.

Firms “all expect collections to slow down, period,” Vahid said.

The rapid spread of the coronavirus, which can cause the sometimes-fatal respiratory illness COVID-19, has forced courts, businesses and schools in the United States to shutter, with nearly one in three Americans now under orders to stay at home.

Corporate and litigation practice groups could be hit especially hard, as many mergers and acquisitions and other deal work gets put on hold, while litigators deal with court closures and trial delays nationwide, according to Vahid and Brad Hildebrandt of Hildebrandt Consulting.

Some corporate lawyers are being asked to work on restructuring or bankruptcy matters as those practice groups may see an unprecedented upswing in demand, as could employment lawyers, Vahid and Hildebrandt said.

But not everyone can be transitioned to new roles. Large firms are already considering layoffs, though they likely will not follow through with them until a few weeks later, when firms have a better sense of the financial impact of the pandemic, Vahid said.

Underperformers and those close to retirement age are the most likely to be impacted by layoffs, she said.

“There’s a lot of firms taking a hard look at these things,” Hildebrandt said in an interview.

To be sure, it’s not clear how long the pandemic will last or how severe the economic fallout will be. Both Hildebrandt and Vahid said it is possible that firms rebound later this year, especially as the industry started 2020 off strong.

Nonetheless, many large law firms are already asking for additional lines of credit, though there’s no uptick in credit use, yet, Vahid said.

“[Firms] just want to make sure that they have the lending available to them, if they need it,” she said. “If the collections don’t come in on time.”

## DREW & NAPIER LAUNCHES REGIONAL NETWORK WITH MALAYSIA’S SHEARN DELAMORE, INDONESIA’S MAKARIM & TAIRA S

Singapore Big Four law firm Drew & Napier has become the latest law firm in the city-state to establish a regional network after setting up Drew Network Asia (DNA), which also counts Malaysia’s Shearn Delamore & Co. and Indonesia’s Makarim & Taira S as members.

DNA is comprised of “blue chip firms with a high standing in their respective countries and in ASEAN.” According to Drew, the alliance will help the member firms offer a full suite of services to clients within the ASEAN region. “While remaining independent, depending on the clients’ needs, we will operate as a “firm of firms” so that our clients will be seamlessly serviced in multiple jurisdictions,” the firm said in a statement.

Among Drew’s fellow Big Four firms, Rajah & Tann is at the helm of a network that spans 10 countries – nine ASEAN nations and China. Meanwhile, WongPartnership set up a law network called WPG in 2017. Also, RHTLaw, which recently parted ways with Taylor Wessing, led the formation of the ASEAN Plus Group – a network of 11 law firms around the Asia-Pacific region – in 2014. And Aquinas Law Alliance was instrumental in setting up the ASEAN Legal Alliance (ALA).





## Q &amp; A

# 'THE ATTENTION TO PERSONAL RELATIONSHIPS CANNOT BE UNDERESTIMATED'

In June last year, **Helena Samaha** became Lex Mundi's new president, succeeding Carl Anduri. Given the business' impressive expansion under her predecessor, Samaha has her work cut out for her. But far from being daunted, the legal industry insider feels there is still room for growth.

**ALB:** What is your vision for the network? What new projects or plans are you excited to tackle?

**SAMAHA:** Lex Mundi is already very established globally as an unrivalled network bringing together top-tier firms from around the world. Our key projects that are underway revolve around the use of technology and having the right resources in place to enable Lex Mundi to operate as a central platform for member firms working together seamlessly on cross-border matters: Watch this space. The resources are far-reaching and include project management, agile working methods, qualified personnel, and technology, that will provide clients with the coordination and transparency they need when managing multi-country engagements. General counsel are often looking to avoid surprises, they also want efficiency, speed of response and value. It is increasingly important for law firms to be nimble, flexible, uncompromised in their quality of advice and to be great people to work with. Our human qualities and the attention to personal relationships cannot be underestimated in my opinion. We are all people, not robots.

**ALB:** The novel coronavirus outbreak has been uncharted territory for everyone. How are you navigating the current market challenges, while also ensuring the wellbeing of your members as well as the team at Lex Mundi during this difficult time?



HELENA SAMAHA


**SAMAHA:** Like many organisations and indeed our members too, we are adapting. In our case, we have a very rich program of events we hold all around the world to bring members together and increasingly, by popular demand, these are open to clients too. With travel being suddenly so restricted, we have had to decide very quickly which programs we can run virtually, and which ones are best postponed. The safety of our people and member firms come first. We are pooling our unrivalled resources to put together specific support during this crisis for clients with international businesses.

In terms of our team at Lex Mundi, we moved to remote working quite seamlessly. We already had a working-from-home policy in place, in addition to the fact that several of the team members work remotely from various parts of the world. So, we have been using video conferencing and online

tools for some time such as Zoom or Microsoft Teams.

**ALB:** Long term, what's on the horizon for Lex Mundi? What challenges and opportunities do you see ahead?

**SAMAHA:** The legal industry has been transforming for some time, and this will continue. It remains to be seen whether the consolidation of law firms and services in the long term will prove to be successful, especially as we appear to be entering a de-globalisation era now. Traditional, local, law firms are indeed under pressure from the Big Four (accountancy firms) entering the legal services space, as well as the alternative service providers and the global law firms. However, the issue is: once you leave aside the automation of low value work, where will the best talent choose to work? The in-house side of the profession is increasingly attractive as it can now provide a real career track with improved remuneration levels. If indeed the next generation of lawyers are mostly interested in having a clearer purpose in their work, more visibility, more responsibility, more influence on strategy, and more flexibility, then you can expect to see in-house legal teams grow.

Having said this, firms such as ours that are independent, nimble, truly local, and very prominent in their markets, all the while being part of a homogeneous global family, could be very attractive too - for talent and clients alike. 

## NORTH ASIA AND SOUTHEAST ASIA/SOUTH ASIA LEAGUE TABLES

## North Asia Announced M&amp;A Legal Rankings

## No. 1 - Mori Hamada &amp; Matsumoto

**9,039.6** Value (\$MLN)

Deals: **24** / Market Share: **6.2**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Anderson Mori & Tomotsune	6,876.7	14	4.7
3	Norton Rose Fulbright	6,614.1	5	4.5
4	Commerce & Finance Law Offices	6,579.7	1	4.5
5	Davis Polk & Wardwell	4,090.4	2	2.8
6	Nishimura & Asahi	4,009.7	36	2.7
7	Lee & Ko	3,803.0	20	2.6
8	Nagashima Ohno & Tsunematsu	3,617.7	27	2.5
9	Kim & Chang	3,165.9	26	2.2
10	Freshfields Bruckhaus Deringer	3,051.4	4	2.1

(\*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

## North Asia Announced M&amp;A Financial Rankings

## No. 1 - Nomura

**10,557.6** Value (\$MLN)

Deals: **22** / Market Share: **7.2**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Morgan Stanley	10,537.1	11	7.2
3	China International Capital Co	7,193.2	7	4.9
4	Minsheng Securities Co Ltd	6,689.5	3	4.6
5	HSBC Holdings PLC	6,638.3	3	4.5
6	Lianchu Securities Co Ltd	6,579.7	1	4.5
7	Anglo Chinese Corp Finance	6,158.1	1	4.2
8	Deloitte	5,787.3	13	3.9
9	Goldman Sachs & Co	5,250.0	4	3.6
10	CITIC	4,498.3	14	3.1

(\*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

## Southeast Asia / South Asia Announced M&amp;A Legal Rankings

## No. 1 - Freshfields Bruckhaus Deringer

**13,295.9** Value (\$MLN)

Deals: **4** / Market Share: **20.3**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Allen & Overy	11,113.1	4	17.0
3	Linklaters	10,600.0	2	16.2
4	Allen & Gledhill	8,205.3	3	12.5
5	WongPartnership LLP	8,056.5	5	12.3
6	Cyril Amarchand Mangaldas	6,371.8	29	9.7
7	Davis Polk & Wardwell	3,645.9	2	5.6
8	Shardul Amarchand Mangaldas & Co	3,469.6	7	5.3
9	S&R Associates	3,179.6	8	4.9
10	Slaughter and May	2,933.5	3	4.5

(\*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

## Southeast Asia / South Asia Announced M&amp;A Financial Rankings

## No. 1 - Goldman Sachs &amp; Co

**13,295.9** Value (\$MLN)

Deals: **3** / Market Share: **20.3**

Rank	Legal Advisor	Value (\$MLN)	Deals	Market Share
2	Barclays	10,739.3	3	16.4
3	Greenhill & Co, LLC	10,600.0	2	16.2
4	Deloitte	8,884.9	4	13.6
5	JP Morgan	8,788.9	5	13.4
6	Credit Suisse	8,035.7	2	12.3
7	Citi	4,280.8	6	6.5
8	Morgan Stanley	3,689.6	3	5.6
9	Platinum Securities Co Ltd	2,695.9	1	4.1
10	KPMG	1,545.8	4	2.4

(\*tie) Based on Rank Value including Net Debt of announced M&A deals (excluding withdrawn M&A)

## Any North Asia Involvement Announced M&amp;A Activity - Quarterly Trend



League tables, quarterly trend, and deal list are based on the nation of either the target, acquirer, target ultimate parent, or acquirer ultimate parent at the time of the transaction. Announced M&A transactions excludes withdrawn deals. Deals with undisclosed dollar values are rank eligible but with no corresponding Rank Value. Non-US dollar denominated transactions are converted to the US dollar equivalent at the time of announcement of terms. North Asia includes China, Hong Kong, Japan, South Korea, Taiwan. Data accurate as of 1 April 2020.

Asian Legal Business is the leading legal magazine in Asia and China. Each issue is packed with news, hard-hitting analysis and investigative journalism. Regional editors provide up-to-the-minute legal and regulatory updates, while a team of dedicated journalists provide in depth analysis of all the issues facing lawyers and in-house counsel throughout the region.

## TO SUBSCRIBE, PLEASE CONTACT

Karice Choo  
T: (65) 6870 3898  
E: karice.choo@thomsonreuters.com

Rozidah Jambari  
T: (65) 6870 3313  
E: rozidah.jambari@thomsonreuters.com



## Yes! I would like to start my subscription immediately.

- ☐ **ASIAN LEGAL BUSINESS** PRINT MAGAZINE AND E-MAGAZINE AT **USD416** PER ANNUM\*
- ☐ **ASIAN LEGAL BUSINESS CHINA** PRINT MAGAZINE AND E-MAGAZINE AT **USD416** PER ANNUM\*

*If you have questions regarding subscription package, please contact:*

**Karice Choo** at [karice.choo@thomsonreuters.com](mailto:karice.choo@thomsonreuters.com) / (65) 6870 3898 or **Rozidah Jambari** at [rozidah.jambari@thomsonreuters.com](mailto:rozidah.jambari@thomsonreuters.com) / (65) 6870 3313.

Mr / Mrs / Ms First Name

Surname

Job Title

Company

Industry

Address

Country

Tel

Fax

E-mail address

### PAYMENT METHOD

Credit Card: ☐ Visa ☐ MasterCard ☐ American Express ☐ JCB

Card No. Exp. Date (MM) / (YYYY)

Cardholder's Name

Signature

### ORDER CONFIRMED BY

Signature / Chop

Date (DD) / (MM) / (YYYY)

☐ I hereby confirm the information herein as provided by me is correct.  
I also confirm that I have read and accepted the Terms & Conditions herein

☐ Tick here if you do not wish to receive offers and marketing information from Thomson Reuters and its business partners

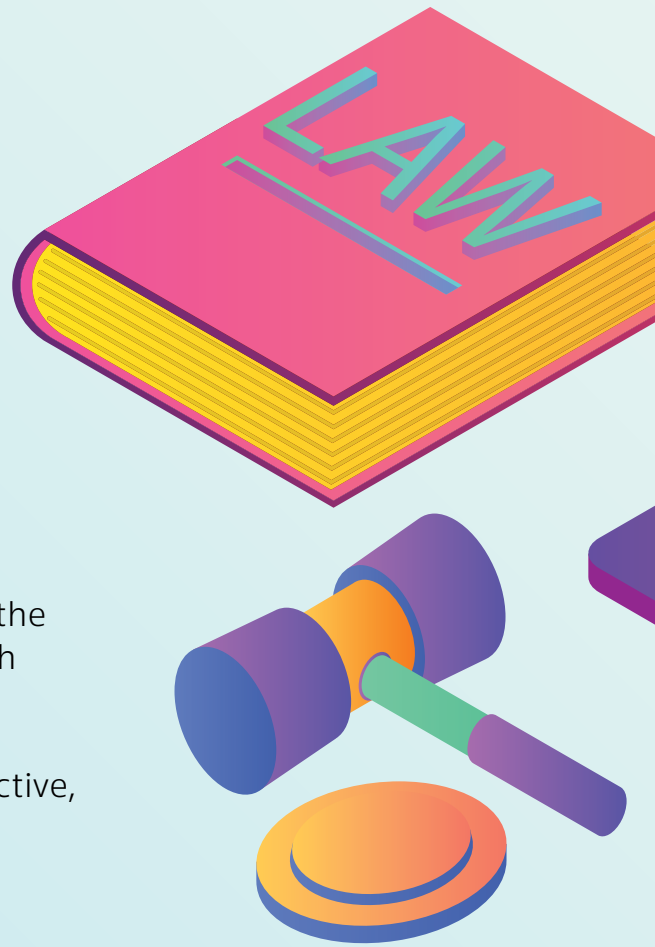
*Please fill in additional mailing address(es) on a separate sheet if needed.  
Complimentary ALB/CLB e-newsletter and event updates for all subscribers.*

### PRIVACY POLICY

Protecting your privacy is important to Thomson Reuters. By purchasing or using our products or services, accessing this website and/or registering or creating an ALB account, you consent to your personal information being collected, used and maintained as described in our Privacy Policy. Please find our Privacy Policy at [www.legalbusinessonline.com/privacy-policy](http://www.legalbusinessonline.com/privacy-policy). We encourage you to review this because by ensuring that you are aware of and understand our Privacy Policy, we will be able to provide you with the best service we can, whilst also protecting your privacy.



# ENTER THE E-COURT



Indonesia's e-court system was launched in 2018, as the justice system moved to tackle its notoriously sluggish court system and sought to streamline the process. While it will take some time and further development before Indonesia's e-courts can be well and truly effective, its potential is being welcomed with enthusiasm.

BY ELIZABETH BEATTIE

■ While its development came long before the COVID-19 outbreak, legal processes that minimise physical contact are likely to be front of mind for everyone for practitioners everywhere. An example is Indonesia's e-court system, launched in 2018, which is being hailed as a welcome option in a country that has traditionally suffered from archaic or slow legal processes.

Prawidha (Wida) Murti a partner at Oentoeng Suria & Partners (OSP), which operates in association with Ashurst, tells *Asian Legal Business* that Indonesia's current system has long been a challenge to navigate for lawyers and clients. "The background is that the current process is a bit messy. You might go to court for a hearing scheduled at 9 am, and find that because there is massive amount of administration

and a lot of paperwork, and there are only two judges and few registrars to administer the cases, it could be that you only have a hearing at 3 pm," she says. "So, you have to wait six hours in the court to get a hearing. For a hearing with the agenda of the submissions of the dossiers to ensure the court process can be smoother. You don't have to wait hours for a hearing, you just can submit it online. Therefore, the e-court was introduced in Indonesia."

## PERKS OF THE NEW SYSTEM

Arthur Wailan Sanger and Febry Arisandi, partners at Indonesian law firm Sandiva, agree that the primary motivation for the e-court launch was to fulfil the needs of the court to offer simple, fast and low-cost trials. As the country's economy continues to rise, "e-court

comes as a solution to support and boost the ease of doing business in Indonesia," Sanger and Arisandi say. "We are of the view that the e-court system will bring added value in contract enforcement as the trial will be more effective and efficient for justice seekers."

Time is a significant benefit of the e-court process, with the current system often dragging on, resulting in inefficiencies for lawyers and clients alike. With the new e-court system, Sanger and Arisandi say it is "easier for parties to measure the timeline of a case", with this also leading to a faster trial process than the conventional court process.

"Time-saving is an advantage of course," Murti agrees, adding that the process of having to go to court to submit physical documents is a time suck which the e-court can help to bypass



with its capacity for online document submissions.

Another benefit is a more transparent process, Sanger and Arisandi note. As “the parties can monitor the case through the website and all the payment will be paid online through a state-owned bank,” they say.

Then there’s the cost advantage to consider. The lawyers say that the e-court process can be “relatively more cost-efficient than the conventional process, as this system will reduce the waiting time and the cost of a trial”.

Sanger and Arisandi add that the e-court offers many clear benefits that spell significant change for the court process — and importantly, for lawyers in the market that may struggle with the sluggishness of the current system.

They say that for lawyers, the

new system will spell a shift in working culture. “Before the e-court system, the lawyer can wait for couple hours for a trial, and now when they use e-court system they can be more effective and efficient with time to deliver work and advice to their client,” say Sanger and Arisandi, adding that because lawyers can be more effective with their time, this will also lead to improving lawyers’ client relationships while reducing legal costs at the same time.

Moreover, Murti adds that another unplanned advantage of the system is its capacity for socially distancing during cases. Due to the COVID-19 outbreak, Indonesia’s Secretary of Supreme Court issued a circular letter last month “on the Adjustment of Judge and Court Officials Working System and Preventive Measure to the Spread of Covid-19 in the

Supreme Court and Supervised Judiciary Bodies.” In the fourth paragraph of the letter, it stated that “civil, religious, and state administrative court proceedings are suggested to maximise the utilisation of e-court litigation,” says Murti, adding this recent letter could “help to accelerate the implementation e-litigation/the e-court in this current situation where traditional appearance before the court is not advisable.”

#### HOW IT MEASURES UP

Indonesia’s e-court system was developed with the help of comparative e-court system studies in jurisdictions such as Singapore, Malaysia and the U.S., but time will tell how well it measures up.

“It is difficult to measure now because it has not been implemented 100 percent, but if the idea is fully implemented, our court proceedings should be the same as other foreign courts where all the submissions can be made online,” says Murti.

And, in the meantime, more areas need to be developed further. Sanger and Arisandi believe more work need to be done before Indonesia’s e-court can be measured up against those in other jurisdictions. “On the website of Indonesia Supreme Court, they claim that e-court system in Indonesia is equal with the system in Singapore and Malaysia. However, in our view, it needs to be developed further, especially in witness trial,” they say.

And while e-court system offers speed, in line with other e-courts around the world, it also requires the consent of the parties involved. “In the first hearing, the judge will ask parties for consent to run the trial through the e-court system. If the parties agree to do so, then the trial will continue by e-court system. But when one party does not agree to use e-court system, then the judges will choose the conventional system,” Sanger and Arisandi say. Then when the e-court is selected as the forum of choice, only registered accounts will be able to upload trial documents.

But even after approval is given to share documents, lawyers and clients should remain conscious of data safety

## Prepared for Dispute, Before the Dispute (A Glance on Necessary Evidence in Civil Litigation in Indonesia)

I believe that the last thing every litigator would like to experience is realising that the client does not have the necessary documents to support their stance in a dispute. This not necessarily happened because the client deliberately not keeping any documents pertaining the dispute, but can also be caused by lack of knowledge from the client of what document that should be kept. For example, in any business contract, it is pivotal that respective party has the agreement (*contract document*) and also all of the documents that entails.

Therefore, regardless how friendly a contract negotiation can go or how smooth the execution of the contract can be, respective parties must maintain the “what if” mindset throughout the process. We need to remember that the contract is made as a rule of the game and sometime the flow of the game is not as we expected in the beginning. This is where the litigation process may enter into the picture to settle the difference between the parties.

In general, the Indonesia civil procedural laws acknowledge several types of evidence



**Ellrico Parulian Situmorang**

Partner

[ellrico.situmorang@pspartners.co.id](mailto:ellrico.situmorang@pspartners.co.id)

### **Parulian Situmorang & Partners**

World Trade Center 5, 11th Floor,

Jl. Jend. Sudirman Kav. 29-31,

Jakarta 12930, Indonesia

T: (62) 21 522 8133

E: [office@pspartners.co.id](mailto:office@pspartners.co.id)

W: [www.pspartners.co.id](http://www.pspartners.co.id)

that a party can put forward in a civil litigation, namely: (i) documents (*surat*), (ii) witness (*saksi*), (iii) expert witness (*ahli*), (iv) assumption (*persangkaan*), (v) confession (*pengakuan*) and (vi) Oath (*sumpah*). The Law number 11 of 2008 on Electronic

Information and Transaction expands the scope of evidence so that we now can use print out as a formal evidence. From all of the types of evidence that already mentioned, the type of evidence that a party has full control are the evidence of **documents** and **witness**; which also can be used as a foundation for the other type of evidence.

Therefore, while the party still has the control over the potential evidence, it is paramount that such party complete and maintain all of the documents pertaining the agreement/contract. On top of that, it is also advisable that the progress of the implementation of the business contract also be witnessed by someone who is worth of a witness stand.

From our point of view, those two types of evidence are the very minimum that a party should maintain from the beginning of a contract business in Indonesia and therefore they are prepared for a dispute even before the dispute takes place. And of course, it is every party's desire that such preparation would not be used in the future. (**eps**)

risks which may occur throughout the process. “As the court documents are confidential data and many of them are very important — signatures, statements, etc. — we think that the possibility of data leak has to be noted by both lawyers and clients when they choose e-court system,” Sanger and Arisandi say, adding that currently the system is continuing to be developed, and the lawyers noted there were weaknesses within the system. One aspect to consider, they warn, is that accounts in the e-court system “bound the advocate (personal) and it is not under the firm name, therefore a risk in data security will arise when that person resigned from the firm before the case is finished.”

But there are some areas where the e-court system could help to ensure greater privacy for clients and cases. “When you have an open hearing... you submit documents and you have an audience watching that hearing,” points out Murti, “That will not happen again unless it's a cross-examination,

so I would say the proceedings will be more confidential in a sense,” she adds.

### **HURDLES STILL TO OVERCOME**

The pain points that Murti has observed meanwhile include critical challenges around a lack of necessary infrastructure. “Most of the hearings in Jakarta, and outside Jakarta, don't have enough infrastructure for the e-court process,” she says. “Indonesia is a bit behind in terms of infrastructure and to have this e-court to be implemented well, you have to have good infrastructure supporting it. You have to have a good Internet connection, not just in Jakarta but in every region in Indonesia, you have to have a well-implemented system for storing online documents,” she says. “I am confident that our court system will be just as good as other countries. Right now, we're not sure if it can be implemented 100 percent, so we just have to wait and, hopefully, in the next few years the government will focus on making progress in that particular area.”

But even once the necessary infrastructure is rolled out, it will not likely be a seamless integration into mainstream use either. There are continuity issues which can make some cases ineligible to go through the system — namely those that have already begun. “The second problem is, you have to start e-court from the very beginning and most of the cases we have are ongoing since 2018 when the e-court was not yet implemented and we still need to have a traditional hearing for such cases,” says Murti.

As a result of these issues, and the newness of the e-court system, the real impact this will have on the market remains to be seen Murti tells *Asian Legal Business*. “We haven't seen a significant impact over the past year since the regulation is implemented. I think in five years, you will see it fully implemented,” she predicts.

### **FURTHER DEVELOPMENTS NEEDED**

Both Sanger and Arisandi say that e-court system is “a breakthrough” in



## How E-Court Process Is Impacting Trial Proceedings in Indonesia

For a litigation lawyer in Indonesia, it was common to wait several hours in court before the trial started. In many cases, the trial only takes not more than 10 minutes. We assume that the Supreme Court of the Republic Indonesia (the “**Supreme Court**”) finally realized that they have to build a better system to simplify the hearing proceedings by introducing the administrative dispute and electronic trial through the regulation of the Supreme Court No. 3 year 2018. The electronic trial or known as E-Court system which consists of E-Filing, E-Payment, E-Summon, and E-Litigation. The E-Court rules and regulations are subsequently refined with the enforcement of the Supreme Court Regulation No. 1 of 2019 (“**Perma No. 1/2019**”). Perma No. 1/2019 encourages the court to apply the electronic courts (E-litigation) system.

The proceedings of E-Court conducted with the supports of information technology and communication as follows:

- E-Filing: Online Registration.
- E-payment: Online Payment.
- E-Summon: Online Summon.
- E-Litigation: Online Trial.

By registration through E-Court, the party will automatically obtain court fee estimates and payment numbers. The court fee is payable through an electronic channel. The Registrant will receive a case number in the E-Court application and will display a notification that the case number has been



**Arthur Wailan Sanger**

Partner

arthur.sanger@legal.sandiva.co

**Febry Arisandi**

Partner

febry.arisandi@legal.sandiva.co

### **Sandiva Legal Network**

Menara Rajawali, Lantai 12, Mega Kuningan  
Lot #5.1, Jl. Dr. Ide Anak Agung Gde Agung,  
Kuningan Timur, Setiabudi (12950),  
Jakarta Selatan, DKI Jakarta  
T: (62) 21 5099 2333  
W: legal.sandiva.co

registered. The Parties will receive a trial summons through e-mail and it could be seen through E-Court application. However, the e-court proceedings are still subject to the agreement with the counterparty.

In the first hearing, the Panel of Judges will ask the counterparty (defendant) whether they agree with the trial to be conducted through E-Court. If all parties agree, the Panel of Judges will determine the dates of the hearing for each agenda, which the parties will need to sign of its agreement. The Registrar will upload the hearing dates in the Court Calendar. The parties will need to upload the court document on the determined date and time. In the event, a party does not upload the relevant court document, it will be deemed that the party has forfeited its right.

The E-court process will simplify the ‘paperwork’ trial which only takes less than 5 minutes to upload court documents. However, witnesses and evidence hearing still be held in the court. Nevertheless, witness and evidence hearing can be performed remotely through audio-visual media communication with the consent of the parties.

The court decision shall be deemed to be read to the parties, attended by the parties when the Court Decision is uploaded in the E-Court system.

For now, the E-Court system only applies for District Court, Religious Court, Administrative Military Court, Administrative Court, and Commercial Court. The e-court process will have a good impact on lawyers and clients. It will be time and cost-efficient for lawyers and thus will benefit clients as well.

**“In the first hearing, the judge will ask parties for consent to run the trial through the e-court system. If the parties agree to do so, then the trial will continue by e-court system. But when one party does not agree to use e-court system, then the judges will choose the conventional system.”** — Arthur Wailan Sanger and Febry Arisandi, Sandiva

terms of reforming the litigation landscape in Indonesia.


“The transparency, effectivity, and efficiency of this system will positively bring a new culture for the lawyers and it will impact to the client as well. The system will also reform the way court work, which can be more transparent and easier to be monitored by the parties,” Sanger and Arisandi say of its many benefits.

But while it is expected to have a transformative impact across the whole market, for e-courts to be truly effective and secure, there remains a need for further development and adjustments.

One highly important suggestion Sanger and Arisandi advise is that the system is adjusted so that more people can be added to one registered account. They say this is important from a security sense, as well as ensuring practicality.

“At the moment, it has only one person (advocate) for each case/trial. This development is needed to mitigate the risk of a data security leak — e.g. if the person resigns or dies. The infrastructure has to be developed as well, among others, faster internet connection and well-prepared supporting staff (clerk) who understand the troubleshooting of this system,” they say.

Yet, despite the systems’ current difficulties and demand for further development and adjustments, the e-court system has been met with widespread interest and enthusiasm from those in the legal community in Indonesia.

While Murti feels there is a long way to go before the system will be able to be fully functional and operate optimally, she, along with the greater legal community, nevertheless feels optimistic. “When this is launched, we are very happy to embrace it. We’re enthusiastic, and welcome this development,” Murti says. 

■ Last year, 46 different countries, including the U.S., China, South Korea and India came together to sign the United Nations Convention on International Settlement Agreements Resulting from Mediation, also known as the Singapore Convention on Mediation. Set to come into force in September 2020, the convention is being hailed by lawyers locally for its innovation, as well as the boost it provides to Singapore's image as a dispute resolution hub.

Bazul Ashhab, managing partner and head of dispute resolution at Oon & Bazul, tells *Asian Legal Business* that the new convention has clear benefits. "It paves the way for mediated commercial settlement agreements to be enforced across borders through a simplified process, giving credibility to mediated settlements. The coming into effect of the convention allows the enforcing party to go directly to a court in a state party to seek enforcement rather than spending considerable time and resources to obtain a judgement or award for breach of contract under the dispute resolution clauses found in the settlement agreement, and then thereafter having to apply for that judgment to be recognised in a foreign jurisdiction. This I believe will lead to a reduction of defaults of settlement agreement," says Bazul.

Peter Doraisamy, managing director of Peter Doraisamy Advocates and Solicitors, lists the three key advantages as: "One — providing parties with the option to apply directly to the courts of the State where the assets are located such that execution may also be sought if the enforcement process is successful. Two — Providing a uniform international framework to enforce mediated agreements of cross-border disputes, which will then give businesses more confidence in opting for mediation to resolve disputes. And three — reduction of costs and time required to enforce mediated agreements as the non-breaching party will no longer have to commence a fresh action against the breaching party through litigation or arbitration."

#### A BOOST TO BRAND SINGAPORE

Of course, the latest developments



## MEDIATION CENTRAL

The Singapore Convention on Mediation, set to come into force in September this year, is being celebrated as a boon for Singapore's cache as a dispute resolution hub, as well as something that breaks new ground in the global mediation landscape.

BY ELIZABETH BEATTIE

also allow Singapore's dispute resolutions mechanisms to shine. "Mediation complements arbitration as it allows users of Singapore arbitration to make a serious attempt at settlement supported by specialised institution, like SIMC (Singapore International Mediation Centre), and trained mediators with a proven track record for reaching settlement. The mediation convention now gives teeth to enforce any settlement reached which will give even more reason to choose Singapore as a preferred arbitration venue. I expect arbitration cases to increase with the signing of the Singapore mediation convention," Bazul predicts.

The high-profile, international nature of the convention, at the same time so strongly associated with Singapore (and Asia), is also being welcomed as a first. Doraisamy weighs in: "As the international treaty is the first United Nations treaty to be named after Singapore, it will definitely have a positive effect on the recognition of Singapore as a global dispute resolution hub, which already provides a full suite of options for commercial parties to resolve their cross-border disputes, be it through litigation, arbitration, or mediation."

"Having already established itself as a hub for litigation and arbitration services, the addition of the Singapore Convention, which can be regarded as the equivalent of the 'New York Convention' for mediation, will significantly aid Singapore's efforts in establishing itself as mediation hub on an international level," he says.

But Singapore isn't the only beneficiary of the convention. There will also be a positive knock-on effect across Asia more broadly. "During the conference held in Singapore before the signing of the Singapore Convention, we were able to hear from speakers from Asian countries such as Myanmar, Malaysia, Korea, and China, who were all in full support of the convention. They felt that international trade would strengthen between countries in the Asian region as the certainty and legitimacy derived from the convention will indirectly increase the confidence amongst investors in

## Paradigm shift in dispute resolution rules

In May 2016, the Ministry of Law announced the establishment of the Civil Justice Review Committee ("CJRC") which was tasked to propose reforms to the Singapore civil justice system.

Although the Committee remarked in its report that the current system worked well for a majority of users and stakeholders,<sup>1</sup> the Committee's proposed amendments were substantial. At its core, the proposals seek to establish a judge-led dispute resolution system.

The focus of this article is on the effects of the changes on rules in relation to (i) the Production of Documents and (ii) the introduction of the Case Conference mechanism to all claims.

The proposed amendments reveal a paradigm shift in the principles underpinning the rules on the production of documents; a claimant is now to sue and proceed on the strength of his own case and not on the weakness of the defendant's.<sup>2</sup> As a result, the rules on general discovery are now being replaced with rules requiring parties to exchange all documents *which they will be relying on* within 14 days after the date of the Case Conference.<sup>3</sup>

This means that a party is now only legally obligated to disclose documents, which he will rely on and he does not have to disclose all relevant documents (as was the case with general discovery). Although, the



**Peter Doraisamy**  
 Managing Director  
 pdoraisamy@pdlegal.com.sg

**Mato Kotwani**  
 Counsel  
 mkotwani@pdlegal.com.sg

**Peter Doraisamy LLC Advocates and Solicitors**  
 1 Coleman Street #08-02 The Adelphi  
 Singapore 179803  
 T: (65) 6220 0325  
 F: (65) 6220 0392  
 W: www.pdlegal.com.sg

new rules also do provide for the registrar/judge to implement a broader scope of discovery, it appears that this will likely be the exception rather than the norm.<sup>4</sup>

The proposed rules also introduce a Case Conference mechanism, which undoubtedly is an expansion of the Case Management Conference ("CMCs") in Magistrate's Courts suits. What is perhaps the most significant inclusion in the Case Conference mechanism is a general requirement for parties to file and serve their list of witnesses and the Affidavits of Evidence-in-Chief ("AEIC") of all or some witnesses after the close of pleadings and before the exchange of any documents.<sup>5</sup>

The combined effect of the new proposed rules on the production of documents as well as the requirement to file and exchange AEICs after the close of pleadings is likely to result in a front-loading of costs resulting from an increase in work required in reviewing all documents prior to the commencement of the action and requiring the quick preparation of AEICs soon after pleadings have closed. No announcement has yet been made as to when the proposed rules will come into force.

<sup>1</sup> See paragraph 3 of the Report of the Civil Justice Review Committee

<sup>2</sup> See Chapter 8, Rule 1 of the Draft Rules of Court 2018

<sup>3</sup> See Chapter 8, Rule 2 of the Draft Rules of Court 2018

<sup>4</sup> See Chapter 8, paragraph 2 of the Civil Justice Commission Report

<sup>5</sup> See Rule 7 Chapter 7 of the Draft Rules of Court 2018

their countries in pursuing international trade," says Doraisamy.

### CULTURAL FIT


In recent times, mediation, says Doraisamy, is also being actively promoted by more Asian countries. "This is because mediation falls in line with Asian sensibilities and culture. Examples include the 2012 amendment to China's Civil Procedure Law, which adopted the principle of 'mediation first' in its Article 122, the Malaysian Mediation Act 2012, and the Hong Kong Mediation Ordinance 2013. This trend suggests that Asian countries will likely rely on Singapore as a mediation hub due to it being at the forefront of convention's enactment. Hence, it is safe to say that the Convention will have a positive impact in Asia as parties in the region will be more confident in the enforcement of settlements agreements resulting from mediation and will, in turn, look to Singapore as a potential venue for the mediation of their disputes," he adds.

Bazul agrees that mediation is a good fit for the region: "The preservation of relationships is highly-valued and embedded as a priority in most Asian cultures. As mediation is now increasingly seen as a quick, fair, and effective dispute resolution mechanism to resolve even complex commercial disputes (this is seen by the fact that 46 states had signed the Singapore Convention on Mediation during the official signing ceremony), we expect to see rapid growth in the adoption of mediation as one of the main modes of resolving international commercial disputes in Asia. I believe mediation dispute resolving professionals will be engaged as a first resort rather than last resort," he says.

### BLAZING A TRAIL

Will this be the first of more Singapore-led developments? While Singapore's legal technology prowess is well documented, when it comes to reshaping the law, this is something of a newer trend. Says

Bazul, the current landscape is primed for further legal changes in the future. "In Singapore, we have a government which is pro-business and deeply understands the need to ensure Singapore remains relevant to the rest of the world and region. There is a constant vigilance on what the global business community needs and ensuring that need is in the interest of Singapore's economy. A close working collaboration between the government and lawyers assist in quickly introducing business-friendly laws. I expect for these reasons there to be more Singapore-led legal conventions," he says.

Doraisamy adds that the latest developments place Singapore at the forefront, internationally. "To have the signing ceremony of the Convention in Singapore is undoubtedly a significant milestone for Singapore as it indicates a growth of the legal landscape in Singapore in becoming a dispute resolution hub not only on a regional level, but an international one," he says. 

# EMPLOYER OF CHOICE

Last year was widely considered a tough year. With resources shrinking, job scopes expanding, an increasingly competitive marketplace to contend with and new regulations to navigate, many lawyers in Asia met the end of the year with a sense of relief. But now, as a global pandemic spreads and remote working arrangements are tested, the challenges of last year would be surely welcomed. In these difficult times, a good employer is more critical than ever.

For this year's Employer of Choice survey, (mostly) happy respondents took a moment to consider what their employers do well, and what they could do to improve. BY ELIZABETH BEATTIE

## HONG KONG

CMS  
Gall  
HM Chan & Co  
Oldham Li & Nie  
Stephenson Harwood

## INDIA

Cyril Amarchand Mangaldas  
J. Sagar Associates  
Khaitan & Co.  
L&L Partners  
Singh & Associates

## INDONESIA

AKSET Law  
Assegaf Hamzah & Partners  
SSEK Legal Consultants

## KOREA

Bae Kim & Lee  
Kim & Chang  
Yulchon

## MALAYSIA

LAW Partnership  
MahWengKwai & Associates  
ZUL RAFIQUE & partners

## PHILIPPINES

Cruz Marcelo & Tenefrancia  
Quisumbing Torres  
V&A Law

## SINGAPORE

Drew & Napier  
Duane Morris & Selvam  
Eng & Co  
Eversheds Harry Elias  
Stephenson Harwood

## THAILAND

Tilleke & Gibbins  
Weerawong C&P

## VIETNAM

LNT & Partners  
Rajah & Tann LCT Lawyers  
Tilleke & Gibbins



What makes a good employer? It's a question that all employees have a million answers to, but according to our latest Employer of Choice survey, certain key attributes are most important. Prominent among these are development, encouragement and feedback, and flexibility. "Caring" and "understanding" were words regularly bestowed upon their employer by those who felt truly satisfied in their workplaces, with "flexibility" rounding out other answers as another much-appreciated attribute.

While survey respondents were not short on suggestions for what their firm could do to improve, for most, it was simply a matter of having access to "more." Some commented that they wanted more of the professional development opportunities their firm already offered, while others wanted more chances to improve their expertise or education. Some requested more flexible working arrangements, but given the necessity of this during the COVID-19 outbreak, this will likely be up for discussion with more firms across the board. Others still told *Asian Legal Business* they were happy with what was on offer from their firm, and praised their employer's openness and opportunities available.



**DREW & NAPIER**

#### FEELING VALUED

Having contributions and successes recognised by management is another critical decider for job satisfaction. In this regard, the responses were slightly more mixed. Some respondents said their

**ALTOGETHER  
EXCEPTIONAL**

**DREW & NAPIER**

**Employer of Choice (Singapore)  
for the 11th year**

We thank our colleagues for their  
continued vote of confidence.

[www.drewnapier.com](http://www.drewnapier.com)





"For years now, we have given lawyers the flexibility of working from home periodically, when they choose, no reason required. This was a simple decision because we have the best, motivated and ambitious lawyers we can ask for. In return, our trust and flexibility empowers and motivates them to be at the top of their game and produce excellent work. The partners are always there to provide guidance, mentorship, training and encouragement."

**Kelvin Tan,**  
**Drew & Napier**



"Fostering an environment where well-being is at the heart of the firm's values is central to the success of Stephenson Harwood. It permeates every level of activity and decision-making, and the firm's partners and employees know this."

**Mannet Tse,**  
**Stephenson Harwood**

firm was "limited" in its recognition, while others said management would take credit for successes. Another issue was suggestions not being "taken seriously," and requiring those trying to make changes having to additionally chase up staff members to be heard.

Some were appreciative of positive feedback or kind words, while others praised their team for fighting for them and making them feel valued and celebrating their successes.

But those who feel truly valued and satisfied in their work, there were often multiple reasons – including an excellent work culture.

One respondent from a large Singapore firm described their team as truly believing in its people, and developing them into "important individuals; not just another work unit."

"I have been blessed with inspiring mentors who gave me meaningful opportunities and pushed me to achieve things I wouldn't have on my own, and for that, I will always be grateful," they add.

Law firms, on their part, are making sure they can meet the needs of their employees and ensure an engaged workplace. For example, while COVID-19 has highlighted the importance of flexible working arrangements, Singapore Big Four firm **Drew & Napier** has been offering it for years now.

"In the current COVID-19 situation, our whole firm is working from home," says

Kelvin Tan, director of dispute resolution at Drew, and "so the transition has been seamless."

"For years now, we have given lawyers the flexibility of working from home periodically, when they choose, no reason required. This was a simple decision because we have the best, motivated and ambitious lawyers we can ask for," he adds.

"In return, our trust and flexibility empowers and motivates them to be at the top of their game and produce excellent work. The partners are always there to provide guidance, mentorship, training and encouragement. With our IT connectivity systems, there is no lack of resource and support when our lawyers are outside the office," says Tan.

This demonstrates, he says, the "relentless focus on great work, strict ethics and constant training," while also exhibiting how "mutual trust and empowerment allows everyone to adapt to their work-life priorities." Tan notes that this is "winning formula for everyone".

Mannet Tse, regional head of HR at **Stephenson Harwood**, says that the firm have various initiatives in place to help support professional development. "Fostering an environment where well-being is at the heart of the firm's values is central to the success of Stephenson Harwood. It permeates every level of activity and

decision-making, and the firm's partners and employees know this," Tse says. "The initiatives the firm has in place involve people from every level of seniority, and every type of role and department."

Ongoing learning is a key priority for staff across every level of their career, Tse says. From technical skill development, to training around all-important technology and innovation, to business development and secondment opportunities. These can be accessed by interested staff.

After all, the internal development programmes that are the most well-received by employees and new hires are those that offer learning opportunities, says Tse. "The firm provides on-the-job learning, workshops, seminars and retreats, as well as secondments – whether that be to a different office in the firm's network, or a client," she says.

## PREVENTING BURNOUT

But while development opportunities may be ample within firms eager to upskill their staff, this must also be balanced against workload. Given the pressure heavy-nature of lawyers' work, coupled with the need to remain "on" and contactable for long periods, in recent years, firms have stepped up and rolled out programmes that protect against burnout and create opportunities for their lawyers to decompress and re-energise. Avoiding burnout is something that the top firms increasingly consider carefully, take seriously, and respond to tactfully.

Veeranuch Thammavaranucupt, senior partner at Thailand's **Weerawong C&P**, says that preventing burn out is inbuilt in the way the firm operates. "We care about our people: our philosophy is that the firm is a platform to support all lawyers' advancement in the profession," she says. "Last year, we implemented new measures and new technology systems so that lawyers may work from anywhere at any time and we have designed the office with the facilities to meet their needs and wishes in a comfortable work environment. We also installed an on-site gym."

But safeguarding against this goes beyond simply creating spaces for lawyers to work comfortably. Veeranuch says the firm also emphasises "a culture of collaboration". "Often, lawyers from different practice groups work as a team. Regular informal activities have fostered a great team spirit – we work hard and play hard together, for example, at our TGIF events. We have an annual retreat where we conduct brainstorming sessions so that all staff may be part of the initiatives for improvements in the office, i.e., workplace environment and work procedures; we also celebrate our hard work and successes," adds Veeranuch.



Tse agrees that good workplace culture is critical when it comes to keeping employees happy and performing at their best for the long run. "Stephenson Harwood places real value on creating a work environment where ambition thrives, potential is developed and talent is rewarded," says Tse, adding that "Core to this is an emphasis on supporting the well-being of all colleagues, and an understanding of the importance of safeguarding mental health." Among the firm's initiatives in place to combat burnout are informal activities, such as hiking trips, to formal mental well-being workshops and one-to-one support mechanisms.

#### CEO OF YOUR CAREER

As traditional law firms adapt to the treat of ALSPs and alternative legal offers absorbing their talent, they are increasingly taking a different approach towards their employees, and empowering them to work in a way that best serves their abilities and enables them to "be the CEO of their careers."

Veeranuch says that many of the firm's lawyers attend its legal skills training sessions, which are provided by the partners. These are also complemented by programmes organised by reputable



**STEPHENSON HARWOOD**

institutions and international law firms. "Our soft skills training is also very popular, for example, writing, negotiation, presentation and leadership skills," she adds.

This development is very much tied into a state

## STEPHENSON HARWOOD

**"We're thrilled once again to have our efforts in this area recognised by ALB, made all the more important because so much of the feedback they received came from our people."**

**Mannet Tse, regional head of HR, Asia**

Offices | Beijing | Dubai | Hong Kong | London | Paris | Piraeus | Seoul | Shanghai | Singapore | Yangon  
Associated offices | Athens | Bucharest | Guangzhou | Jakarta

[www.shlegal.com](http://www.shlegal.com)

*"They have a deep understanding of not just the legal aspects, but the commercial and strategic factors, too."*

*"When a client asks them why, they explain things and think outside the box, which is why we work with them."*

- Chambers and Partners 2020

*Combining local expertise with international standards of excellence, we help our clients develop business opportunities worldwide.*

---

Awarded  
Employer of Choice  
for 7 consecutive years

---

Awarded  
Firm of the Year  
for 6 consecutive years

---

Awarded  
Deal of the Year  
for 9 consecutive years

---

Top tier firm in Thailand



**WEERAWONG, CHINNAVAT & PARTNERS LTD.**

22nd Floor, Mercury Tower, 540 Ploenchit Road, Lumpini, Pathumwan, Bangkok 10330 Thailand

**Tel:** +662 264 8000

**Fax:** +662 657 2222

**Email:** [info@weerawongcp.com](mailto:info@weerawongcp.com)

**[www.weerawongcp.com](http://www.weerawongcp.com)**





WEERAWONG C&amp;P

of mind as well. "In addition, our 'be the CEO of your career' policy is very well received by our lawyers: this policy accommodates the needs of each lawyer if they want to commit more hours or fewer hours in a given period and we remunerate them according to their preference. Along with the CEO policy, they do not need to work at the office, they can work anywhere but they must meet their professional commitments re clients and the office. We support their working and learning anywhere with high-speed internet and advanced mobile equipment," Veeranuch tells *ALB*.

With an emphasis on being your own CEO, the message to staff is one of autonomy — this is something the firm places at the heart of its internal mentoring programmes too. "Over the years, we have found that the most effective mentorship is on-the-job mentoring by seniors in each practice group and an open-door policy for partners. Further, we have established a listening committee comprised of partners, senior associates and junior associates. The listening committee will receive feedback/concerns from lawyers and escalate these comments to the management level to implement improvements," says Veeranuch.

At Stephenson Harwood, Tse says there is a range of internal mentoring and coaching programmes available for the team.

"Colleagues can choose whether they want more formal or informal support and adjust it to reflect the stage they're at in their career or any particular hurdles they might be facing, including personal ones," she says.


This is also linked to a quality the firm prides itself on: its approach to flexibility, Tse adds. "While there are structured schemes in places — such as the development partner and high potential programmes — there is also a range of other options, which can be adjusted to meet the needs

of particular practice groups, or even on a more bespoke and personalised level. The firm also recognises the value for colleagues of having the opportunity to mentor others, as well as be mentored, and the role that this plays in developing longer-term managerial skills; there are numerous opportunities for more junior colleagues to play a mentoring role, whether to peers or juniors, as appropriate," she says.

#### LONG-TERM VIEW

With development programmes committed to upskilling staff, getting the best results and encouraging retention, the importance of these elements working together to create a good workplace is a priority for firms.

Veeranuch says the firm's various initiatives work in tandem to help support its internal culture. "We care, not only for the well-being of our lawyers, but also for their progression and development in the legal profession. So, our training sessions are designed to develop a professional mindset — strategic thinking, effective communications and negotiations, positive approach and service mindedness. Our social events are fun, and they reinforce our internal culture — a pro-collegial atmosphere amongst trust-worthy team players who have enthusiasm and a passion for excellence," she says.

Another important element, says Tse, is ensuring buy-in from across the whole company. "Fostering an environment where well-being is at the heart of the firm's values is central to the success of Stephenson Harwood. It permeates every level of activity and decision-making, and the firm's partners and employees know this. The initiatives the firm has in place involve people from every level of seniority, and every type of role and department. Because everyone is involved in them, it's an authentic part of the firm's culture," she says. 



"Over the years, we have found that the most effective mentorship is on-the-job mentoring by seniors in each practice group and an open-door policy for partners. Further, we have established a listening committee comprised of partners, senior associates and junior associates. The listening committee will receive feedback/concerns from lawyers and escalate these comments to the management level to implement improvements."

**Veeranuch  
Thammavarancup,  
Weerawong C&P**

# DONE DEAL

With Brexit now out of the way, Asian companies may have to review their investment and trade strategies to adapt.

BY ASIAN LEGAL BUSINESS

With the United Kingdom officially leaving the European Union in late January, Brexit is now done and dusted, and Asian businesses with interests in one or both areas need to start making adjustments. While the impact on areas such as data flows and regulations is likely to be limited early on, other areas such as immigration and trade may begin experiencing changes much faster, and the differences between the United Kingdom and European Union likely to get larger over time.

Barring any disruptions or changes spurred by the novel coronavirus disease (COVID-19) pandemic, Brexit will be implemented through to the end of the year to Dec. 31, 2020.

## MATTERS OF TRADE

Brexit uncouples the UK from the EU economic system and without any replacement arrangement will cause severe disruption, says Ross Denton, senior counsel at Baker McKenzie's EU, Competition and Trade Department in London.

The disruption may not be felt right away. UK and EU investment and trade law are likely to be highly aligned in the short term but differences are likely to emerge over time.

"If the UK and EU can agree with some form of free trade arrangement, then the disruption and economic costs will be lower."

Asian companies that trade with Europe via the UK may have to adjust, as there is a big difference between the Single Market treatment of trade and investment that was in place between the UK and the rest of Europe before Brexit and trade terms under World Trade Organization (WTO) rules.

"There will be more uncertainty in Asian businesses who are not living and breathing Brexit but just seeking to maintain links into the EU and UK."

— Ross Denton, Baker McKenzie

"Companies that have used the UK to trade with the EU, or vice versa, will now have to investigate the economics of that model," Denton says. Companies that depend heavily on just-in-time supply chains, such as automakers, may be among the most affected.

If the UK and EU do not agree on a free trade agreement (FTA), then goods coming into the UK for export to the EU may be subject to customs controls and duties and may face additional customs controls and duties on the way into the EU. The UK has "ambitions to do new FTAs with a number of Asian markets" including China and India, so a significant amount of activity is likely.

"Mitigation measures, such as customs warehousing may be available but will be an additional cost," Denton says. Even if the UK and EU do agree on an FTA "those Chinese goods may not be able to avoid the additional checks and duties on movement in the EU, because those Chinese goods may not pass the rules of origin necessary for duty-free import into the EU."

"Companies dealing in finished goods are the most vulnerable, with those in the agricultural or foods sector the most at risk, and those in IT and pharma products less likely to be affected," says Denton. "There will be more uncertainty in Asian businesses who are not living and breathing Brexit but just seeking to maintain links into the UK and EU."

Ultimately, these changes are likely to boost demand for legal advice.

"Firms with strong trade and regulatory practices will be in demand as clients seek to navigate these issues," says Denton. Ironically, there are fewer of these practices in the UK because, after the country joined, most of these issues were dealt with in Brussels.

## **SLOWER IMPACT**

Employment and human resources issues are also some of the key considerations, but the impact may be felt slowly.

"We do not foresee any immediate or mid-term impact on Asian companies from an employment law perspective arising out of Brexit, and any such

changes would be gradual," says Catherine Leung, legal director at Lewis Silkin in Hong Kong. However, she notes, there remains an element of uncertainty for companies going forward who have traditionally built supply chains with Europe, particularly companies who have been trading via the UK to the larger EU market.

"It remains to be seen what the impact would be for trade of products and services to and from the UK and EU after the implementation period for Brexit ends," says Leung.

The UK has agreed to implement any new EU employment directives and to comply with rulings from the European Court of Justice, domestic courts and tribunals between now and Brexit and this arrangement can be extended for another two years.

"As far as employment law is concerned, the degree of regulatory harmonisation that Asian companies will be familiar with between the UK and the EU will continue," Lewis Silkin partner Colin Leckey tells *Asian Legal Business*. "Once the implementation period has ended, a great deal depends on what precisely is the nature of the free trade agreement that is agreed between the EU and the UK – assuming anything is agreed, which is not certain."

"Historically, one of the main aims of Brexit supporters was to have the freedom to move away from EU employment regulations such as the Working Time Regulations and the Agency Workers Regulations, and create a more employer-friendly environment, although this has not featured heavily in recent debate," he says. "Whether this will re-emerge in the years to come remains to be seen."

Another consideration is immigration. Here again, not much is likely to change fast for Asian companies, which have traditionally had to comply with UK immigration rules to bring staff in.

Multinational companies may feel more of an impact.

According to the lawyers at Lewis Silkin, Asian companies' British employees will also lose their right to freely work across Europe. They will have to obtain qualifications to work

under the particular immigration rules of the country where they will be based, which could restrict the types of role that can be filled by British workers and the length of time they can be based in an EU country.


And there may be additional costs. For instance, it can cost £7,500 to sponsor a worker in the UK and a sponsor license may also come at a cost. At the same time, "certain roles may not be deemed skilled or highly paid enough and therefore ineligible for sponsorship. This doesn't impact companies from any geographical region but does impact certain industries disproportionately," the partners note. Hotels and restaurants, for example, have traditionally recruited a lot of European staff but may not be able to do so in the future.

Data protection is another area where the impact may be felt slowly, although some industries are more concerned about this. One is the financial services industry, an industry that worries about the loss of "passporting" rights and the ability to offer financial services throughout the EU single market.

The Withdrawal Agreement generally keeps the status quo regarding data transfers, which means businesses must comply with the General Data Protection Regulation (GDPR) and rules are likely to be very similar after Brexit. Data flows between the EU and UK should continue without interruptions while transfers between the UK and Asia should also continue.

The new global reality dominated by the outbreak of the COVID-19 pandemic could change the timeline and shape of Brexit.

"Until COVID-19 came along, Brexit dominated conversation," says Leckey. "The impact of COVID-19 means that all of a sudden trade talks between the UK and EU seem a rather less pressing matter."

"While the UK Government is still formally committed to walking away from the table if no deal is done by June 2020, the likelihood of an extension to that being agreed against the current backdrop seems increasingly high," says Leckey. 

# SECURITY IN A REMOTE WORLD



As the global coronavirus outbreak causes employees everywhere to start working remotely, the risk of cybersecurity breaches is heightened. Lawyers in Asia discuss the steps they are taking to keep their clients secure – and themselves as well. BY ASIAN LEGAL BUSINESS

There is not a part of the world that hasn't been affected by the novel coronavirus disease (COVID-19) pandemic. As self-isolation and quarantines come into effect, more people are working remotely and connecting online instead of in person.

While corporations and small businesses alike scramble to find digital solutions for the conundrum, cybersecurity concerns need to be on top of the list.

Even the U.S. Federal Bureau of Investigation has warned of a spike in cybercrimes. And those in the legal field are seeing it too.

"In our experience, we are seeing an increase in the amount of businesses being affected by cyberattacks recently, as cybercriminals look to try and exploit IT weaknesses when users are working remotely," says Lauren Hurcombe, a senior associate at DLA Piper's Hong Kong office.

"Organisations should therefore be mindful of these risks and implement effective remote working policies and arrangements as a matter of priority."

Even in January 2020, software consultancy Check Point Research stated that the leading malware threat Emotet was spread during the month using a coronavirus-themed spam campaign. That month, Emotet affected 13 percent of organisations globally.

"The 'most wanted' malicious threats impacting organisations continue to be versatile malware such as Emotet, XMRig and Trickbot, which collectively hit over 30% of organisations worldwide," says Maya Horowitz, the director of threat intelligence & research and products at Check Point.

"Businesses need to ensure their employees are educated on how to identify the types of topical spam emails that are typically used to propagate these threats, and deploy security that actively prevents these threats from infecting their networks and leading to ransomware attacks or data exfiltration."

International groups like the World Health Organization also had to put out a statement warning people of scams run under the guise of coronavirus related issues.



## CYBER CONCERNS

Mark Bennett, a counsel at Bird & Bird's Hong Kong office, believes there are certainly increased cybersecurity risks for companies with more employees working from home, as the network is only as secure as its weakest link.

"Many employees may be connected to home networks (or even public networks) or using home devices which are not as secure as office networks and devices - for example, because they do not meet basic security requirements such as requiring unique passwords or using multi-factor authentication, which are usually built into office cybersecurity requirements," says Bennett.

"When you have a large portion of the workforce potentially using unsecured connections or devices, this inevitably increases the risk of exposure to cyber threats and being subject to a cyber-attack."

Bennett also believes the risk increases further where companies have outsourced their IT services to third party providers who would usually only have on-premises access to the company's IT systems but may now be forced to access systems remotely.

Kyung Kim, the senior managing director and head of cybersecurity for the APAC region at FTI Consulting, says several possibilities are arising from this.

"There are several cyber risks associated with a remote working environment: increased COVID-19 related phishing and ransomware attacks; unsecured home Wi-Fi networks; vulnerable Wi-Fi routers that use default login credentials; Internet-connected devices that can be used as access points to a home network; and malware campaigns disguised as distribution of legitimate information regarding COVID-19," he says.

Jeremy Tan, a partner in Bird & Bird's Singapore office, recommends ensuring good cyber hygiene and consistent practices in the normal course of business to avert any mishaps.

"Ensure you have robust cyber policies and procedures in place and more importantly in these circumstances, ensure that all employees are aware of these policies and proce-

**"There are several cyber risks associated with a remote working environment: increased COVID-19 related phishing and ransomware attacks; unsecured home Wi-Fi networks; vulnerable Wi-Fi routers that use default login credentials; Internet-connected devices that can be used as access points to a home network; and malware campaigns disguised as distribution of legitimate information regarding COVID-19."**

— Kyung Kim, FTI Consulting

dures. Companies should review their existing information security policies, as well as business continuity/disaster recovery plans, to check whether they cover remote working scenarios and if so, ensuring that these are followed," says Tan.

And if there are no existing policies or plans, companies should develop at least some basic rules on remote working and access to company systems.

"In any event, all employees and contractors must be aware of the rules and in this respect, it is helpful to provide practical guidance on how to follow these rules. Companies should also ensure that they have incident response plans in place, and that employees are aware of the need to report any actual or suspected incidents," says Tan.

For companies in regulated sectors such as financial services or telecommunications, Tan also advises that they be mindful of their regulatory obligations to business continuity, outsourcing and cybersecurity, and whether their remote

working arrangements would comply with their regulatory obligations.

"For example, this may throw up issues where there is a sizeable number of contingent staff deployed by a company in the financial services sector looking to give such staff remote access," he says.

## THE HUMAN FACTOR

Sophisticated cyberattacks are one thing, but human error is also a major concern.

"From a cybersecurity perspective, the main risks with working from home arrangements continue to be around managing human error," says Hurcombe.

Hurcombe says that breaches can happen whether through employees being complacent and not adhering to the same protocols as though they were in the office, or due to the difficulties in navigating and properly responding to issues in the event of an incident when key decision-makers and information security teams are spread out across different time zones and geographies.

Ultimately, mindfulness and sensible practices go a long way.

"For those working outside of the office, and in particular, from home, common sense needs to be exercised. Making sure device screens are not left open or visible to just anyone or taking calls in more private places are good practices to enhance general security," says Mariel Dimsey, a partner in CMS' Hong Kong office.

"Employees may not think they possess data that is valuable to cybercriminals, but between intellectual property, customer information, or confidential data, odds are they have something sensitive on their machine," says FTI Consulting's Kim.

He emphasizes that when working in a remote setting, employees should also take care to not download or access this sensitive type of information unless they absolutely must and should ensure that they are always operating in a protected environment.

"Furthermore, this data should never be transmitted over unencrypted email," says Kim.

Others also advise keeping attach-

ments within secure systems, which law firms should already have in place.

"Documents circulated in our firm's e-mail system are shielded by a spam filter and our IT team. Messages are filtered and any suspicious messages or attachments will get caught and won't reach our personnel. Our lawyers are notified and additional steps for verification are required to receive a message that has been classified as suspicious," says Dimsey.

Communicating the need and importance for vigilance to remote workers may seem obvious but is still essential.

"From a business perspective, communication is key. Businesses should take the time to remind staff around maintaining compliance with internal security protocols when working remotely," says Hurcombe.

"Organisations should take the time to inform employees of expected ways of working and send out regular reminders and top tips about maintaining good security and data practices, as well as ensure there is appropriate IT support to limit the potential impact of any issues."

Hurcombe suggests that such communications could be in the form of periodic company-wide email reminders and/or the implementation of e-learning modules.

Workers that aren't digital natives may not easily identify threats online, and then fall for phishing scams. In fact, the World Economic Forum estimates that 98 percent of cyber-attacks use some form of social engineering tactics.

"Most importantly, ensure that employees are adequately trained and are provided with practical guidance on how to protect against cyber threats, and how to recognise any potential threats (e.g. phishing emails). For employees – be sensible and follow the rules. If anything feels suspicious or unsecure, check with your company before proceeding," says Bennett.

"Communication between employers and employees is critical to ensure successful remote working arrangements, especially in the current climate," says Hurcombe.

**"Ensure you have robust cyber policies and procedures in place and ensure that all employees are aware of these policies and procedures. Companies should review their existing information security policies, to check whether they cover remote working scenarios and if so, ensuring that these are followed."**

— Jeremy Tan, Bird & Bird

## GET READY

Now is also the time to ensure all systems are in place and updated.

"Organisations should also take the time to ensure that their IT security systems, back-ups and anti-virus software are up-to-date and IT service desks are appropriately staffed to help deal with any issues quickly," says Hurcombe.

Giving IT the resources they need to buff up security online and handle any threats that come their way is also a good idea.

"IT security personnel should be given the resources they need to handle the increase in employees accessing the company network from home, and all staff should be notified of an increase in phishing and malware attacks and how to spot such an attack," says Kim.

He has a couple of recommendations. "All employees working remotely should use a virtual private network (VPN) to access the company network; multifactor authentication should be implemented on all devices; and operating platforms should be regularly updated to ensure known vulnerabilities are fixed," says Kim.

It's a good sign some firms are confident in their setups and seemingly prepared for anything.

"Every firm has different setups

and approaches. Even prior to the virus outbreak, we already had very robust measures in place as a lot of our lawyers work remotely when on business trips so remote working has always needed to work well for us," says Dimsey.

Tan agrees, stating that law firms generally already have robust information security policies and incident response plans in place. "The harder part is making sure that all employees across the firm are aware of what needs to be done, and how to implement good cybersecurity practices at home. In our experience, we have been working with our lawyers and all staff to make sure they have access to a company device (e.g. work laptop) and to only connect to the network using a secure connection through our VPN (and have been stress-testing our network to make sure it continues to function effectively under these circumstances)," he says.


Bird & Bird's Tan says they are also reminding all employees of their existing information security policies.

"For example, only using work computers for work purposes, not sending any documents using personal email accounts, not storing company data on personal devices or external storage devices (e.g. USB keys), and so on," he says. "These policies are already in place but become much more pertinent in these circumstances."

His Hong Kong colleague, Bennett, sees employers playing a vital role in preventing any cyber slip-ups.

"For employers – we would encourage employers to review existing information security policies, or where there are none, developing basic rules on remote working and access. If possible, consider limiting the amount of access to systems or information that employees can access remotely to the bare minimum required," says Bennett.

That is quite a laundry list of things to think and act on, but maintaining the cybersecurity of any company when most workers are going remote and digital is possible.

"As long as additional precautions are considered, working remotely can be conducted safely and securely," says Kim. 

## FTI Cybersecurity

16/F Gangnam Building, 396 Seocho-daero, Seocho-gu, Seoul 06619, Republic of Korea  
 T +82 2 2190 3727 E [kyung.kim@fticonsulting.com](mailto:kyung.kim@fticonsulting.com) W [www.fticybersecurity.com](http://www.fticybersecurity.com)

### Company Bio

FTI Cybersecurity provides independent cyber and risk management advisory services with a core offering focused on cyber readiness, incident response, and complex investigations. We take an intelligence-led, expert-driven, strategic approach to global cybersecurity challenges affecting your organisation – your people, your operations, and your reputation.

We build a safer future by helping businesses understand their own environments, harden their defenses, rapidly and precisely hunt threats, holistically respond to crises, and recover operations and reputation after an incident. Our team has a unique ability to include sector and industry expertise alongside our cybersecurity capabilities.

Our team, capable of deploying worldwide, consists of more than 300 dedicated cybersecurity experts, incident response consultants, developers, and data analysts with extensive investigative backgrounds, led by those with decades of experience at the highest levels of law enforcement, intelligence agencies, and global private sector institutions.

With our global team's deep experience in law enforcement and government, we maintain relationships with the top global intelligence agencies, regulatory authorities, and private agencies to better support our clients in their prevention, response, and investigation of cyber threats and incidents.

### Achievements

FTI Cybersecurity supports all needs and challenges related to cybersecurity, including global investigations, forensic accounting and technology, data and analytics, data privacy and protection, crisis management and strategic communications, and anti-money laundering.

Drawing from both government and private sector, our experts routinely tackle large-scale analytic challenges requiring complex custom technical solutions. We regularly construct and leverage technical platforms to collect, analyse, and correlate data in demanding environments requiring precision and speed.

Regardless of the size or sector of a business, FTI Cybersecurity can create custom, scalable solutions designed to address and combat cyber threats proactively, while effectively and efficiently maintaining the operations and reputation of the business. This includes using cutting-edge capabilities around a trusted core of comprehensive offerings, enabling clients to address their most critical needs and integrate new solutions atop or alongside pre-existing policies and programs.

### Key Personnel



#### **Kyung Kim, Senior Managing Director and Head of Cybersecurity, APAC**

Kyung Kim is an expert in cybersecurity, privacy, risk management, crisis management, investigations, and national security matters. Prior to joining FTI Consulting, Mr. Kim served as the head of the Federal Bureau of Investigation (FBI) and Special Advisor to two U.S. Ambassadors, covering all FBI national security matters affecting the U.S. and Korean Peninsula. During the North Korea nuclear crisis, Mr. Kim provided strategic risk mitigation guidance to the private sector and U.S. Government executives, including the White House, Secretary of State, Secretary of Defense, CIA Director, FBI Director, and U.S. Marine Corps Forces Cyberspace Command. Mr. Kim led the efforts to create a permanent FBI cyber agent position in U.S. Embassy and the Korean National Policy Agency HQ to proactively address cyber threats and vulnerabilities. He also coordinated with the FBI Cyber Division and Cyber Investigative Joint Task Force to provide training to host nation entities to better address cyber threats emanating from North Korea, China, and Russia.



#### **Anthony J. Ferrante, Senior Managing Director and Global Head of Cybersecurity**

Anthony J. Ferrante is an expert in data privacy and cybersecurity resilience, prevention, response, remediation, and recovery services. He has more than 20 years of top-level cybersecurity experience, providing incident response and preparedness planning to more than 1,000 private sector and government organizations. Mr. Ferrante maintains first-hand operational knowledge of more than 60 criminal and national security cyber threat sets, and extensive practical expertise researching, designing, developing and hacking complex technical applications and hardware systems. Prior to joining FTI Consulting, Mr. Ferrante served as Director for Cyber Incident Response at the U.S. National Security Council at the White House where he coordinated U.S. response to unfolding domestic and international cybersecurity crises and issues. Building on his extensive experience, he led the development and implementation of Presidential Policy Directive 41 – United States Cyber Incident Coordination, the federal government's national policy guiding cyber incident response efforts. Before joining the National Security Council, Mr. Ferrante was Chief of Staff of the FBI's Cyber Division.

# WHITE-COLLAR SPIKE

Economic slowdowns almost inevitably bring a jump in white-collar crimes. With the coronavirus outbreak raging, companies need to be more vigilant than normal. BY ASIAN LEGAL BUSINESS



With law and regulatory enforcement agencies shuttered across Asia, reporting and auditing deadlines delayed and courts shuttered or backlogged, concerns are increasing the white-collar crime could spike as the novel coronavirus disease (COVID-19) pandemic rages and economies take a hit.

These concerns are not without precedent. History suggests that, with the economy plummeting, white-collar crime will increase.

"Similar increases in white-collar crime incidents have been seen previously in economic downturns, in particular during the 2008 financial crisis where hard times drove more people to resort to investment scams and supply chain fraud as well as bribery in order to make money wherever possible," says Annie Birch, an associate in the dispute resolution practice at Norton Rose Fulbright Hong Kong.

The reasons for this uptick are fairly straightforward, says Wilson Ang, a dispute resolution partner at Norton Rose Fulbright Singapore. "In a poor economy, profits are likely to be diminished and targets which were previously set may no longer be realistic," he says. "Coupled with the pressure on employees to meet unrealistic targets, the risk of white-collar crime such as accounting fraud or financial mis-accounting is likely to be more enhanced, especially if management is slow to react to the developments."

In a 2012 report, the United Nations Office on Drugs and Crime (UNODC)

found a link between economic downturns and increases in criminal activity. The UN report focuses on more traditional crimes such as robberies, homicides, or car thefts, but the same may happen with white-collar crime.

Delays in regulatory enforcement and slow court action during a crisis could also play a role. These delays are already happening.

## MISGUIDED PERCEPTION

Singapore has put in place measure to limit the number of people in buildings and courtrooms, measures that are likely to cause delays.

In Hong Kong, courts have been closed on-and-off since late January as the government implemented work-from-home measures to deal with its own outbreak of COVID-19. At the same time, the Hong Kong Exchanges and Clearing (HKEX) and the Securities and Futures Commission will allow delays of up to 60 days in company filing of audited accounts on a case-by-case basis.

These are among the many factors that could create a misguided perception.

"This may give wrongdoers the false impression that a window of opportunity has opened up for taking chances," says Alfred Wu, a dispute resolution partner at Norton Rose Fulbright Hong Kong. "Like the current battle against the pandemic, self-vigilance and discipline of businesses at the management level and at the operations level cannot be emphasized more strongly."

Add to this the need to overcome sudden tensions in the economic and financial infrastructure. Bribery and corruption are possible solutions to, for example, critical shortages of specific products. At the same time, "cyber-criminals might also exploit the uncertainty and confusion to perpetrate cybercrime, such as phishing scams or malware," Ang says. There have been already instances of cyber-criminals looking to manipulate fears of COVID-19 to acquire confidential and sensitive information.

And, as a result, risks related to white-collar crime increase. Compliance programmes, training and due diligence may all be disrupted by work-from-home requirements while companies may also be tempted to "scale back or delay certain mitigation measures," says Ang.

According to the lawyers at Norton Rose Fulbright, one way to mitigate these risks is stress-testing compliance policies and procedures and digitalising them. In-person compliance training should also be moved and rolled out online.

They suggest companies to notify the internal audit functions on the heightened white-collar crime risks and include additional checks in their audit mechanisms. Companies should also remind their employees of these risks so they stay vigilant. Channels should also be put in place for whistle-blowing initiatives and staff should have access to these channels.

What's key, says Ang, is that compliance programmes continue to run with a "business as usual" mindset. ALB





# The reality of compliance

Having been in various forms of compliance for the last twenty years, here are my top takeaways that are designed to be direct, challenging and a warning to compliance teams to think differently and adjust their approach.

1. **Management Reality.** The reality of compliance is that most of the management see compliance as important to keep their right to operate but not important enough to err on the side of caution and do more than required because it is the right thing to do. Doing the basic required by the law and nothing more is standard behaviour and anything more is exceptional.
2. **Never let compliance slow down business.** Compliance in management will always be doing the minimum and keeping the wolves at bay, but never doing anything that would slow down business, affect revenue negatively or cost too much that becomes noticeable. Management will entertain compliance for a while if it is not too noisy or expensive. No CEO wakes up every day thinking about compliance and what they are focused on. They only wake up and think like that when you cross the line and start slowing down business.
3. **Compliance is the fifteenth member of the management team.** While members of the compliance team are sometimes invited to meetings and report to management, the role itself will never be a key member of the leadership of the company. Similarly, your budget is normally immaterial, small and inconsequential to the company. They will make you work for it; they will challenge you on it as part of the standard process - but it is just part of the process for costs management.



**Scott Lane**

Chief Executive Officer and Chairman  
[scott.lane@redflaggroup.com](mailto:scott.lane@redflaggroup.com)

**The Red Flag Group**

Level 20, Strand 50,  
 50 Bonham Strand,  
 Sheung Wan, Hong Kong  
 T: (852) 3185 0700  
 F: (852) 3185 0701  
 E: [info@redflaggroup.com](mailto:info@redflaggroup.com)  
 W: [www.redflaggroup.com](http://www.redflaggroup.com)

4. **Management would rather tick boxes.** Compliance is still seen as a box-ticking exercise and unfortunately most things that compliance teams do involve boxes and their ticking. While teams keep doing that, management will be happy. They like to see compliance busy on these areas, so they stay out of other areas.
5. **There is no consequence for compliance failures.** It is rare that a management team feels the effect of their compliance lapses. In most cases, unless they were directly involved in fraud themselves, they rarely lose their jobs nor suffer major consequences. The fees, charges, costs of compliance are mostly immaterial and a rounding error.
6. **Managers don't accept the scare tactics of compliance.** Everyone knows managers never go to jail and no one will be trapped at an airport

on arrival into a country. While it has happened, everyone knows it is a remote risk and one not to worry about. Any scare mongering generally acts negatively and makes compliance looks lame.

7. **Hiring processes are broken.** Hiring in management and leadership is so broken that a manager sacked for a compliance breach in one company will turn up at a competitor after a few weeks. In most cases, the competitor will know all the facts and still go ahead.
8. **The market really doesn't see compliance issues** (and their possible resultant charges from government agencies) as a material effect on the books of a business and loses interest in compliance issues after a week or so.
9. **Markets are too powerful.** No one will downgrade a company based on compliance breach for very long. The market is far too powerful and will always look at the underlying business and write off the known compliance issues. Drops in the market due to a compliance issue will be reversed in a matter of days or weeks.
10. **Compensation drives behaviour,** yet very few compliance programmes can impact the compensation plan of managers. If it is included in the plan, it is often small, negligible and rarely actioned.

Knowing these issues is the first step. The second step is accepting that they exist and acknowledging that you likely not change them in almost every company. The third step (post acknowledgment) will lead you to focus on the things that matter and not the things that you can't change.

# 2020 INDIA FIRMS TO WATCH

This year's list of India Firms to Watch features a diverse group. While some have been in the business for decades, others were only set up in the past 12 months. What unites them is strong commitment to client service and a great deal of ambition.

RANKING BY ASIAN LEGAL BUSINESS, TEXT BY APARNA SAI

**Ajay Sahni & Associates**, which was launched in 1983, recently opened its Mumbai office. The firm specialises in intellectual property, trademark, copyright, patent, design, geographical indication, disputes, licensing, enforcement, protection, audit, transactions, valuations, commercialisation, monetisation, investigations, legal, technology, media, and telecommunication. It is the first law firm in India to offer blockchain-based IP solutions.

Meanwhile, **GameChanger Law Advisors** specialises in commercial contracts, corporate law, employment law, FDI/foreign trade, intellectual property and venture capital transactions. Founded in 2011 by Amrut Joshi, the firm has three partners, and offices in Bangalore and Delhi. The firm has represented clients from various sectors including fintech, sports, entertainment, and gaming, social enterprises/impact investments, and venture capitals.

Established in 2004, **LexCounsel Law Offices** is a Delhi-headquartered corporate/commercial and litigation law firm with four partners and 35 fee-earners. The firm recently opened an office in Bhubaneswar. LexCounsel specialises

in areas such as M&A, corporate, labour and employment, real estate, venture capital and private equity, education laws, defence and aviation, franchising, media and entertainment, dispute resolution, insolvency, software/information technology, and general corporate and commercial matters.

**Pioneer Legal**, which was founded in April last year, represents domestic and international clients on corporate and commercial laws, employment laws, insurance, intellectual property, telecommunications, information technology, infrastructure and project finance among others. The firm currently has an office in Mumbai, but is in the process of expanding its operations and will soon setup its commercial litigation and arbitration practice.

Another firm which made the list is **PSL Advocates & Solicitors**. Established in 2012, the firm has offices in Delhi, Mumbai, Bangalore and Chandigarh, with the latter two being set up last year. The six-partner boutique hired five associates over the past year. PSL has represented clients from sectors including automotive, food, hospitality and real estate.

Established in 2002 and headquartered in Delhi, **Singh and Associates (S&A)** has offices in Gurgaon, Mumbai and Bangalore. The firm specialises in litigation and ADR, contracts and transactions, corporate and tax, and intellectual property. In 2019, the firm won arbitrations for clients which amounted to approximately 60 billion rupees (\$812.7 million). Over the past year, S&A's headcount has increased from 105 to 151.

**Singularity Legal** is an Asia-and-Africa-focused international disputes boutique which was established in 2017 by Prateek Bagaria. In 2019, the firm was named the Rising Law Firm of the Year at the ALB India Law Awards. The firm handles cross-border disputes across sectors including energy and resources, construction and infrastructure, shipping and insurance, international trade and business, and private equity and finance.

Noida-based boutique **Sujata Chaudhri IP Attorneys** was founded in 2014 by Sujata Chaudhri. The firm specialises in all aspects of trademark law, branding issues, designs and copyrights. The firm has been involved in major litigation matters in the past year and has represented major brand owners from India and overseas.

**UBR Legal Advocates** was founded by Bharat Raichandani in 2015. In 2019, the firm opened offices in Vapi and Delhi. It focuses on tax litigation such as direct, indirect taxation and foreign trade and policy-related matters. UBR Legal also advises on commercial laws, arbitration and contractual laws.

## LAW FIRM SHOWCASE:

### Lex Consult

Lex Consult is a Mumbai-based corporate commercial and transactional advisory boutique law firm with two partners and six fee-earners. Founded in 2019, the firm specialises in mergers and acquisitions, strategic alliances and joint ventures, private equity and venture capital, structured finance, dispute strategy and real estate.

The firm's clients include Pioneering Ventures, Arshiya Limited, Sukkhi Online,

## Lex Consult

**Nyay Sagar, 2nd Floor, Kalanagar, Bandra East, Mumbai – 400 051, India**  
**E contact@lexconsult.co.in W lexconsult.co.in**

### Key Personnel



#### **Naresh Pareek, Partner, +91 90 0407 3498**

Naresh Pareek is a partner at Lex Consult, and has an experience of over a decade in corporate commercial and transactional advisory. His primary areas of practice are joint ventures, financial & technical collaborations, mergers (including demergers), acquisitions, private equity investments, business restructuring and cross border transactions. Having worked at top law firms before co-founding Lex Consult, Naresh has advised clients on a wide range of issues relating to acquisitions, structuring (including entry and exit strategies), regulatory trends and compliances, strategic issues and developments in a variety of sectors such as manufacturing, power/infrastructure, healthcare, retail/consumer goods, financial services, real estate, media & technology, e-commerce, fintech, insurance and hospitality. As a trusted advisor to a number of his clients, Naresh is often requested to go beyond the limits of a typical transactional lawyer and advise on contentious matters such as shareholder disputes, arbitrations, liquidation proceedings and fraud investigations.



#### **Majid Afsar Siddiqi, Partner, +91 88 7961 4511**

Majid Afsar Siddiqi specializes in joint ventures and acquisition, shareholder exits and disputes. He has, in the past, also advised leading banks and financial institutions in their lending and structured financing transactions. While having primarily represented investors, Majid has also represented Indian promoters on a variety of deals in sectors ranging from pharmaceuticals, agri-business companies, logistics and real estate to financial services, retail, education and technology consulting services. Majid has successfully been able to use this sectoral experience to implement methodical due diligence strategies, efficient negotiations, effective drafting and faster deal-closing. Majid has spent his formative years at top law firms prior to turning entrepreneurial and has regularly advised international clients in structuring their investments in India, especially in relation to heavily regulated sectors such as real estate and retail. He was one of the key members of the team which successfully obtained the requisite government approvals and concluded the first and only foreign direct investment deal in the multi-brand retail sector in India.

Accelerated Learning Edutech, Mestech India Services, Niyogin Fintech, Arevuk Advisory Services and Lesma Limited. Notable work of Lex Consult includes representing Pioneering Ventures in the acquisition of a further 28 percent stake in Desai Fruits and Vegetables from Deepak Fertilizers and Petrochemicals Corporation; acting in the court-approved merger of Valiant Organics and Amarjyot Chemicals; representing Accelerated Learning Edutech, which operates the School of Accelerated Learning, in its seed funding round from Astar Ventures and others; and representing Niyogin Fintech Limited in its acquisition of a majority stake in Investdirect Capital Services, the holding company for Moneyfront – a platform for direct investments in mutual funds.

The firm attributes its success in the past year to focussed partner attention on each deal; recognition by clients and counterparties of its transactional experience; the approach to the unique requirements of a young millennial workforce;


adapting to the dynamic requirements of clients in a responsive, effective and efficient manner; training associates while giving them the necessary guidance and space to showcase their abilities; and leveraging the collective knowledge of the firm's lawyers to service clients in various sectors like manufacturing, chemicals, fintech, agriculture and agrotech, media and entertainment, edutech, hospitality, real estate, retail and more.

Some of the changes in business conditions which the firm believes worked in its favour include the dynamic nature of the regulatory regime which saw numerous clients requiring guidance to operate in a compliant manner resulting in a closer working relationship between both the parties, government policy and legislative measures such as IBC, RERA, GST, FDI liberalisation and others.

The firm's growth strategy includes addition of practice areas through inorganic acquisition of partner practices; leveraging the firm's existing network to make further inroads in the industry;

encouraging a work environment that attracts new generation lawyers; and retaining talent as the firm believes that it is equivalent to hiring new ones. Additionally, this year, Lex Consult intends to consider fresher ideas along with building a connect with various law schools in India (through internships, presentations and so on).

Partners Majid Afsar Siddiqi and Naresh Pareek, who each have more than a decade of experience in the legal industry, are key members of Lex Consult along with associate Shubham Soni. Siddiqui specialises in joint ventures, structured finance, cross border acquisitions/investment, real estate and retail. Meanwhile, Pareek is well versed in joint ventures and court approved mergers, cross border/private equity transactions, and infrastructure power manufacturing.

In the future, the firm intends to grow further while expanding their team as well as developing a knowledge management team and leveraging the latest technology. 





View of Cirata Dam, Hydro Electric Power for Java and Bali, Cianjur, West Java Indonesia. Akhmad Dody Firmansyah/Shutterstock.com

# GREEN AMBITIONS

Southeast Asia's largest economy has prioritised new renewable energy legislation that could be a chance for the country to move away from coal with renewable energy resources. We speak to two prominent energy lawyers in Indonesia about how they expect to see it impact the sector. **BY RANAJIT DAM**

**ALB:** At this time, President Joko Widodo is expected to soon sign the long-awaited presidential regulation on renewable energy. What specific elements in the law are you looking forward to?

**EVA ARMILA DJAUHARI, partner, Armila & Rako:** Indonesia is striving to ensure that 23 percent of its energy comes from renewable energy sources in 2025. At present, the proportion of renewable energy has reached only around 12 percent. Due to this moderate growth, the Indonesian government has been preparing the Presidential

Regulation (PR) to accelerate the progress of renewable energy. The draft PR is expected to address various issues encountered by investors. The discussion on the draft PR is taking longer than expected, while industry incentives also need to be considered. The recently passed MEMR Regulation No. 4 of 2020 (Regulation No. 4/2020) is said to be a "quick fix" for current hurdles faced by potential investors. In parallel, the legislature is also working on the draft of the Law of Renewable Energy (the Bill), which will be the foundation of all regulations in this sector.

Regulation No. 4/2020 encompasses many subject matters meant to be regulated under the PR, for instance, the power purchase price. Purchase price has been the specific focus for most investors, as it helps them determine the economy of their investments. Under the current Regulation No. 4/2020 the pricing scheme refers to PLN production costs, which does not necessarily reflect the economy of the project and the investment rate of return. The current draft of the PR introduces a slightly different price scheme as Regulation No. 4/2020 as it applies staging scheme



of price depending on the age of the project. The scheme is designed for higher price for the first period of the project, as such allowing prompt repayment of finance of the relevant project. Besides the price scheme, incentives for renewable energy players would also be the element everyone looks forward to, whether it is fiscal, administrative or otherwise.

**MARCIA WIBISONO, partner, Yang & Co:** In past few years, Indonesia has been developing a new element of renewable energy from using the palm crude oil as a raw material to be processed into biodiesel as a fuel. Indonesia, as one of the countries that has been using palm oils for a long time, is making a breakthrough to cultivate it as one of the ingredients for making B30 (a biodiesel blend containing 30 percent fuel produced from palm oil). The Government of Indonesia has required the use of this B30 as fuel for certain companies. The Government of Indonesia has been trying to enact the legal protection for B30, which was started with the issuance of Decree of the Minister of Energy and Mineral Resources of the Republic Indonesia No. 227 K/10/MEM/2019 concerning Conducting a Trial of Mixing Thirty Percent of Biodiesel (B30) into diesel oil type for period in 2019 (ESDM Decree). The issuance of such decree shows how serious our government is when it comes to introducing the use of B30 in Indonesia.

While the ESDM Decree encourages the use of B30, we expect to have a further regulation which supports the use of B30 by providing attractive benefits to the producers and users. The key strategies are further explained below.

**ALB: Broadly speaking, how do you expect it will improve the investment climate in the renewable energy sector and why?**

**DJAUHARI:** The keyword to attract investment is "stability" in all respects, including regulatory stability. Consistent regulation at all levels will provide certainty for business. Hence, the government shall vet all aspects of business in this sector and make certain they have been appropriately accommodated

in the law and regulation to avoid any gap that could dampen the interests.

Incentives for renewable power producers is equally important to improve the investment climate. Perhaps, in lieu of BPP as a reference in setting the price, the government could base the price scheme on the economy of the project since each project is unique. That way, it allows the power companies securing financing relatively easier, hence the failing rate of renewable energy projects could be significantly reduced.

**WIBISONO:** The current challenge is that our country is depending on the import of diesel, which affects foreign exchange. To overcome this, our government is encouraging the use of B30, which also would suppress the country's deficit in oil and gas trading. Hence, it can be said that the ESDM Decree might indirectly be phrasing about the positive values about using B30, yet hopefully, in 2020 these would be supported by having legitimate regulation.

One thing that needs to be considered is that businesses would always choose the easiest and cheapest fuel. Consequently, we think that it will be helpful if the producers could obtain an incentive from the government such as tax incentives or tax holidays due to their support and persistence on the development of renewable energy sector.

**ALB: How large is your energy practice? What kinds of work does it do at the moment, and what kinds of clients does it serve? Do you expect that to change once the bill is passed?**

**DJAUHARI:** Various aspects of corporation have been the focus of our practice but principle industries the firm represent are energy and resources with renewable energy included within. Currently, the firm involves in numerous works for clients ranged from structuring and preparing them to commence their business in

Indonesia, negotiating various contracts with PLN, financial institutions, contractors, and other parties, handling project financing and acquiring new projects including assisting them with due diligence exercise and preparing transaction documents as well as assisting with licensing, approvals and compliance.

Clients of the firm include public and privately held companies, large and emerging businesses as well as public sector entities.

Type of works or clients are projected to be similar once the PR and/or the Bill are passed but the interest in this sector is anticipated to be much bigger.

**WIBISONO:** Approximately 20 percent of our practice is related to the energy sector. At the moment, our works are mostly related to the merger and acquisition, conducting legal due diligence, advising in the business structure and compliance with the regulations.

Once the bill is passed, we expect to assist more potential clients in starting their renewable energy business in Indonesia.

**ALB: How would you describe the overall renewable energy landscape in Indonesia right now? What are some of the kinds of potential it possesses, and what are its biggest challenges?**

**DJAUHARI:** Although somewhat lagging some of its neighbouring countries and even its target to progress renewable energy, Indonesia offers a lot of opportunities to invest in this sector. The government's firm target and strong commitment to developing renewable energy, economy and political stability coupled with the fact that it is an archipelagic state, make Indonesia an attractive target for renewable energy investment.

Regulations which are often overlapping and conflicting with each other, lacking coordination between the regional and central government and PLN limited capacity remain the major



**EVA ARMILA  
DJAUHARI**



**MARCIA  
WIBISONO**

## Renewable Sources of Energy in Indonesia: shaping the future of renewable energy

In 2025 Indonesia target 23% of its national energy sourced from renewable energy and in 2050, it is expected to reach 31%.<sup>1</sup> Perhaps it is an ambitious target as the realisation in 2019 only reached 12.36%, just about half of the 2025's target, which is far below the expectation.

Renewable energy is also hoped to contribute towards the national non-tax state revenue (*Pendapatan Negara Bukan Pajak* or "PNBP"). In 2020, PNBP from all energy and mineral sectors is targeted to reach IDR 181.7 trillion - lower than the last year target of IDR 214.3 trillion. Of such revenue from energy and mineral sectors, renewable energy contributed only IDR 0.9 trillion. This year, renewable energy is expected to contribute more towards PNBP, i.e. around IDR 1.2 trillion.

As for electricity from renewable sources, various factors contribute to the failure of reaching such revenue target including the unattractive feed in tariff scheme which refers to the PLN production costs ("BPP"), complex red tape in government sphere as well as uncertain and conflicting regulations, to name a few.

The government endeavours to boost investment in this sector by identifying several incentives for investors in addition to its agenda fixing the regulations. MEMR Regulation No. 4 of 2020 ("Regulation No. 4/2020") just recently passed to amend the MEMR Regulation No. 50 of 2017. Subject to few conditions, such regulation allows fiscal incentives, land access and availability, simple licensing procedures and elimination of



**Eva Armila Djauhari**

Partner

[eva.armila@armilarako.com](mailto:eva.armila@armilarako.com)

**Armila & Rako**

12th Floor, Lippo Kuningan,

Jl. HR. Rasuna Said Kav. B-12,

Jakarta 12920, Indonesia

T: (62) 21 2911 0015

F: (62) 21 2911 0016

W: [www.armilarako.com](http://www.armilarako.com)

the previous mandatory BOOT scheme. PPA model is aimed to be more attractive and acceptable by financial institutions without ignoring the importance to balance the risks of PLN and the investors.

In general, the pricing scheme under such Regulation No. 4/2020 still refers to BPP. In the event of the local BPP is above the average national BPP, the purchase

price will be at the maximum of 85% of the local BPP or the price will be agreed by both parties if the local BPP is below the average national BPP. This scheme applies for solar, wind, biomass, biogas and ocean power.

The government targets investment in renewable energy to reach USD2.3 billion in 2020, which number is derived from the assumption that target electricity consumption for 2020 is increased to 1,142 kWh/capita compare to 1,084 kWh/capita in 2019. Thus, there are ample investment opportunities in this sector.

With regard to the renewable fuels, numerous government programs have been introduced to support the use of non-fossil fuel such as biodiesel mandatory policy that is targeted to reach 10 million kilo litre and the use of electric cars and stoves.

Despite the Covid-19 pandemic which has been causing slowdown of global economy, Indonesian government's target and commitment towards renewable energy remain strong. This is in line with continuous improvement in many respects initiated by the governments at all levels including improvement in coordination between governmental departments, revision to unfavourable regulations and simplification of permits.

<sup>1</sup> As regulated in the Presidential Regulation No. 22 of 2017 concerning General Plan of National Energy (*Rencana Umum Energi Nasional* or RUEN)

**"Incentives for renewable power producers is equally important to improve the investment climate. Perhaps, in lieu of BPP as a reference in setting the price, the government could base the price scheme on the economy of the project since each project is unique. That way, it allows the power companies securing financing relatively easier, hence the failing rate of the renewable energy projects could be significantly reduced."**

— Eva Armila Djauhari, Armila & Rako

obstacles in this sector. In addition to those challenges, absence of willingness and lack of knowledge of the local community on the importance of the industry particularly for local economy makes it even harder and detrimental for investors when commencing business in this sector in many areas in Indonesia.

**WIBISONO:** As we view that the ESDM Decree is an introduction to the use of B30, we expect the government to issue further implementing regulations to support such decree. Along with the government's support to use and produce B30, the producers would indirectly support the development of the

renewable energy sector. Consequently, the producers could improve in the B30 production.

Although renewable energy in Indonesia is very promising, there are pros and cons in the development of this sector. Potentially, it will reduce the country's deficit in importing fuel, increase domestic palm oil consumption and it will help to protect the environment because B30 is producing less CO (carbon monoxide). However, the biggest challenge is that until now we still import methanol as the mixing material in producing B30. Therefore, our government needs to find a solution in providing the material for producing B30.

**ALB: How do you expect the renewable energy scene in Indonesia to evolve over the next few years?**

**DJAUHARI:** Renewable energy in Indonesia has been growing steadily. Commitment from the government towards renewable energy from the

## The outbreak of COVID-19 is effecting deliveries of contractual liabilities; can the contractual parties claim this as force majeure event?

The rapid deployment of COVID-19 has caused the World Health Organization (WHO) declares a public health emergency and making Indonesian government closes international borders for temporary. Business sectors have been affected because of contractual parties cannot deliver their obligations on time. Therefore, contractual parties are looking to their agreements or contracts to find ways to escape liabilities and not considered as the defaulting party because of non-performance of the obligations. The question is how the contractual parties' act as a good faith for not being considered as the defaulting party because of non-performance due to this Covid-19 situation? Can the contractual parties use the Force Majeure clause in their agreements or contracts?

Article 1244 of Indonesian Civil Code ("Indonesian Civil Code") stipulates that the affected party must pay the losses and its interest, if the affected party cannot prove that there is an unpredictable event (which are beyond the parties' control) or Force Majeure which caused the effected party' obligations are impossible to be performed. In practice, the agreements or contracts do stipulate about the Force Majeure clauses. However, recently the Force Majeure clauses are often considered as 'boilerplate' or 'standard clause'. The parties are often not paying much intention on this clause. Therefore, it would be difficult if there is no clear definition and not



**Marcia Wibisono**

Partner

[mwibisono@yangandco.com](mailto:mwibisono@yangandco.com)

**Christian Yang**

Senior Associate

[christianyang@yangandco.com](mailto:christianyang@yangandco.com)

**Yang & Co Law Office**

Multivision Tower 3rd Floor,  
 Jl. Kuningan Mulia Lot 9B,  
 Jakarta Selatan 12980, Indonesia  
 T: (62) 21 2938 0878  
 F: (62) 21 2938 0877  
 W: [www.yangandco.com](http://www.yangandco.com)

stipulating the clear obligations to be conducted by the affected party to show there is a good faith in this Force Majeure event.

The Force Majeure clauses at least must cover (i) the broader definition which covers all unforeseen circumstances; (ii) the obligations of the affected party such as notifying in writing the occurrence of Force Majeure event within certain time to the other party; (iii) the good faith of the affected party such as the effected party must using all reasonable endeavors to rectify its obligations; and (iv) the further consequences of the agreements or contract because of Force Majeure event.

Hence, although our Indonesian Civil Code clearly states that the parties are not liable to pay losses and its interest in the occurrence of Force Majeure event, but the wording of the definition of the Force Majeure event shall clearly stipulate that COVID-19 or any pandemic events shall be considered as Force Majeure event, as well as the obligations of the affected party. Therefore, if the affected party fails to fulfill one of the requirements of the Force Majeure clause or unable to prove that such non-performance event was caused by Force Majeure, then such party may become liable to the losses and interest because of non-performance.

**Note: the content of this article does not constitute legal advice and should not be relied on as such.**

outset to date play a significant role in the success of renewable energy in Indonesia in the next few years. The commitment has been translated as continuous improvement by the government in many respects such as regulation, coordination among governmental institutions and incentives for investors. Educating the community regarding the benefits and importance of this sector is also crucial in order to maintain conducive environment. I am confident if all these are consistently improved, the target for renewable energy will ultimately be reached.

**WIBISONO:** We are very confident that the renewable energy sector in Indonesia will be a valuable and important sector soon with some improvements. This is because sooner or later the un-renewable energy should be replaced by renewable energy for sustainability. We believe that this is going to be an interesting sector. Some keys strategies to be considered are as follows:

a. Strengthening coordination

**"There are pros and cons in the development of this sector. Potentially, it will reduce the country's deficit in importing fuel, increase domestic palm oil consumption and it will help to protect the environment because B30 is producing less CO (carbon monoxide). However, the biggest challenge is that until now we still import methanol as the mixing material in producing B30. Therefore, our government needs to find a solution in providing the material for producing B30."**


— Marcia Wibisono, Yang & Co

between institutional structures domestic especially to overcome the issue of licensing and land acquisition;

b. Apply taxes carbon monoxide emissions;

c. Providing investment support for renewable energy sectors;

d. Providing support for the development of the renewable energy industry within domestic and exemption from import tax on renewable energy equipment; and

e. Providing education to the community regarding the application of renewable energy. 



# SPREADING THE WORD



As Chinese law firms continue to expand in size and geographies, they have begun to realise the importance of marketing in attracting and retaining clients and recruiting talent. Today, almost all Chinese law firms have an in-house marketing department and they are seeing positive results from their marketing strategy and brand building. BY HU YANGXIAOXIAO

In China, the marketing strategy of law firms has evolved over the years. As professional service providers, law firms had been relying on word-of-mouth for their expansion for a long time. Lawyers believed that clients would eventually come to them because of their reputation, and only a few of them were willing to do commercial marketing.

However, times have changed with the rising numbers of lawyers and law firms, the increasingly fierce competition in the legal service market and the constant evolution of fee models. Chinese law firms have realised that if

they want to continue to consolidate their presence and bring in more business, they must build their marketing capabilities like commercial organisations in other sectors.

Warren Hua, member of the managing committee of JunHe, tells *Asian Legal Business* how Chinese law firms have reversed their thinking. "During the first 30 years, the development of China's legal industry mainly relied on legal professionals to open up the market and there was little attention to building a marketing team. Most law firms set up the team as a back-office

unit and no high-end professionals ever entered this area," he says.

Nowadays, a marketing department is an almost essential part of any Chinese law firm, and high-end talent in this space is highly sought after. Dorothy Xing, member of the managing committee of East & Concord Partners, tells *ALB* that although her law firm's marketing department was established five years ago, it has seen several of its marketing executives move to other law firms. "The mobility of marketing officers demonstrates that this area is flourishing," she points out.

Given the rise in both awareness and hands-on experience, have Chinese law firms generally established a systematic marketing strategy?

It is noteworthy that as professional organisations providing legal services, law firms formulate their marketing strategies differently from other commercial institutions. In addition, Hua says: "A law firm's marketing strategy needs to be based on its market position, business focus and development, system, income and revenue, as well as the current market and economic conditions. These factors need to be considered as a whole, which will eventually drive law firms to adopt different marketing strategies." Therefore, in terms of marketing approaches, Chinese law firms already have a playbook to follow while showing diversification in their approaches.

## INTERNAL SETUP

Although most Chinese law firms now have an in-house marketing or similar department, their composition and management vary greatly. A common practice is to set up a marketing department that is headed by a partner but operated by non-legal marketing specialists. This is how JunHe and East & Concord run theirs.

Take East & Concord as an example, which was formed after two established law firms in Beijing merged in 2014. Xing tells *ALB*: "It is also because of the merger that everyone began to reflect on our brand and subsequently established the marketing department." Currently, the law firm's marketing department works on four areas, namely submis-

sions for awards, business development (including drafting proposals) and business support, native content and other legal media marketing, as well as business development and marketing resource management, which was established in 2020.

Another common practice is to form a special marketing team which is headed by a partner and joined by partners from different practice areas or branches, senior lawyers as well as personnel from other functional departments. This is the approach that Commerce & Finance Law Offices adopts.

Speaking of this setup, Andrew Zhang, member of the managing committee and head of marketing of the law firm, explains: "Marketing specialists may work more on external communication, but currently, we focus more on extracting the firm's internal information and integrating it for communications. Law firms are more complex institutions with diverse practise areas and offices in different areas, by assigning partners from important practice areas to join the working group, the marketing team can track data more easily, and the marketing strategies could also be executed more efficiently."

### TARGETED INITIATIVES

In terms of specific marketing approaches, Chinese law firms have generally established a set of initiatives through experience in recent years.

Law firm marketing can be done both online and offline. As most Chinese people get information from their mobile phones nowadays, law firms publish their achievements, news, articles and research reports on their websites and WeChat accounts to stay active. They then choose suitable external platforms for additional marketing. Email marketing is also a common approach. East & Concord sends its core achievements to, and shares its knowledge with, hundreds of its regular clients by email.

As for offline marketing, law firms organise presentations, join events organized by professional organisations such as media and arbitration commissions, and visit clients to explain hot legal issues.

"Marketing in China's legal industry is still at an infant stage. As the industry grows rapidly, marketing will be done professionally with the division of labor. By then, more high-end professional talents will join the cause to promote the development of China's legal industry."

— Warren Hua, JunHe LLP



At times, online and offline activities share the same theme. A prime example would be JunHe's integrated marketing strategy in 2019, the year when the law firm celebrated its 30th anniversary. Marketing activities that year centred on its 30th anniversary. The law firm organised over a hundred offline legal seminars and non-legal salons, as well as four client appreciation events. It also published dozens of articles about the law firm's culture. Then an event boasting more than a thousand attendees in the UAE at the end of the year marked the culmination of a successful year of marketing.

### EXTERNAL RESOURCES

Besides internal actions, the three law firms also mention the importance of leveraging external resources. The external resources that they use the most are legal media such as *Asian Legal Business*, law firm rankings and various industry associations.

Hua believes that winning legal awards can enhance a law firm's repu-

tation, while Xing adds that in addition to receiving the awards, paying attention to the rankings can help a law firm better understand where they are in the market. "Legal media and rankings will lead law firms. What adjustments have been made to this year's awards? What are the research directions? What new trends have emerged? These agencies are industry observers and can help law firms complete their market research," Xing says.

In 2020, East & Concord's marketing strategy shines a new light on the exploration and use of academic institutions. Xing tells *ALB* that the law firm has established the Law and Technology Research Fund with the Renmin University of China. Over the next three years, East & Concord will allocate several million yuan from its marketing budget to the university and third-party projects that are deemed suitable to promote the law firm with their resources. "As far as I know, there are no similar partnerships between a law firm and an academic institution like ours in the market," Xing says. 

# TALENT DEVELOPMENT FOR CONTINUED BUSINESS SUCCESS

BY ANKUR GUPTA

■ In 2019, Big Four professional services firm PWC published a report on how law firms were adapting to paradigm transformations in business models, utilising technology to boost productivity and support new ways of working, building innovation cultures, and enhancing agility to better serve their client needs and navigate the complexities in the operating environment.

The PWC survey respondents included UK-headquartered law firms, as well as international firms having offices there. The respondents were surveyed on “key future challenges,” defined as “the most significant challenge facing the legal profession over the next 2-3 years.” Unsurprisingly, technological change, new entrants’ and talent retention were identified as the most pressing ones, along with Brexit and the ensuing economic uncertainty.

These challenges are opportunities for law firms to strengthen not just traditional legal services offerings but also explore diversified revenue streams, offering non-traditional products and services. Navigating such challenges deftly is no longer just about improving on metrics of efficiency, client growth or scaling up, or about having an IT strategy or workflow dashboards. The challenges call for reinventing the law firm in anticipation of an unfamiliar future.


Beyond the market gyrations, findings arising from the PWC survey indicate that it is not “business as usual.” Longstanding service offerings are not as profitable as before. People costs remain high the PWC survey reveals, but the return on investment in hiring and developing talent is not paying off as expected. In this new reality,

developing people with the appropriate mindsets and skillsets could be the make-or-break factor for business continuity and success in the evolving operating environment. This view is echoed within the profession, by customers of legal services and service providers such as those specialising in technology solutions, although tech providers may unwittingly paint a narrative that deemphasises investment in people over investment in apps and platforms. Stuart Barr, who oversees HighQ, an end-to-end solution for law firms offered by Thomson Reuters, emphasized in a recent podcast that for law firms, “the sweet spot if you can find them will be people who can work across different technology platforms to bring them together.”

The hiring strategy of law firms across jurisdictions increasingly includes attracting professionals with diverse skillsets and experience, often from outside the legal sector. This is evident from job posts by law firms on LinkedIn and their websites seeking technology managers, project managers and data scientists. What is not so evident is whether systematically developing staff capability is a strategic priority, as is hiring diverse talent. Conversations and action around actively developing staff capabilities across functions are underpublicised. It does not mean that such efforts are not underway. There is growing recognition among certain law firms of nurturing a learning infrastructure, which can support new ways of working with clients and working internally in innovative ways. Two examples from Singapore highlight efforts at developing lawyer skills with innovative service delivery as the goal.

Clifford Chance Asia Pacific has been experimenting systematically

with bringing capabilities to harness tools and techniques to automate workflows as part of its in-house Automation Academy. An intended outcome is to help overcome perceptions around lawyer unwillingness and ability to adapt to technology informed operations. Meanwhile, the Singapore Attorney General’s Chambers is upskilling its lawyers and support staff to deploy baseline MS Office applications in innovative ways for streamlining internal processes for document assembly and template generation. On-the-job training is intended to help staff overcome potential mental barriers related to operating in unfamiliar territory and challenging stereotypes that lawyers tend to be uncomfortable with or unwilling to adopt new ways of working with technology. Such efforts leverage on workplace learning as a building block of staff development. Done right, it can be a very effective people development endeavour.

Beyond developing technical competencies, initiatives like the Automation Academy can ingrain abilities to work within the firm with both external and internal business support professionals and non-legal domain experts, opening channels for interprofessional collaboration. Legal professionals working in isolation cannot be expected to render improved client service design and delivery. This has been the experience of enterprises born around largely certain core professions such as the Big Four professional services firms, hospitals, airlines and IT services. 

*Ankur Gupta is a law lecturer at the School of Business at Singapore’s Temasek Polytechnic.*



**Asian Legal Business** is seeking thought-provoking opinion pieces from readers on subjects ranging from Asia’s legal industry to law firm management, technology and others. Email [ranajit.dam@tr.com](mailto:ranajit.dam@tr.com) for submission guidelines.



THOMSON REUTERS

ProView™



# Your books – in court, in meetings, on-the-go

## Thomson Reuters ProView

Access your trusty reference materials wherever you are,  
on any device, so you're always in the know.

For more information or free trial:

Email

[legal.hk@thomsonreuters.com](mailto:legal.hk@thomsonreuters.com) (for North Asia)

[legal.sea@thomsonreuters.com](mailto:legal.sea@thomsonreuters.com) (for ASEAN)

The intelligence, technology and human expertise  
you need to find trusted answers.



the answer company™

THOMSON REUTERS®

**ALB**

# LAW AWARDS 2020

**SAVE THE DATE!**

**MALAYSIA - June 4**

**JAPAN - June 11**

**SE ASIA - July 23**

**HONG KONG - September 4**

**INDONESIA - October 8**

**PHILIPPINES - October 23**

**KOREA - November 12**

**CHINA - TBC**

**ONGOING SUBMISSIONS FOR  
MALAYSIA, JAPAN AND SE ASIA**

## **SPONSORSHIP OPPORTUNITIES NOW AVAILABLE!**

Contact **Amantha Chia** at [amantha.chia@tr.com](mailto:amantha.chia@tr.com)  
for more information on sponsorship and  
get publicity across the region.

Contact **Mary Aquino** at [mary.aquino@tr.com](mailto:mary.aquino@tr.com)  
to join the mailing list to receive event updates  
and submission details.

**SHARE YOUR ALB MOMENTS ON  
SOCIAL MEDIA #ALBAWARDS**

**[WWW.LEGALBUSINESSONLINE.COM/LAW-AWARDS](http://WWW.LEGALBUSINESSONLINE.COM/LAW-AWARDS)**

