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NEWS & LEGAL UPDATE

IPBA
INTER-PACIFIC BAR ASSOCIATION

IPBA 2020 SHANGHAI

30th Inter-Pacific Bar Association Annual Meeting & Conference

20-23 April, 2020

Shanghai International Convention Center

To register, please visit：www.ipba2020.com

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Contents

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Legal Update

Member News

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The President's Message

Francis Xavier
President

Dear Friends,

The last quarter has been eventful.

Members of the leadership have travelled to various locations across the globe to cement key relationships. Past President Perry Pe and President-Elect Jack Li attended the POLA conference (31 July to 2 August, Kunming), the American Bar Association conference (8–13 August, San Francisco) and the IBA conference (22–27 September, Seoul). The IBA conference was also attended by a large IPBA delegation including Past President Dhinesh Bhaskaran, Deputy Program Coordinator Jan Peeters, Deputy Secretary-General YJ Chang, and Publications Committee Chair John Wilson. Membership Committee Chair Tatsu Nakayama attended the AIJA conference (3–7 September, Rome), signing an MOU extension. Dedicated IPBA member Chester Salomon represented us at the deliberations of the UNCITRAL Working Group on Insolvency (28–31 May, New York).

I attended and spoke at the St Petersburg Legal Forum (15–17 May), 2nd Annual LPU-PIArb CARD International Conference (25–27 July, Manila) and the Eastern Economic Forum (4–7 September, Vladivostok).

Preparations for the Shanghai Annual Conference 2020 have intensified under President-Elect Jack Li's able leadership. Do sign up and make use of the early bird discount, which ends on 30 November, for what promises to be a watershed conference—IPBA's second conference ever to be held in China. Current registrations are at a very healthy level: we have close to 450 registrations at the time of writing.

The leadership will meet in mid-October in Milan for its Mid-Year Council Meeting. This is made possible by the gracious support of Cajola and Associati (Riccardo Cajola) and Chiomenti (Sara Marchetta). The leadership will discuss a whole raft of issues including officer appointment and renewal. The leadership is also reviewing a number of key nodes including IPBA work and process flows, website upgrade and ways to boost in-house counsel membership and participation. A regional conference titled '*The Evolution of Protectionism: circulation of investment, goods and services, people and judgments*' will also be held in conjunction with the event on 14 October 2019. Hope to see you there!

Francis Xavier
President

The Secretary-General's Message

Michael Burian
Secretary-General

Dear IPBA Members and Friends,

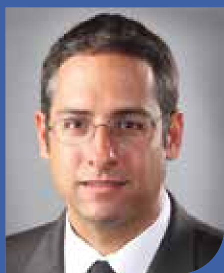
After my first months as Secretary-General of the IPBA, I can say that I am very proud to be part of such an extraordinary organisation. The other officers and council members put so much time and effort into this project to bring it to its success. A special thank you goes to Rhonda and Yukiko for continuously working hard to contribute to this flawless organisation.

Our September issue is a prelude to the events coming up this fall. On 5 September 2019, IPBA leaders from the US east to west coast and in between are arranging a half-day Regional Conference in Chicago: 'North America, Asia and the Law of International Business: Rules of the Road in 2019 and Beyond'. Other interesting conferences are also planned, like the 5th IPBA Arbitration Day, to be held in Osaka, Japan for the first time on 13–14 November 2019, and the 5th IPBA East Asia Regional Forum, this time to be held in Beijing, China on 26 November 2019 in cooperation with the Lawyers Association of Chaoyang District. We are looking forward to another interesting conference and to bringing together legal experts from all over the world. We are proud to welcome the best in their field to speak in front of the IPBA members to share their knowledge and hope that many of you can join us and enjoy an active exchange.

Prior to the events in November, the IPBA Mid-Year Council Meetings and Regional Conference will take place 11–14 October 2019 in beautiful Milan, for the first time ever! The Regional Conference is themed 'The evolution of protectionism: circulation of investments, goods and services, people and judgments' and we are looking forward to a day full of interesting presentations and discussions among legal experts from many different countries, and again hope to see many of you during the event.

Last, but not least, we want to remind you that the membership renewal period for 2020 begins in November. We are looking forward to next year with exciting conferences coming up; starting with the IFRL/IPBA Asia M&A Forum in Hong Kong on 26 and 27 February 2020, followed by the 30th IPBA Annual Meeting and Conference 2020 from 20–23 April 2020 in Shanghai. The latter will be a truly historic event as it is our first ever conference in Shanghai. We want to encourage you to take advantage of our Early Bird rate for this conference, which is valid until 30 November 2019.

Michael Burian
Secretary-General



Message to the Reader

John Wilson
Chair – Publications Committee, IPBA

Dear reader,

Welcome to the autumn issue of the IPBA Journal. The focus I have chosen for this month's issue of the Journal is Finance, Banking and Securities law.

Kenneth Stuart, a long-time member of the IPBA, has authored an article, 'Foreign Securities Brokers doing business in the United States'.

I am grateful for the support of the Chair of the Banking, Finance and Securities Law Committee of the IPBA, Mr Thomas Zwissler, who worked with members of the Committee and secured three very interesting articles.

These articles are, in the order in which they appear in the Journal: an article written by Vinay Ahuja, (with contribution by Simon Z Rajan) on 'A Rising Fever: Why ASEAN Members Should Finance Climate Change Mitigation and How its Financial Regulators Can Take the Lead Now' which looks at the role of financial regulators in the ASEAN region in tackling climate change.

Continuing with the theme of sustainability, the article contributed by Stephane Karolczuk 'Sustainability, Green Bonds Standards and ESG Criteria Are More Than Ever On the Financial Agenda' describes the European regime of standards for green bonds and ESG criteria, and explains why these are so predominant on the financial agendas in Europe.

In the very current area of fintech, there is an article written by Conrad Chan (who is a past Vice-Chair of the Banking, Finance and Securities Committee) on 'Fintech Laws and Regulations in Hong Kong'. Conrad presents the readers with an overview of the regulatory regimes governing fintech-type businesses, and addresses regulation of crypto-related investments, electronic payments services, virtual banking and robo-advisory services in Hong Kong.

This is followed by an article written by Bui Tien Long on 'Fintech in Vietnam'. Bui's article describes not only the dynamics of fintech startups around the globe, but focuses on fintech activities taking place in Vietnam and the pressure that this puts on the banking industry.

This edition of the Journal includes a description of the recent IPBA regional seminar held in Dubai in January 2019, at which issues around contractual distributorship and commercial relationship issues when doing business in the Middle East were discussed in depth. The conference not only attracted speakers from the Middle East but also from South Korea, Germany, Oman, Japan, Jordan and Saudi Arabia, amongst others. My thanks to Richard Briggs for providing the write-up and to Ali Al Hashimi for the photographs.

The next IPBA Journal is planned to focus on Intellectual Property. I hope that the IP experts who are members of the IPBA will be generous with their contributions. As always, only articles authored by IPBA members will be considered for publication. The next issue will also contain photographs of the Mid-Year Council Meeting in Milan and a transcript of the speech of Mr Alessandro Rivera, Head of the Treasury Department, Ministry of Economy and Finance, who delivered the keynote address at the one-day conference held on 14 October 2019 on 'The evolution of protectionism: circulation of investment, goods and services, people and judgments'.

Happy reading!

John Wilson
Chair – Publications Committee of the IPBA

IPBA Upcoming Events		
Event	**Location**	**Date**
IPBA Annual Meeting and Conferences		
30th Annual Meeting and Conference	Shanghai, China	April 20-23, 2020
31st Annual Meeting and Conference	Tokyo, Japan	April 21-24, 2021
IPBA Mid-Year Council Meeting & Regional Conferences		
2019 Mid-Year Council Meeting (IPBA Council Members Only)	Milan, Italy	October 11-13, 2019
Regional Conference: The Evolution of Protectionism and M&A: Circulation of Investment, People and Services	Milan, Italy	October 14, 2019
IPBA Events		
North America, Asia and the Law in International Business: Rules of the Road in 2019 and Beyond	Chicago, USA	September 5, 2019
China and Alternative Dispute Resolution: Emerging Developments	Montréal, Québec	November 4, 2019
5th IPBA Arbitration Day	Osaka, Japan	November 13-14, 2019
IPBA 5th East Asia Regional Forum	Beijing, China	November 21, 2019
IFLR/IPBA Asia M&A Forum 2020	Hong Kong	February 26-27, 2020
IPBA-Supported Events		
Wolters Kluwer's 6th Annual International Arbitration, Compliance and Competition Law Summit	Japan	September 5, 2019
Wolters Kluwer's 6th Annual International Arbitration Summit	Turkey	September 26, 2019
ABA-SIL's Asia-Pacific Forum: Navigating the Life Cycle of a Cross-Border Deal	Hong Kong	October 24-25, 2019
New York State Bar Association's Global Conference 2019: A World of Many Voices, United in Our Diversity	Tokyo, Japan	November 5-8, 2019
College of Law's "ASEAN Environmental and Social Governance Intensive"	Bangkok, Thailand	December 11-12, 2019
More details can be found on our web site: http://www.ipba.org, or contact the IPBA Secretariat at ipba@ipba.org		

IPBA Dubai Regional Seminar

Agency Agreements: The Commercial and Contractual Relationship Issues of Doing Business in the Middle East

23–24 January 2019

The IPBA, with the support of the UAE and Middle East Regional IPBA members, organised and held a Regional Seminar on 'Agency Agreements: The Commercial and Contractual Relationship Issues of Doing Business in the Middle East' on 24 January 2019 in Dubai, United Arab Emirates.

The venue was the Ritz Carlton Hotel at the Dubai International Financial Centre ('DIFC'). The Seminar was preceded by a cocktail reception on the previous evening of Wednesday, 23 January 2019 at the nearby Four Seasons Hotel in the DIFC. The Seminar was well attended by both IPBA members and those interested in the subject matter from the region, as well as by various international IPBA members who made the effort to come to Dubai for the event. All IPBA members and guests are thanked for their participation.

At the Seminar itself, speakers attended from the UAE, South Korea, Germany, Oman, Japan, Jordan, Saudi Arabia and Bahrain. The idea of the Seminar was to explore, through the speakers and the questions asked to the speakers, the theme of agency contracts and relationships in this area, not just in the Middle East, but to try to look at this theme in the context of international, and particularly Asian, viewpoints. To this extent, the participation of speakers from outside of the Middle East region, particularly from Japan, Korea and Germany, was very rewarding and particularly relevant to the discussions at hand.

The Seminar lasted all day and was broken down into four sessions.

The first session (of the morning) was a panel discussion, 'Negotiating the terms of the contract and relationship', chaired by Victoria Woods of Hadef & Partners (UAE). Speakers included Mona Hussein of Adidas (UAE), Liam Collens of Reckitt Benckiser Group (UAE), YJ Chang of Lee & Ko (Korea) and Geraldine Ahern of Eversheds Sutherland (UAE). Drawing on their extensive, collective expertise and potential experiences, the Panel offered insights, protocol tips and guidance focused on the fostering of fruitful, long-term agency relationships and the key to mutual success.

The second session (late morning) was on 'Conducting business and managing the relationship', chaired by Prof Dr Eckart Brodermann of Brodermann Jahn (Germany) and included Ghada Audi of Seddiqi Holding (UAE), Abdulredha Al Lawati of Global Advocacy and Legal Counsel (Oman), Kazuhiro Kobyayashi of Oh-Ebashi & Partners (Japan) and Hani Ghattas of Norton Rose Fulbright (UAE). This session was notable for the range of its speakers, including the in-house lawyer of a UAE distributor of top-end products, as well as international views from

Germany and Japan and further regional views from the UAE and Oman. 'Managing the relationship' was seen as crucial, a soft skill never to be underestimated.

The third session (post-lunch) of the Seminar was on 'What happens in the event of a dispute?' chaired by Alec Emmerson of ADR Management Consultancies Ltd (UAE) and presented by Robert Stephen of DIFC-LCIA, Sherif Maher of Clyde & Co LLP, Sara Aranjo of Al Tamimi & Company and Omar Aljazy of Alzazy & Co. The Panel addressed dispute resolution options under UAE law and processes for both commercial agency disputes and other types of agency disputes where special dispute resolution procedures are not prescribed by law. The Panel also addressed dispute resolution options in Egypt, Saudi Arabia, Jordan and Lebanon, contrasting between jurisdictions that are perceived protectionist, on the one hand, and as liberal, on the other hand.

The fourth and final session (late afternoon) of the Seminar was on 'Enforcement throughout the Middle East', chaired by Mohammed Alsuwaidi of Al Suwaidi & Company (UAE), and including Dr Waleed Sulaiman Altuwaigri of the Higher Judicial Institute (Saudi Arabia), Abdelhak Attallah of Al Suwaidi & Company (UAE), Saad Jaber Aldoseri of Saad Jaber Al Doseri Attorneys at Law & Legal Counsels (Bahrain) and Diana Hamade of Diana Hamade Attorneys at Law in association with EKP (UAE). The Panel offered much light and insight on the ever difficult issue of enforcement in the region.

Held over a full day, the seminar was in many ways a typical IPBA event, relatively informal in style but with focused discussions targeted at the regional business community and supported by IPBA members internationally. The Host Committee, namely Ali Al Hashimi of Global Advocates, Richard Briggs and Abdulrahman Juma of Hadef & Partners, Alec Emmerson of ADR Management Consultancies Ltd and Mohammed Al Suwaidi of Al Suwaidi & Company, all want to express their special thanks to all the speakers and attendees for making the Seminar such an interesting and enjoyable event and to the sponsoring law firms, including Global Advocates, Hadef & Partners, Al Suwaidi & Company and Clyde & Co.

Foreign Securities Brokers Doing Business in the United States

When a non-US broker-dealer purchases or sells securities traded on US stock exchanges for its non-US clients, it may be required to register with the US Securities and Exchange Commission ('SEC'). However, exemptions from SEC registration may be available to the foreign broker-dealer, which nevertheless will need to comply with US AML and KYC requirements.

Registration Requirements

In this era of global securities transactions, a question often arises whether a foreign (non-US) broker-dealer can buy and sell securities traded on US stock exchanges for its foreign clients without having to register as a broker-dealer with the US Securities and Exchange Commission (the 'SEC')? Similarly, can the foreign broker-dealer who does not have an office in the US buy or sell securities for US clients without having to register with the SEC?

A foreign broker-dealer can legally purchase US securities from a US broker-dealer registered with the SEC for resale to foreign investors and sell securities in the US for the accounts of foreign investors to US registered broker-dealers without having to register with the SEC, provided that the foreign broker-dealer is not otherwise conducting its business in the US in a manner that would require SEC registration. Also, a foreign broker-dealer which is not registered with the SEC can buy and

sell securities for a defined class of US investor clients if the foreign broker-dealer complies with certain SEC regulatory requirements discussed below.

Broker-dealers doing business in the US are subject to a comprehensive regulatory scheme designed to ensure that they have adequate capital, observe high standards of commercial honour and treat their customers fairly and consistent with just and equitable principles of trade in conducting their business. Principal among the regulatory requirements is that any person acting as a broker or a dealer in the US must register with the SEC and, in most cases, become a member of the Financial Industry Regulatory Authority ('FINRA'), which is an industry self-regulatory authority (a 'SRO') overseen by the SEC.

Broker-dealers have been required to be registered with the SEC since 1934 with the adoption of the Securities Exchange Act of 1934 (the 'Exchange Act'). Section 15(a) of the Exchange Act generally requires that any broker or dealer using the mail or any means or instrumentality of interstate commerce 'to induce or effect transactions in securities' must register as a broker-dealer with the SEC. It is important to note that the Exchange Act definitions of 'broker' and 'dealer' do not refer to nationality and the scope of the definitions includes both domestic and foreign persons performing the activities described therein. Consequently, any use of US jurisdictional means to engage in broker or dealer activities could trigger the Section 15(a) registration requirements.

The SEC registration form for broker-dealers, known as Form BD, requires a broker-dealer to provide, among other things, information about the activities it engages in; its directors, executive officers, other control persons and certain direct and indirect owners and affiliates; and prior legal regulatory and criminal disciplinary events. FINRA members are required to enter into a membership agreement which lists the permissible activities and any restrictions that FINRA has imposed on the firm when it approves its broker-dealer membership affiliates.

Exemptions

With regard to foreign broker-dealers, the Exchange Act Rule 15a-6 adapted by the SEC defines permissible activities which foreign broker-dealers may undertake in the US without being subject to the broker-dealer registration requirements of the Exchange Act. Consistent with Exchange Act Rule 15a-6, and as a policy matter, the SEC uses a territorial approach in applying the broker-dealer registration requirements to the international operations of broker-dealers. Under this approach, all broker-dealers physically operating within the US that effect, induce or attempt to induce any securities transactions are required to register with the SEC as broker-dealers, even if these activities are directed only to foreign investors outside the US. Conversely, US entities are not being required to register with the SEC if they conduct their sales activities entirely outside the US. The SEC also requires registration by foreign broker-dealers that, from outside the US, induce or attempt to induce trades by any person in the US, but it does not require registration of foreign broker-dealers if they are effecting trades outside the US with or for individual US citizens resident abroad and have no other contacts within the jurisdiction of the US.

Significantly, the SEC has confirmed that foreign broker-dealers do not become subject to the SEC registration requirements of Section 15(a) of the Exchange Act by using US jurisdictional means to engage in securities transactions in the US only with registered broker-dealers and with banks acting in a broker-dealer capacity. This specific exemption has been codified in Exchange Act Rule 15a-6(a)(4)(i). Thus, a foreign broker-dealer can purchase US securities from an SEC registered broker-dealer for resale to foreign investors and can sell securities in the US for the accounts of foreign investors to registered broker-dealers without registering with the SEC. Further, transactions in securities by a foreign broker-dealer with US broker-dealers or with US banks acting in a broker-dealer capacity may be actively solicited by the foreign broker-dealer whether the US broker-dealer is acting in a principal or agency capacity.

In addition, there are certain limited types of transactions in which the foreign broker-dealer can assist a person resident in the US in buying or selling securities. The Exchange Act Rule 15a-6(a)(1) provides an exemption from SEC registration for the foreign broker-dealer if a US customer affirmatively reaches out to the foreign broker-dealer, without having been contacted or solicited by the foreign broker-dealer and the US customer makes a purchase from or sells a security to the foreign broker-dealer. Because the distinction between when a transaction is solicited or recommended and when it is unsolicited is subjective and not objective, and because the SEC has a very broad view of 'solicitation', including as solicitation any advertising or other marketing efforts

Broker-dealers have been required to be registered with the SEC since 1934

directed at US persons, this registration exemption is not often invoked. Thus, a foreign broker-dealer may send to its unsolicited US customer confirmations, account statements, company announcements and similar materials, but the foreign broker-dealer should not include in its communications with that customer any advertising inserts, research reports or other materials that the SEC might view as soliciting additional business.

A second limited type of transaction exemption in Exchange Act Rule 15a-6 enables a foreign broker-dealer to effect transactions for foreign persons temporarily present in the US with whom the foreign broker-dealer firm had a bona fide, pre-existing relationship before that person entered the US.

Also important to the foreign broker-dealer is another limited type of exemption in Exchange Act Rule 15a-6 that permits foreign broker-dealers to conduct limited activities in the US with certain types of institutional investors without having to register with the SEC, provided the foreign broker-dealer has entered into a 'chaperoning arrangement' with an SEC-registered broker-dealer (the 'chaperoning broker-dealer'). Pursuant to Exchange Act Rule 15a-6(a)(3) and subsequent SEC Staff guidance, a chaperoning arrangement enables the foreign broker-dealer to: (1) contact Major US Institutional Investors from outside the US at any time without a registered representative of the chaperoning broker-dealer being present; (2) contact US Institutional Investors that are not Major US Institutional Investors from outside the US (a) at any time with a registered representative of the chaperoning broker-dealer present; or (b) without the participation of such person if the contact takes place outside the trading hours of the New York Stock Exchange and no orders for US securities are accepted during such contact; and (3) visit Major US Institutional Investors and US Institutional Investors at any time in the US if accompanied by a registered representative of the chaperoning broker-dealer. A representative of the chaperoning broker-dealer must also participate in telephone conversations with any US Institutional Investors that do not qualify as Major US Institutional Investors.

'Major US Institutional Investors' are entities with financial assets or financial assets under management in excess of US$100 million. 'Financial assets' include securities of unaffiliated issuers, cash, money market instruments and derivatives. 'US Institutional Investors' is defined to include (i) investment companies registered with the SEC; (ii) banks; (iii) savings and loan associations; (iv) insurance companies; (v) pension plans directed by defined fiduciaries; and (vi) tax-exempt entities and trusts with sophisticated fiduciaries with total assets in excess of US$5 million.

Importance of Understanding Regulatory Requirements

The SEC has brought enforcement actions against foreign broker-dealers which were illegally doing business in the US without having proper chaperone broker arrangements. Among these enforcement actions was a case brought against a large European bank which engaged in securities transactions for clients through US affiliates of the bank that were not registered with the SEC. This SEC enforcement action resulted in a settlement payment by the bank of approximately US$200 million. Accordingly, it is important for foreign broker-dealers to understand the complexity of the US regulatory requirements and assure themselves that they are following the rules.

Furthermore, a foreign broker-dealer engaging in transactions involving the purchase or sale of securities on US exchanges, either through an account it maintains with a US broker-dealer or in connection with a chaperoning arrangement with a US broker-dealer, will need to satisfy the US broker-dealer's anti-money laundering ('AML') and know-your-customer ('KYC') requirements. Thus, foreign broker-dealers doing business in the US must be familiar with these requirements.

1. ***AML Programs.*** Broker-dealers have broad obligations under the Bank Secrecy Act ('BSA') to guard against money laundering and terrorist financing through their firms. The BSA, its implementing regulations, and SEC Exchange Act Rule 17a-8 require US broker-dealers to file reports and retain records relating to suspicious transactions, customer identity, large cash transactions, cross-border currency movement, foreign bank accounts and wire transfers, among other things.

   The BSA, as amended by the USA PATRIOT ACT, as well as self-regulatory organisation rules, such as FINRA Rule 3310 and New York Stock Exchange Rule 445, also require all member broker-dealers to have anti-money laundering compliance programs in place. FINRA Rule 3310 sets forth minimum standards for a broker-dealer's AML compliance program, including development and implementation of a written AML compliance program, approved in writing by a member of senior management, which is reasonably designed to achieve and monitor the broker-dealer's ongoing compliance with the BSA requirements and its implementing regulations. To summarise, broker-dealer firms must:

   - establish and implement policies and procedures that can be reasonably expected to detect and cause the reporting of suspicious transactions;
   - establish and implement policies, procedures and internal controls reasonably designed to achieve compliance with the BSA and implementing regulations;
   - provide for independent testing for compliance, to be conducted by member personnel or by a qualified outside party;
   - designate and identify to the SROs an individual or individuals responsible for implementing and monitoring the day-to-day operations and internal controls of the program and provide prompt notification regarding any change in such designation(s); and
   - provide ongoing training for appropriate personnel.

   The Financial Crimes Enforcement Network ('FinCEN') is the division within the Department of the Treasury that administers the BSA and it provides useful information for helping financial institutions, including broker-dealers, meet their BSA obligations (see the FinCEN website at http://fincen.gov).

2. ***Know Your Customer ('KYC')*** Procedures. Broker-dealers must comply with both FINRA Rule 2090 (Know Your Customer Rule) and FinCEN's Customer Due Diligence ('CDD') Rule. The CDD Rule applies to banks, broker-dealers in securities, mutual funds, futures commission merchants and introducing brokers in commodities. These businesses are collectively referred to in the CDD Rule as covered financial institutions ('CFI').

   The CDD Rule includes four core elements of customer due diligence. These are customer identification and verification; beneficial ownership identification and verification; understanding the nature and purpose of customer relationships to develop a customer risk profile; and ongoing monitoring for reporting of suspicious transactions and, on a risk basis, maintaining and updating customer information. A CFI must collect the same information about the beneficial owners of a legal entity customer as it collects from individual customers under its customer identification program. Such information includes the name, date of birth, address and social security number or other government identification.

   In addition to the FinCEN CDD Rule, FINRA's Rule 2090 requires its member broker-dealer firms to use reasonable diligence in regard to opening and maintaining every customer account. This includes knowing and retaining the essential facts about a customer and the authority of the persons acting on behalf of that customer. FINRA's requirements are in addition to the information about customers that Exchange Act Rule 17a-3(a)(17) requires broker-dealers to obtain for natural persons: the customer's name, tax identification number, address, telephone number, date of birth and employment status.

FINRA Rule 2090 adds to the SEC's requirements that the broker-dealer knows who is authorised to act for a customer, and in the case of certain large institutional accounts to know the scope of the person's authority to act for the customer. Also, a natural person customer's information must be updated every three years. Closely related to the KYC requirements, FINRA has a customer suitability rule (FINRA Rule 2111) which requires a member firm to have a reasonable basis to believe when it recommends a transaction or an investment strategy that it is suitable for the customer based on information obtained through reasonable diligence according to the customer's investment profile.

Also, a US broker-dealer, whether acting directly for a foreign broker-dealer or pursuant to a chaperoning arrangement, has an obligation to comply with the sanctions programs administered by the Department of Treasury's Office of Foreign Assets Control ('OFAC'). OFAC administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries, terrorists and certain designated foreign nationals and entities. OFAC's sanctions programs are separate and distinct from, and in addition to, the AML requirements imposed under the BSA and its implementing regulations on broker-dealers.

In general, OFAC regulations require all US persons, including all US broker-dealers, to do the following:

- block accounts and other property of specified countries, entities and individuals;
- prohibit or reject unlicensed trade and financial transactions with specified countries, entities and individuals; and
- report all blockings and rejections of prohibited transactions to OFAC within ten days of the occurrence and annually.

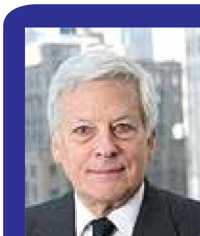
Advisory Work and Work With NGOs

While Exchange Act Rule 15a-6 does not explicitly cover advisory work by foreign broker-dealers on cross-border M&A transactions, the SEC Staff has provided some clarification and relief in this area. For one thing, the Staff has expanded the definition of Major Institutional Investors to include any company that has US$100 million in total assets, excluding cash and cash equivalents. Also, the Staff has advised that a foreign broker-dealer representing a non-US company in a proposed M&A transaction being negotiated in the US may deal directly with the target counterparty if that counterparty has an experienced in-house group with respect to handling M&A transactions. In these cases, the foreign broker-dealer will not need to involve a chaperoning broker-dealer to asset it and does not need to be registered as a broker-dealer in the US.

Finally, Exchange Act Rule 15a-6 enables foreign broker-dealers to conduct unlimited business with several multi-lateral financial institutions (NGOs) that are based in the US. Included are the African Development Bank, the Asian Development Bank, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Monetary Fund, the United Nations and their respective agencies and pension funds.

Regulation Best Interest

Regulation Best Interest ('Reg BI') was adopted by the SEC on 9 June 2019. Reg BI imposes a quasi-fiduciary duty on broker-dealers and their registered representatives to act in the 'best interest' of their retail customers when making a recommendation regarding a securities transaction or investment strategy. Reg BI includes a disclosure obligation, a care obligation, a conflict of interest obligation and a compliance obligation. The deadline for broker-dealers to be in full compliance with Reg BI is June 2020.



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A Rising Fever: Why ASEAN Members Should Finance Climate Change Mitigation and How Its Financial Regulators Can Take the Lead Now

'The hardest thing to explain is the glaringly evident which everybody has decided not to see.'
– Ayn Rand, The Fountainhead

Climate change presents a clear and present danger, not just to the world, but also to the ASEAN region in particular, where greenhouse gas emissions have increased at unprecedented rates in the last four decades. ASEAN members have collectively set themselves the goal of raising their renewable energy target to 23 percent of their primary energy sources by 2025.[1] This is window dressing at best as primary energy reliance will still be predominantly fossil fuel-based. In the face of runaway temperature spikes, all ten ASEAN members' commitments under the Paris Agreement would be rendered resoundingly hollow. In any event, meeting this target would be totally contingent on adequate funding. The need of the hour is concerted regulatory effort, divorced from subversive political agenda, to fund the movement away from the overt dependence on fossil fuels. Even in the ASEAN Multi-Sectoral Framework on Climate Change as proposed in 2018 at Hanoi, climate financing is the last of the eight strategic thrusts, which speaks volumes on prioritisation and engagement. The hard truth is that without sufficient funding, even the loftiest of climate goals will never be achieved.

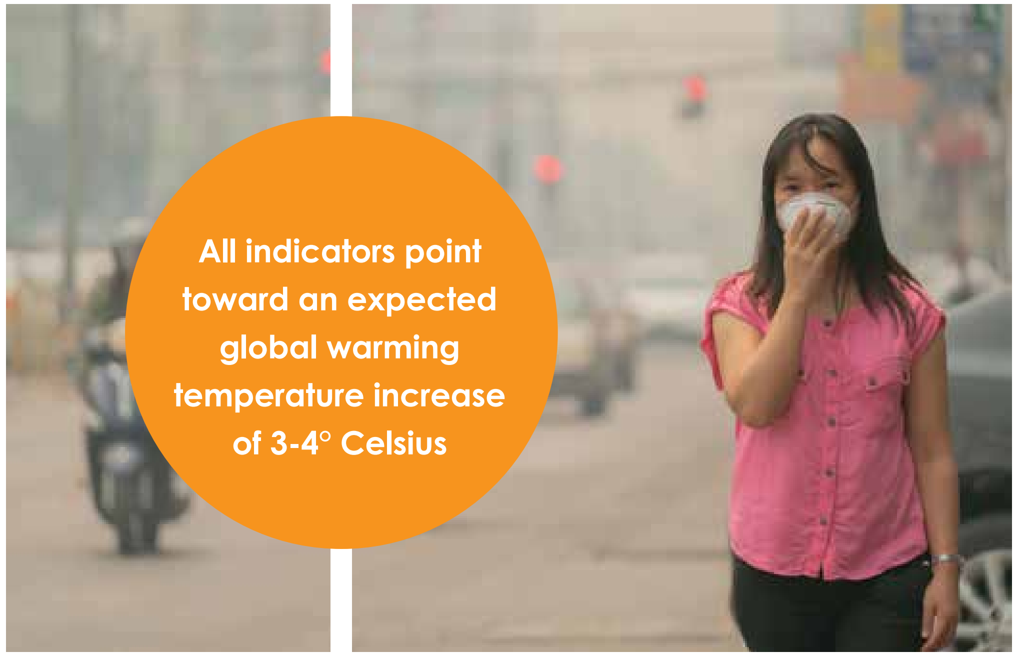
In stark contrast, global funding for coal is backed by the biggest institutional investors, banks and underwriters.[2] Tragically, Malaysia, the Philippines, Vietnam and Indonesia are looking at ramping up coal production with only Thailand looking to buck the trend.[3] From an ASEAN context, one would think that the looming spectre of catastrophic losses to agricultural, fishing and tourism industries, not to mention anything of abject food scarcity, oceanic acidification, inundation of coastal land and increasingly frequent cyclonic weather, would serve to galvanise incumbent financial regulators to present and enforce the required policies to deviate from historical trends applicable to fossil fuel-powered industrial development. To even term this as development would be an absurdity in itself, if the cost thereof necessarily entails ecological meltdown—the more appropriate term would be devastation. However, ignorance, uncertainty, risk undervaluation, mistrust, reactance and active denial prevail at this late hour, not only at the highest echelons of power, but also within our homesteads, much in keeping with the history of fallen civilisations.

The Problem; Right Here, Right Now

'Scientific evidence for warming of the climate system is unequivocal.'– Intergovernmental Panel on Climate Change

Popular, but misguided, perception holds that the climate crisis is an issue for the future. The most insidious of threats are the ones that creep up on us and, in this regard, climate change is no different. The Charney Report[4] was perhaps the world's first comprehensive analysis of the effects of carbon dioxide on climate, comprising the basis of the science behind global warming. The evidence for climate change is compelling[5] with a 95 percent probability that human industrial activity is the cause, regardless of what some leaders may have us believe.[6]

For the ASEAN economy, the financial risks are threefold: primary liability attributable directly to climate change events, secondary losses to the insurance system and the tertiary issue of stranded assets.[7] What is widely regarded by financial regulators and industry players as a tail risk today, may well mutate into the catastrophic normal of the future.[8] ASEAN's continued reliance on



fossil fuels will saddle its future generations with a debt that they will never be able to pay, which for the insurance industry is the worst case outcome. Globally, weather-related economic losses in 2018 came to a staggering US$225 billion,[9] a significant share of which occurred in Vietnam and Indonesia. Pertinently, the insurance gap is tremendous and is expected to widen with flawed risk assessment and impaired forecast models. The 2011 flood in Thailand cost the insurance industry US$10.8 billion,[10] ranking it as the highest loss worldwide at the time. Actual economic loss and damage was in the region of US$46.5 billion,[11] which represents an insurance gap in the region of 76 percent.

ASEAN financial regulators need to accept the fact that at a fast-approaching point in the future, climate change-related economic (read loss) implications will submerge and overwhelm existing market solutions. To aggravate matters, despite ostensible national energy goals set by ASEAN members to reduce fossil fuel dependence, there is a glaring dichotomy in terms of subsidisation policies for impoverished sections of society of the very same products that these members are attempting to rid themselves of.[12] All indicators point toward an expected global warming temperature increase of 3-4° Celsius, which in turn raises an infrastructure capital requirement of US$26 trillion[13] to not only sustain current growth rates and eradicate poverty, but also to incorporate climate change mitigation and adaptation costs for the period of 2016–2030. By itself, climate change measures represent a budget of US$3 trillion, which given the projected time period, is not insurmountable for the finance industry. However, time and tide wait for none.

This calls for a radical approach, much opposed to the traditional macro prudential regulatory method usually adopted by regulatory authorities with financial stability as the touted but often questionable objective. Instead, financial regulators within the ASEAN region should be looking to completely abolish (not merely reduce) fossil fuel dependency and thereby effectively prevent climate change-related financial disaster which they will be forced to bear the cost of ultimately. The stakes are too high to even contemplate failure.

The ASEAN Elephant A.K.A The Obvious Solution

'We have managed to bring famine, plague and war under control thanks largely to our phenomenal economic growth, which provides us with abundant food, medicine, energy and raw materials. Yet this same growth destabilizes the ecological equilibrium of the planet in myriad ways, which we have only begun to explore. Humankind has been late in acknowledging this danger, and has so far done very little about it. Despite all the talk of pollution, global warming and climate change, most countries have yet to make any serious economic or political sacrifices to improve the situation. When the moment comes to choose between economic growth and ecological stability, politicians, CEOs and voters almost always prefer growth. In the twenty-first century, we shall have to do better if we are to avoid catastrophe.'
– Yuval Noah Harari, *Homo Deus A Brief History of Tomorrow*

Rather than replicate historical models for development as followed by western powers, financial regulators across ASEAN would do well to assess what their counterparts are currently up to,[14] that is, evaluate what they are doing now as opposed to what they did in the past, which is exactly what led us to the economic precipice we find ourselves at. This way they could be ahead of the curve. The vantage point offered by history is that one does not have to repeat the mistakes of others if only one is willing to learn and pivot. In this vein, it is expedient to borrow a page from the Network for Greening the Financial System ('NGFS') playbook,[15] where it is recognised by those central banks (including two ASEAN members: Thailand and Malaysia) that 'climate-related risks are a source of financial risk. It is therefore within the mandates of central banks and supervisors to ensure the financial system is resilient to these risks'. This only serves to underscore the imperative need for the financial regulators of those remaining ASEAN members to also step up to the plate by way of coherent regulatory action.

NGFS recommendations, if applied to ASEAN, translate into cogent regulatory policy articulation as follows:

1. integrating climate-related risks into financial stability monitoring and micro-supervision;
2. integrating sustainability factors into own-portfolio management;
3. bridging data gaps;
4. building awareness and intellectual capacity and encouraging technical assistance and knowledge sharing (which ASEAN excels at);
5. achieving robust and internationally consistent climate and environment-related disclosure; and
6. supporting the development of a taxonomy of economic activities.

To commence, ASEAN financial regulators would need to implement policies so that data pertaining to climate-related risks can be disclosed and disseminated in a uniform manner by private and public sector incumbents (in the form of existing strategies, responses, management and the target metrics thereof). Once collated and made known, these risks would be divided primarily into two baskets, risks presented by climate change and the risks that transition to renewable energy would entail, thereby allowing the financial sector across ASEAN to take stock of climate issues on the basis of reliable data. Thereafter, three high-level actions as part of the planning and evaluation phases would be called for, that is: budgetary analysis, review of public expenditure and budgetary tagging or coding so that disbursements can be tracked during implementation of adaptation and mitigation measures. Given that ASEAN's banking systems and capital markets continue to remain discrete, an integrated approach may appear daunting.

To bolster and sustain climate-related investment, regulators would be faced with the challenge of introducing and increasing demand and corresponding supply of climate risk products and services together with fostering innovation so that state-of-the-art technology can be harnessed for resilience. No doubt, this is an overt simplification—implementation would entail ensuring myriad compliance requirements such as minimum data disclosure requirements which should made explicit across the region; mapping of financial sources; development of regional, national and local level investment plans; execution of public private partnerships if needed; promulgating tax exemptions and incentives to reduce the cost of transition and ensuing risk; continually improving access to public data and ensuring quality standards of the same; engaging technical assistance and routing access to capital especially for early stage funding; regulating new financial and corporate structures as required; enforcing appropriate insurance and supply chain financing. At local and national levels, this may seem a Sisyphean task and even more so for ASEAN to cohesively administer as a regional bloc, but the fact remains that financial regulators have been known to move heaven and earth when necessary. As quipped by Baron Healy, 'World events do not occur by accident. They are made to happen, whether it is to do with national issues or commerce; and most of them are staged and managed by those who hold the purse strings.'

In order to end dependence on carbon, regulators across the board must resolve to unequivocally end consumption. Even with the sobering cost of transition to renewable energy sources, the commercial opportunity is quite salubrious.[16] To ease such transition, it would make sense for regulators to impose controls whereby the price of fossil fuels is raised to match the cost to

the environment, both by way of extraction as well as utilisation; this could be by way of roll back of subsidies and the levy of carbon taxes in a prudent manner[17] once suitable alternatives have matured along with sufficient deployment of requisite support infrastructure. The energy transition will constitute the largest capital mobilisation the world has ever seen and ASEAN must either lead the movement or at the very least keep abreast of the latest technologies which would necessarily imply a sustained long term investment. This brings home the dire need for funding through the issuance of long-term debt instruments by public investment banks or directly by national governments. It is at this juncture that the role of ASEAN's financial regulators, specifically their respective central banks, comes to the fore. In keeping with their supervisory state function, central banks have managed the secondary markets for public debt. It also not unheard of for central banks to depart from convention.[18] As such, they must rise to the occasion by facilitating the movement from carbon energy to renewables as buyers of last resort for the aforesaid long-term debt instruments.

In a commendable effort that began in 2016: ASEAN members have already explored and taken active steps toward green financing, having raised US$5 billion as of November 2018, with Indonesia leading the way[19] despite the Philippines and Singapore being the pioneers in this regard. Green investment sectors within ASEAN currently are energy, buildings, transport, water, waste, land use, industry and information communications technology. The financial instruments are fairly sophisticated and not unlike those issued in more popular markets[20] consisting of an assortment of debt, equity and credit enhancement mechanisms. However, the sheer scale and magnitude of the climate change ramifications leave little time for accolade; rather, matters should be moved to a war footing and the only parties who have the heft and capacity to do this are financial regulators.

Conclusion

'Bold climate action is in the national interest of every single country represented at this conference. The time for brinksmanship is over.'
– Ban Ki-moon, COP21 Leaders' Summit Speech.

Green financing represents tremendous potential by way of socio-economic and overall development prospects given the scale of transformation that is required. It augurs well that foundations have been laid and the timing is ideal for financial regulators to give impetus and facilitate the transition to renewable energy in earnest. This would bring the requisite visibility to springboard and further finance other climate change mitigation and resilience measures. To paraphrase Thiers' law, good money will drive out bad (with specific reference to fossil fuels).

As a consequence, hypothetically speaking, ASEAN member commitments under the Paris Agreement would appear a more achievable and less forlorn a target. The backing of financial regulators would serve to draw multilateral financial institutions of the likes of the World Bank, International Financial Corporation and the Asian Development Bank, among others and establish much needed familiarity to anchor investors as well as boost the credibility of local financial institutions and borrowers. A coordinated policy initiative beginning at the regional level of ASEAN, percolating down to local markets with improvised implementation guidelines, would render transparency to transition efforts and, as a result, sustain the same. ASEAN is already an established platform for dialogue, negotiations and technical knowledge proliferation, which if used effectively can serve to scale up financing as required. However, the efficacy of these transition efforts will be directly hinged on the pricing of carbon as concluded by the Report of the Secretary-General's High-level Advisory Group on Climate Change Financing, 'The higher or lower the carbon price, the larger or smaller the revenue and the stronger or weaker the price signal to reduce emissions.' Determining the most suitable course, that is, taxation, carbon markets or liberation of existing price controls, would be a decision point for ASEAN member financial regulators.

In terms of success of meeting objectives, regardless of what critics may suggest, ASEAN is second only to the European Union as a regional group, which was founded for ostensibly economic reasons but in reality to prevent another war. ASEAN too, was predicated on routing communism and was rife with mistrust when established in 1967. To lend perspective, it took 40 years to ink a foundational charter. ASEAN now ranks the fifth largest economy by way of GDP, having trounced conflict and poverty to establish itself as a model organisation of peace and prosperity underpinned by diversity. From being dismissed as recently as 2016 by The Economist[21] as 'having no mechanism to enforce the group's many agreements and treaties', the ASEAN way[22] is unconventionally inspirational. In 1967, with naysayers of the likes of Justice William Douglas and Nathaniel Peffer, ASEAN's current achievements, without any written charter document for most part of its journey, would have been dismissed as impossible; yet time and time again, ASEAN has overcome a host of hurdles with quiet aplomb. In the context of the current climate change challenge and the overall regulatory procrastination thus far, that is precisely what ASEAN must pull off today: the impossible!

Note : The Author was assisted by Simon Z Rajan, DFDL (Thailand) Limited.

Notes

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Sustainability, Green Bonds Standards and ESG Criteria Are More Than Ever on the Financial Agenda

Introduction

For a number of years, the integration of non-financial criteria such as environmental, social and governance ('ESG') and other 'green' factors in investment management, banking and finance and international finance, has been on top of the agenda of governments and boardroom meetings.

In Europe, the EU Commission observed that the current volumes invested in ESG are far from sufficient to support an environmentally and socially sustainable economic system with a yearly investment gap of almost EUR180 billion to achieve EU climate and energy targets by 2030.[1] According to estimates from the European Investment Bank ('EIB'), the overall investment gap in transport, energy and resource management infrastructure has reached a yearly figure of EUR270 billion[2].

Furthermore, the increase in climate change-led natural disasters means that financial institutions such as banks or insurance companies are exposed to a greater risk of loss and generally higher risks in their activities. The EU Commission noted that close to 50 percent of the exposure of Euro area banks to risk is directly or indirectly linked to climate change,[3] noting that between 2000 and 2016, annual weather-related disasters worldwide rose by 46 percent and between 2007 and 2016, economic losses from extreme weather worldwide rose by 86 percent (EUR117 billion in 2016).[4]

The need for a sustainable financial market with proper channels to direct investments to ESG is clearly identified, in this context, a definition on what is 'sustainable' finance, criteria and benchmarks applicable and an increased transparency in relation thereto are necessary to enable investors and market participants to properly assess the value creation of companies in the long run and their ability to manage sustainability risks and ultimately invest in those companies in view of obtaining an ESG return.

This article aims to give an overview of the main initiatives in Europe and Asia regarding sustainable finance and practical implications in relation to the creation of sustainable financial products. We will also touch on the latest trends in relation thereto and give examples of how established financial centres are participating in this common effort to integrate ESG factors in their financial ecosystem.

Genesis of Sustainable Finance and Concrete Initiatives Taken in the EU

The 1997 Kyoto Protocol,[5] the 2015 United Nations Climate Change Conference ('COP 21')[6] and the UN General Assembly adoption of the '2030 Agenda for Sustainable Development', elaborated a common position in the international community on the urgency to deal with climate change, limit global warming and the emissions of greenhouse gases.

Following the Paris Agreement of COP 21, the EU Commission appointed a High-Level Expert Group on sustainable finance, which published its final report in 2018,[7] with two overarching goals: improving the contribution of finance to sustainable and inclusive growth by funding society's long-term needs; and strengthening financial stability by incorporating ESG factors into investment decision making.

Based on the findings of the Report, the EU Commission developed an Action Plan on Financing Sustainable Growth in 2018 ('EU Action Plan'),[8] which focuses on three main pillars: (1) capital flows towards sustainable investments; (2) management of financial risks; as well as (3) fostering transparency and long-termism in financial and economic activity.

For the purpose of this article, the first pillar will be focused on.

The EU Taxonomy Regulation Proposal and EU Green Bonds Standards

A unified classification system is considered by most as a necessary step to provide clarity on which activities can be considered 'sustainable' and 'green' and to avoid 'greenwashing'.

In this respect, the EU Commission established a Technical Expert Group ('TEG')[9] on sustainable finance in July 2018 and requested the TEG to: (1) establish an EU classification system for sustainable activities, that is, the EU taxonomy; and (2) prepare a report on an EU Green Bond Standards ('EU-GBS').

The EU Taxonomy Regulation

The EU Commission issued in May 2018 a proposal for a regulation on the establishment of a framework to facilitate sustainable investment ('Taxonomy Regulation').[10]

The Taxonomy Regulation proposal sets out the criteria for determining the environmental sustainability of an economic activity, in the context of establishing the degree of environmental sustainability of an investment. In a nutshell, in order to qualify, an economic activity must contribute substantially to one or more environmental objectives without significantly harming any of the others.

The environmental objectives which have been identified by the Taxonomy Regulation are: climate change mitigation and adaptation; a sustainable use and protection of water and marine resources; a transition to a circular economy; waste prevention and recycling; and finally, pollution prevention and control with the protection of healthy ecosystems.

According to the Taxonomy Regulation, an economic activity shall be regarded as environmentally sustainable only where that activity complies with all of the following criteria: (1) the economic activity contributes substantially to one or more of the environmental objectives; (2) the economic activity does not significantly harm any of the environmental objectives; (3) the economic activity is carried out in compliance with the minimum safeguards laid down in the Taxonomy Regulation; and (4) the economic activity complies with technical screening criteria.

The Taxonomy Regulation proposal further provides for each of the environmental objectives what constitutes a substantial contribution thereto, and requires that the information provided to investors shall enable them to identify the percentage of holdings pertaining to companies carrying out environmentally sustainable economic activities and the share of the investment funding environmentally sustainable economic activities as a percentage of all economic activities.

In the future if, for example, an EU fund manager offers a 'green fund', the manager must comply with the above criteria and indicate the way and the extent to which the criteria for environmentally sustainable economic activities were used to determine the environmental sustainability of the investment in the fund's pre-contractual disclosure document.

The EU Green Bond Standards

In June 2019, the TEG also published its Report of EU-GBS[11]. The TEG proposed that the EU Commission creates a voluntary, non-legislative, EU GBS to enhance the effectiveness, transparency, comparability and credibility of the green bond market and to encourage the market participants to issue and invest in EU green bonds.

Under the EU-GBS, an EU Green Bond is any type of listed or unlisted bond or capital market debt instrument issued by a European or international issuer that is aligned with the EU-GBS and meets the following requirements:

- the issuer's Green Bond Framework (see below) shall confirm the alignment of the green bond with the EU-GBS;
- the proceeds, or an amount equal to such proceeds, shall be exclusively used to finance or re-finance in part or in full new and/or existing Green Projects as defined under the EU-GBS; and
- the alignment of the bond with the EU-GBS shall have been verified by an Accredited Verifier.

Going forward, an issuer may only use the term 'EU Green Bond' if the above criteria are met.

As indicated above, the proceeds from EU Green Bonds shall be allocated only to finance or refinance Green Projects ('Green Projects') defined, subject

to confirmation by an Accredited Verifier, as: (1) contributing substantially to at least one of the Environmental Objectives as defined in the Taxonomy Regulation (see above), while (2) not significantly harming any of the other objectives and (3) complying with the minimum social safeguards represented by the principles and rights set out in the eight fundamental conventions identified in the International Labour Organisation's declaration on Fundamental Rights and Principles at Work.

The issuer must also produce a Green Bond Framework ('GBF'), which confirms the voluntary alignment of the green bonds issued following the GBF with the EU Taxonomy Regulation and EU-GBS and provides details on all the key aspects of the proposed use of proceeds and on its green bond strategy and processes.

The Issuer will, in particular, have to provide a breakdown of allocated amounts to Green Projects as well as details of the Green Projects, by geographical distribution, by the nature of what is being financed (assets, capital expenditures, operating expenditures, etc.), the share of financing (that is, the amount of Green Projects financed after the bond issuance) and refinancing (that is, the amount of Green Projects financed before the bond issuance) and, when possible, provide metrics about the projects' environmental impacts.

It is worthwhile noting that the European Securities and Markets Authority ('ESMA') issued in April 2019 two technical advices to the EU Commission on integrating sustainability risks and factors in the UCITS Directive and AIFMD, which are the two EU directives which together regulate the asset management industry in Europe, as well as in MiFID II, the market in financial instrument directive governing among other entities European investment firms.

The EU Parliament is also working on an EU Regulation on EU Climate Transition and EU Paris-aligned Benchmarks, and a methodology linked to commitments regarding carbon emission of the Paris Climate Agreement (the 'Low Carbon Benchmarks') in furtherance of the EU Benchmarks Regulation, as well another EU Regulation harmonising the integration of sustainability risks in pre-contractual and ongoing disclosures to investors.

Concrete Examples of Sustainable Finance and ESG Initiatives In Europe and Asia

As the sustainable finance theme and ESG considerations move increasingly into the mainstream, concrete initiatives have been taken by certain financial centres in Europe and Asia to propose solutions based on findings and principles similar to those of the EU Taxonomy Regulation or the EU-GBS.

The Grand-Duchy of Luxembourg is one of the global financial centres which has positioned itself as an ecosystem for green finance, ESG funds, green bonds, making available its experience, in particular, in investment fund structuring and bond listings, to sustainable finance market participants.

Over the years, Luxembourg has built up its position as the leading domicile for responsible investment of funds in Europe accounting for 39 percent of funds and 45 percent of total assets under management.[12] ESG funds, applying positive and negative ESG screening strategies, remain the biggest category with 1,687 funds and EUR423.3 billion assets under management.[13] Luxembourg's market share for ESG funds with environmental strategies, social strategies and ethics strategies, range from 42 percent to 57 percent.[14]

This is also the result of the expertise built in Luxembourg for almost two decades in microfinance, which has provided the basis for its development of impact finance and sustainable finance. As of today, 31 microfinance funds accounting for 50 percent of all global microfinance investment vehicles assets are based in Luxembourg.[15]

Referring to the need for accredited verifiers in the EU Taxonomy Regulation and the EU-GBS, Luxembourg's independent labelling agency, LuxFLAG, now also provides labels for sustainable investment funds and financial instruments, including microfinance, environment, climate finance and ESG funds as well as for green bonds.

The Luxembourg Stock Exchange created in 2016 its Luxembourg Green Exchange ('LGX') as the first platform dedicated exclusively to sustainable securities. LGX connects issuers and investors listing almost half of the world's green bond volume and an estimated third of sustainability and social bonds. Today, the platform displays more than 200 green, social and sustainability bonds from issuers across the globe, amounting to more than US$110 billion as well as 16 socially responsible funds.[16]

Interestingly, from a Europe-to-Asia-connectivity point of view, LGX has also launched a Green Bond Channel in partnership with the Shanghai Stock Exchange ('SSE')17 allowing international investors to access information on green bonds traded on the other exchange. This initiative aims at bridging the information gap by providing relevant information in English about Chinese domestic green bonds to offshore investors and vice versa.

In Asia, a number of countries are also profiling themselves on the sustainable, ESG and green finance sector. International initiatives have been taken to harmonise green bond guidelines, such as partnership between EIB and the People's Bank of China ('PBoC'), or collaboration between ASEAN for Green Bond Standard ('A-GBS') and International Capital Market Association's ('ICMA') Green Bond Principle ('GBP').

The People's Republic of China (the 'PRC') has seen a significant uptake regarding ESG investing in recent years. Government-led policies, such as the mandatory guidelines for Establishing a Green Financial System ('GEGFS'),[18] which require PRC listed companies to disclose environmental information by 2020, the Green Investment Guidelines ('GIG')[19] issued by the Asset Management Association of China ('AMAC') in November 2018, as well as the Sustainable Stock Exchanges Initiative signed by both the Shanghai[20] and Shenzhen[21] Stock Exchanges, have set the tone for market players.

The PRC has a green and sustainable bonds market volume in excess of EUR33 billion and many anticipate an increase of green asset-backed securities and infrastructure green bonds along with the Belt and Road Initiatives ('BRI'). A Green Bond Standard Committee has also been established in December 2018 under the People's Bank of China ('PBoC'), China Securities Regulatory Committee ('CSRC') and other regulators and chaired by National Association of Financial Market Institutional Investors ('NAFMII').

In Japan, sustainable investment gained momentum after the largest pension fund worldwide, Japan's Government Pension Investment Fund (the 'GPIF'), signed the PRI in September 2015 and became widespread and gained public recognition by 2017, now with assets in sustainable strategies up to US$2.2 trillion, representing 18 percent of global sustainable investments,[22] lifted by GPIF's allocation in this field. GPIF is leading the trend in Japan by adopting three new ESG-related indices and using its contracted asset managers for passive investment. In April 2019, GPIF and the World Bank have taken further steps to promote ESG integration into fixed income investment.[23]

In Hong Kong, the Securities and Futures Commission ('SFC') issued a Circular in April 2019 providing guidance to management companies of SFC-authorised unit trusts and mutual funds on enhanced disclosures for SFC authorised green or ESG funds, following the Strategic Framework for Green Finance[24] published by the SFC in September 2018. The SFC is also currently working with the Hong Kong Stock Exchange ('HKEX') on developing and promoting the listed green finance products. Hong Kong has taken active steps on supportive measures in the green bond such as Green Bong Grant Scheme[25] and has issuers such as the Asian Development Bank, the EIB, the World Bank, among other international players, representing about US$11 billion.

Singapore's Monetary Authority (the 'MAS') has taken active steps as well to promote sustainable finance engaging financial institutions to consider ESG criteria in decision-making processes, support the adoption of industry standards and guidelines, as well as develop the green bond market in Singapore, among other measures. In 2018, the MAS has signed an MOU with the IFC to accelerate the growth of the green bond market in Asia and Singapore's green bond market stands at more than US$4.5 billion, with issuance in 2019 such as ICBC's world first green 'Belt & Road Inter-bank Regular Cooperation Bond'.[26]

A number of other countries in the region also have their own initiatives regarding sustainable finance and green bonds.

Conclusion

Principles regarding sustainability are progressively integrated in a variety of sectors of banking and finance. Measures are currently taken by governments around the globe to incentivise and facilitate capital flows into sustainable sectors.

Finance is at the centre of those measures as one of the main channels available to provide the cash flow necessary to meet the financing gap, in particular, through investment funds, green bond issuances and traditional finance regarding sustainable and/or green projects.

The awareness of the public has been raised and definitions, standards, benchmarks and specific disclosures are being elaborated in order to allow those investors to make an informed decision about their sustainable, ESG and green allocations.

Notes

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Fintech Laws and Regulations in Hong Kong

In recent years, Hong Kong has seen a new wave of Tech giants and Fintech start-ups looking for opportunities to tap into the Asia markets. The moves come as unsurprising as Hong Kong, being an international financial centre and a gateway to Mainland China, is well positioned to serve as a launch pad for Fintech businesses given its favourable economic environment and robust legal system. Whilst there are no specific 'fintech' regulations, there is already a rich source of laws and regulations governing many different aspects of fintech-related businesses.

In this article, we will provide an overview of the regulatory regimes applicable to Fintech businesses involving: (1) crypto-related investments; (2) electronic payment services; (3) virtual banking; and (4) robo-advisory services.

Regulation of Fintech Businesses Involving 'Regulated Activities'

Fintech firms which carry out 'regulated activities' in Hong Kong must be licensed under the Securities and Futures Ordinance[1] ('SFO') unless they fall within an exemption. Types of regulated activities governed under the SFO regime which Fintech firms are more typically involved in include, among others, dealing in or advising on securities or future contracts; providing automated trading services; securities margin financing and asset management.[2]

In particular, as regards Fintech businesses involving the trading of or investment in 'cryptocurrencies' or 'digital tokens', such activities are regulated insofar as the virtual assets involved have terms and features falling under the definitions of 'securities' (which includes shares, stocks, debentures, loan stocks, funds, bonds or notes, interests in a collective investment scheme, etc.) or 'future contracts' under the SFO.

Given the limited regulatory ambit of the SFO, the Securities and Futures Commission[3] ('SFC') has issued a number of statements and circulars to make clear of its regulatory stance on crypto-related investments. In essence, the statements provide that:

1. while digital tokens offered in typical ICOs are usually characterised as a 'virtual commodity', depending on the facts and circumstances of initial coin offerings ('ICOs'), digital tokens that are offered or sold may be 'securities' as defined in the SFO and subject to securities laws of Hong Kong; and

2. where the digital tokens involved in an ICO fall within the definition of 'securities', any person that (a) offers, deals in or advises on these digital tokens; (b) manages a fund investing in these digital tokens; or (c) operates a cryptocurrency exchange involving the secondary trading of these digital tokens, will be carrying out a 'regulated activity' and is required to obtain the appropriate licence(s) and/or procure that the digital tokens are registered or authorised by the SFC for public offer, unless an exemption applies, for instance, an offer only to 'professional investors' (as defined under the SFO).

In a statement published on 1 November 2018, the SFC has adopted an even more robust approach concerning the broader scope of supervision on virtual assets portfolio managers and further requirements on the distribution of virtual assets investment products, as well as introducing a conceptual regulatory framework for virtual assets trading platform operators through regulatory sandbox.

Regulation of Electronic Payment Services

In Hong Kong, the operation of stored value facilities ('SVF') and retail payment systems ('RPS') are regulated under the Payment Systems and Stored Value Facilities Ordinance (the 'Ordinance').

Stored Value Facilities

Under the Ordinance, SVFs are broadly defined as any facilities that can be used for storing the value of an amount of money that is paid into the facility from time to time. An SVF should also be able to act as a means of payment for goods or services, or to another person. Examples of SVFs currently licensed under the regime include Alipay Wallet, WeChat Pay and Octopus.

The SVF licensing regime provides that any person issuing device or non-device based multi-purposed SVF is required to obtain a licence issued by the Hong Kong Monetary Authority ('HKMA'). All SVF licensees have to comply with the requirements stipulated in relevant guidelines, including establishing robust and effective systems, management policies and procedures to ensure payment security and efficiency, protect users' float and manage risks arising from the payment business.

In recent years, the government has focused on moving Hong Kong to a new era of smart banking

Further, SVF licensees must comply with the Personal Data (Privacy) Ordinance and any relevant guidelines issued by the Office of the Privacy Commissioner for Personal Data and take appropriate measures for protecting personal data of customers.

Retail Payment Systems

Retail payment system refers to a payment system that handles the transfer, clearing and settlement of small-value transactions. Examples include credit card schemes, debit card schemes, payment gateways and mobile payment infrastructure such as VISA, Mastercard and American Express.

Under the Ordinance, a designated scheme will be established which will enable HKMA to designate a system as an RPS if disruptions to the RPS would have an impact on:

- the monetary or financial stability of Hong Kong;
- public confidence in payment systems or the financial systems of Hong Kong; or
- public confidence in day-to-day commercial activities in Hong Kong.

Once designated, an RPS would be subject to requirements such as safe and efficient operation of the system, establishment of appropriate operating rules, existence of adequate compliance arrangements and the availability of sufficient financial resources.

Regulation of Virtual Banking Operators

In recent years, the government has focused on moving Hong Kong to a new era of smart banking and to this end, the Hong Kong Monetary Authority (HKMA) has promoted various initiatives and one of which is the launch of the virtual banking licensing regime.

Under the Guideline on Authorization of Virtual Banks (the 'VB Guideline'), which was first published by the HKMA in 2000 and revised in May 2018, a virtual bank is defined as 'a bank which primarily delivers retail banking services through the internet or other forms of electronic channels instead of physical branches'.

In principle, a virtual bank is subject to the same authorisation criteria and requirements as a conventional bank. As such, an entity wishing to be licensed as a virtual bank will need to meet the criteria for authorisation for conventional banks, including the HK$300 million share capital requirement, as set out in the Seventh Schedule to the Banking Ordinance. On top of that, it would be required to satisfy the additional criteria for authorisation as a virtual bank set out in the VB Guideline.

Key criteria specific to virtual banks include the following:

- it must be incorporated in Hong Kong (this is not required for conventional banks);

- it must have at least one physical office to handle customer complaints;
- it must provide an exit plan at the time of their application for authorisation to ensure that they would be able to unwind the business in an orderly manner, if required;
- it is subject to prohibitions on minimum balance requirements and predatory practices such as extremely low prices or excessively high interest rates; and
- it must be a member of the deposit protection scheme.

At the time of writing, the HKMA has granted a total of eight virtual banking licences[4] to digital banks which are in the process of testing their systems and are expected to launch their services before the end of 2019.

Regulation of Robo-Advisory Services

While there is no specific regulatory framework for operating robo-advisory businesses in Hong Kong, the SFC has published the Guidelines on Online Distribution and Advisory Platforms (the 'Guidelines') which are applicable to all licensed or registered corporations/persons when they conduct regulated activities to provide order execution, investment product distribution and/or advisory services (with or without robo-advice) via online platforms.

In particular, the Guidelines will apply to robo-advice (that is, automated portfolio construction or model portfolios based on a client's personal circumstances) provided directly to clients in an online environment using technology tools (client facing tools). Nonetheless, intermediaries using technology tools to assist and support them in providing investment advice to clients are outside the scope of the Guidelines.

Under the Guidelines, robo-advice would be:

- fully-automated and involve no human intervention;
- adviser-assisted where the platform gives clients the option to contact an adviser; or
- guided—that is, investment advice is given by an adviser who is assisted and supported by technology tools.

Robo-advisers are required to comply with the obligation to ensure the suitability of client recommendations and solicitations under the SFC's Code of Conduct for Persons Licensed by or Registered with the SFC at the point advice is given. Furthermore, they are required to comply with certain requirements detailed in the Guidelines including, *inter alia*: (1) the accuracy of information provided to clients; (2) client profiling; (3) system design and development; (4) supervision and testing of algorithms; and (5) rebalancing process.

Notes

[1] The Securities and Futures Ordinance ('SFO') is the primary piece of legislation regulating Hong Kong's securities and futures markets. The scope of the SFO is wide, which ranges from the regulation of the conduct of listed companies and financial intermediaries to providing standards for the authorisation of, and regulating offers of, investment products.

[2] Other categories of regulated activities governed by the SFO include leveraged foreign exchange trading; advising on corporate finance and providing credit rating services.

[3] The Securities and Futures Commission ('SFC') is an independent statutory body charged with regulating the securities and futures markets in Hong Kong. The SFC is one of four financial regulators in Hong Kong, with the other three being the Hong Kong Monetary Authority (regulating the banking sector), Insurance Authority (regulating the insurance industry) and the Mandatory Provident Fund Schemes Authority (regulating the provident fund schemes).

[4] As at 9 May 2019, there are eight virtual banking licensees ranging from telecommunication operators, fintech companies to global banks. They include Insight Fintech (a joint venture between Xiaomi and AMTD Group); Infinium (a joint venture between a group of companies such as Tencent and Industrial and Commercial Bank of China); Livi VB (a HK$2 billion company owned by Bank of China (Hong Kong), JD Digits, and Jardines) and SC Digital (a joint venture between Standard Chartered, PCCW Limited, HKT and Ctrip Hong Kong).

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Conrad Chan is a Partner in Kwok Yih & Chan, Hong Kong. Prior to founding KYC, Conrad was a partner of an international law firm for many years. He specialises in public takeovers, cross-border M&As, private equity transactions, capital markets transactions and IPOs and regulatory investigation and has a very wide industry experience covering sectors including financial and securities, telecommunications, media and technology, mining and energy, medical and healthcare, pharmaceuticals, food and beverages. He obtained his law degrees in both Hong Kong and Mainland China. Conrad has previously served as a Vice-Chair of the Banking, Finance & Securities and is active in a number of public services, including a member of both the Takeovers and Mergers Panel and the Takeovers Appeal Committee of the Securities & Futures Commission of Hong Kong, the Solicitors Disciplinary Tribunal and the Disciplinary (Panel A) of the Hong Kong Institute of Certified Public Accountants.

Fintech in Vietnam

Vietnam has increasingly become appealing to fintech startups around the globe. Regardless of the so-called 'infant industry', local and foreign-based fintech startups have competed head to head to grow their market dominance. Regulators must ensure the key market players will not do any harm to customers and local economy as a result of carrying out fintech startup activities in the territory of Vietnam.

Introduction

Approximately 47 percent of Vietnamese fintech startups focus on payments, which is the highest concentration of fitech startups in the ASEAN region. In addition, there are currently around 77 fintech firms in Vietnam with a total investment of US$129 million in 2016.[1] According to the State Bank of Vietnam, in August 2019 there were 100 fintech firms of which 30 were licensed to provide intermediary payment services.[2]

According to the study, 58 percent of the respondents want more support from regulators and policy makers.[3] In response to that, Vietnam governments have taken active steps to facilitate development of the sector. For example, following the passage of Decision No 844/QD-TTg of the Prime Minister dated 18 April 2016, approving: 'Support Innovative Startup Ecosystem in Vietnam until 2025 National Program (ISEV)',[4] the State Bank of Vietnam established a FinTech Steering Committee in March 2017 according to Decision No 328/QD-NHNN dated 16 March 2017, providing solutions for enhancing the fintech ecosystem, making it possible for fintech firms in Vietnam to grow.[5] On 21 August 2017, the Prime Minister issued Decision No 1255/QD-TTg on 'National Program on Enhancing Legal Framework for Management of Crypto Currencies'.

The Vietnam government has unceasingly and effortlessly continued with scheduled national programs as it sees the benefits of doing that by increasing access to financial services, reducing transaction costs, creating transparency and efficiency for new financial products, eventually contributing to managing costs and income.[6]

Scope of Fintech Business Activities in Vietnam

The scope of fintech activities includes the following main business activities:

1. payment;
2. peer-to-peer lending ('P2P');
3. crypto currency/bitcoin blockchain;
4. crowdfunding;
5. robo-investing;
6. integrated services in payment at banks;
7. data management; and
8. Know Your Customer ('KYC').

Payment

a. Intermediary Payment Services

In Vietnam, non-cash payments and non-cash payment services developed quickly and variously, such as bank cards, Mobile Banking, Internet Banking, SMS Banking and digital wallets. Pursuant to the Law on Investment, an intermediary payment service is a conditioned business line belonging in the field of banking. Enterprises are only allowed to officially provide an intermediary payment service after being issued a licence to provide payment intermediary services by the State Bank.[7]

The regulations on the operating requirements for intermediary payment services include:

1. *Meeting the requirements for providing an intermediary payment service:* In accordance with non-cash payment regulations, non-credit organisations that provide intermediary payment services must meet these requirements:

    a. have a licence for establishment or a certificate of business registration issued by the competent state agencies;

    b. have an approved plan for payment intermediary service provisions in accordance with the regulations of the authorities as prescribed in their charter, which at least contains: (i) a process of operations of the requested services; (ii) a regime for solvency ratio; (iii) a process of internal inspection; (iv) risk management, assurance of safety and security; (v) general rules and internal regulations on prevention and fighting against money laundering; procedures for actions against trace requests, complaints and disputes; (vi) rights and obligations of the relevant parties in the process of service provision;

    c. have at least 50 billion VND of charter capital; and

    d. meet the requirements of human resources: (i) the legal representative, the General Director ('Director') of the applying organisation must have proficiency or experience in business administration or in their fields; (ii) the employees that run the payment intermediary services must be proficient in their job.

2. *Technical requirements:* There must be facilities and technical infrastructure, information technology systems and technology solutions that satisfy the requirements for the provision of payment intermediary services and the back-up of the technical system independent from the primary system that ensures the provision of safe and continuous service when the primary system has problems and in accordance with regulations on the safety and security of information technology systems in banking operations.

3. *In compliance with risk management and a guarantee of safety and confidentiality:* Organisations providing intermediary payment services must comply with the law while also setting up internal regulations for risk management and a guarantee of safety and confidentiality during their service provision. Circular 39 contains an article about this risk management, safety guarantee and confidentiality as follows:

    a. build and comply with internal regulations and regulations of the State Bank on the principles of risk management in electronic banking operations and the provisions of the current law on the prevention of money laundering and other provisions of related Vietnamese law;

    b. comply with requirements for the guarantee of safety and security of information technology systems; and

    c. comply with the provisions on the establishment, use and archiving of electronic documents as prescribed in the Law on Electronic Transactions in banking operations.

4. *Regulations that ensure solvency:* If credit institutions ('CI') must comply with the regulation on reserve requirements and solvency, organisations providing intermediary payment services also must ensure compliance with solvency during their service provision. Payment guarantee accounts must be opened to ensure the provision of these services and used to pay for the units accepting the payment and to refund to customers using the services upon their request.[8]

5. *Regulations on reporting and providing information:* Article 16 of Circular 39 contains regulations on an intermediary payment service provider's obligation of reporting and providing information as follows:

    a. to submit quarterly and annual reports to the State Bank (through the Payment Department);

b. to be responsible for reporting to the State Bank on information relating to payment agency transactions in the following cases: (i) upon occurrence of unusual developments in the operation which may affect the operations of the providers of intermediary payment services, banks or other organisations and individuals involved; (ii) upon occurrence of problems which disrupt the payment process through intermediary payment services; (iii) at the specific request of the State Bank to serve the state management objectives; and

c. to keep the confidentiality of information relating to the payment transactions through intermediary payment services, the personal information of customers and the payment accounts of customers—the information is only provided at the request of the customers or the law.

b. Other Payment Services

In Vietnam, most domestic banks have access to new developments in modern payment services from around the world. That is, built upon the basic infrastructure of core banking, banks are open to new products and services such as:

1. mobile banking, Internet banking, mPayment, SMS Banking, F@st MobiPay, Digital wallet;

2. products and services ultilising high technology such as QR Code (Quick Response Code), two-dimensional barcode technology with fast readability which is used not only in digital payment but also in checking the authenticity of saving note and other important documents or the software system POS, including more convenient phone card payment devices (mPOS), providing support in digital payments and supporting merchants in sales management, cash flow management and sales numbers; and

3. the development of telecommunications where the popularity of digital devices, modern technologies and supporting applications have contributed to the trend to move from traditional bank services to modern banking that is, digital banking; the latest trend being the appeareance of Timo Digital bank, a new service of the Vietnam Prosperity bank (VPBank).

Peer-to-Peer Lending (P2P)

a. Definition

The definition of peer-to-peer lending, called 'P2P', is to connect the lender and the borrower online without the presence of a bank or credit institution without traditional lending requirements.

b. Legal Notes When Providing Peer-to-Peer Lending

In Vietnam, there is no specific regulation exclusively for P2P lending activities. In the scope of related matters, some general screening regulations apply to enterprises that wish to be granted this service, containing the requirements before applying for it:

1. Under the Law on Credit Institutions, credit extension and specifically lending[9] must be conducted by CIs which are commercial banks[10] and finance companies[11] that receive approval by the State Bank. These professional activites must comply with restrictions and regulation for safety in the CI's operation. Therefore, if the lending is conducted by companies which are not a CI receiving approval from the State Bank, then the lending is subject to the Civil Code. Typical situations involve lending interest; in a case where the parties agree on interest, the agreed interest shall not exceed 20 percent per year of the money lent, unless otherwise prescribed by law.[12]

2. As this type of lending is based on a technology application, through an online platform so that lender and borrower can be connected, this means that the companies providing P2P lending must be in compliance with the regulations pertaining to E-commerce, such as regulations for the setting up of E-commerce websites, on trading in E-commerce through E-documents, E-contracts and on safety and confidentiality.

3. When inititating a digital trading contract with customers, the CI must comply with the principles set out in Article 35 of the Law on E-transactions for avoidance of dispute, namely:

    a. the participating parties shall have the right to reach agreement on the use of electronic means in the entry into and execution of contracts;

    b. the entry into and execution of an E-contract shall comply with the provisions of the Law on E-transactions and contracts; and

    c. when entering into and executing digital contracts, the parties shall have the right to reach agreement on technical requirements, certification and conditions to ensure integrity and confidentiality related to such digital contracts.

4. E-documentation. The traditional commercial way to record agreements between the parties is through contracts, verbally or in written form, whether certified or not. In the world of E-commerce, E-documentation is considered as contracts recording the will of the parties. Therefore, the law recognises the legal validity of E-documentation as the original if it meets both requirements in Article 9.1 of Decree 52, which includes:

    a. there is a reliable assurance of the integrity of information contained in the E-document from the time the information is first generated in the form of an E-document; and

    b. the information contained in the E-document is accessible and usable in complete form when necessary.

Guaranteeing the authenticity (original) of the documents in E-commerce is necessary and a compulsory factor for an E-transaction to proceed smoothly. Therefore, it is worth noting that the data should not be changed in content or, in other words, the authenticity of the data must remain.

Crypto Currency/Bitcoin Blockchain
a. Online Currency in Vietnam

Around the world, Bitcoin was first mentioned in 2008 and then expanded and became active after that. As for the Vietnam market, in 2014—officially on 9 July 2014—Bitcoin Vietnam Company Limited cooperated with Bit2C Company Limited to introduce the first Bitcoin Exchange and then launched the website www.bitcoinvietnam.com.vn in accordance with the E-trade website notification procedure to the Vietnam E-commerce Economy and Information Technology Agency. However, the Vietnam E-commerce and Information Technology Agency declined the notification on the ground that:

> *Website notification is only applied to online shopping websites, on which sellers are obliged to provide information for customers in order to accurately assess features of goods and services when customers decide to enter into contracts. Currently, Bitcoin has not been considered as goods or services in current legislative documents, not falling within the scope of regulation of Decree 52 on e-commerce.*

On 27 February 2014, the State Bank made an announcement titled 'Press release of bitcoin and other virtual currencies', which stated 'As to current law on currencies and bank, bitcoin (and other virtual currencies) is neither currency nor legal payment instrument ...'. Moreover, the current system of laws in Vietnam, such as the Law on the State Bank of Vietnam, the Ordinance on foreign exchange control and Decree 101 prohibit the issuance, provision or usage of Bitcoin and other virtual currencies in the form of payment instruments due to the fact that Bitcoin and other virtual currencies are neither money nor legal payment instruments which are recognised under the laws of Vietnam.

b. Risks and Challenges During the Execution of Bitcoin Contracts

On 21 August 2017, the Prime Minister approved Decision No 1255/QD – TTg on approving the scheme of completion of the legal framework on management of virtual assets, digital currencies and virtual currencies, including Bitcoin. This is an official sign from the Government indicating that Bitcoin transactions would be legalised in future. However, presently, no regulations and legal frameworks for the management of Bitcoin transactions have been promulgated by the Government.

i. On 1 January 2018, the act of 'issuing, providing, using of illegal payment facilities; forging payment documents or payment facilities; using fake payment documents or payment facilities' (including bitcoin and other virtual currencies) was criminalised. The level of punishment may range from a monetary fine—which is from VND50 million to VND300 million—to a penalty of 6 to 36 months' imprisonment.

Robo Investing

Robo investing, which is provided by fintech companies, is a service which uses an algorithm for investment management. This service attracts attention from many companies, risky investors and customers by replacing either brokerage companies or asset management companies to manage and diversify investment categories as well as supervise tax bills on a 24/7-hour basis.

At present, there are some banks and financial consulting companies using technology to provide a robo investing service. Smart personal financial service ('B2C') is also a financial package that many units have been implementing. However, there are currently no regulations on this service provided by companies specilising in robo investing. Although this is not stipulated, when conducting the act of providing a smart financial service, companies must comply with regulations on technological information security as well as the safety of online contracts and other forms of fintech, specifically:[13]

i. the online collection, processing and the usage of the personal information of a person must be granted with the consent of that person;

ii. the correct use of collected personal information must be adhered toand it must be ensured that the information is only be stored within a specific duration and in accordance with the law or agreement between the parties; and

iii. the requisite managerial and technical methods must be followed to ensure that personal information is not stolen, leaked or destroyed.

Because the functions of this service, such as managing spending, budgeting or offering portfolios, or even making investment transactions or converting foreign currencies, is based on the information provided by the users, therefore, this can minimise risks since these have not been regulated, even risks of administrative fines and criminal prosecution when violations arise.

Data Management

When E-commerce develops, business entities start to seek new solutions which use websites and the Internet to store and share information, data between employees, customers, providers and clients. Under the Law on Information Technology, companies are entitled to provide storage, data processing and database exploitation services in order to support businesses in managing large volumes of information, documents, images, multimedia files etc related to business. In reality, there are some types of technological services provided by technological companies like an E-signature certification service (governed by the E-transactions Law), data centrer services and the distribution of information technology products.

Currently, there are increasing demands to assess creditability not only for each credit institution but also for individuals and organisations acting as lenders. Therefore, Decree 88 stipulates establishment conditions, principles and scope of business which must be followed during the operation.

Accordingly, limited liability companies, joint-stock companies and partnerships are three types of businesses that are eligible for credit rating services after being granted a certificate of business registration. The scope of business of a credit rating enterprise includes: (1) credit rating services; (2) services related to credit rating activities, including the provision of information on credit rating; and (3) training in, and the update of, knowledge related to credit rating activities.

In addition, to become an enterprise that carries out this service, it is required that enterprises meet the following legal requirements:

a. *Requirements for an enterprise to be rated as a credit rating service business:*

   i. being qualified for a business eligibility certificate for a credit rating service business;

   ii. having the minimum legal capital requirement: 15 billion dong; and

   iii. an enterprise that does not register for credit rating services is not allowed to use the phrase 'credit rating' or other phrases that have the same meaning as 'credit rating' in the name,[14]

b. *Paying attention to prohibited acts:*

   i. a credit rating enterprise granted a certificate of eligibility shall not contribute capital to establish another credit rating enterprise; and

   ii. a credit rating enterprise granted a certificate of eligibility shall not concurrently operate in the fields of accounting and auditing and securities including: brokerage; advisory; underwriting; securities distribution agent; investment fund management; portfolio management and securities investment; bank.

c. *Compliance with regulations on information security.* A credit rating enterprise, analysts and members of the credit rating council of the enterprise must not disclose information on the credit rating organisation according to the information security provisions stipulated in the contract of credit rating, except for the following information:[15]

   i. the name of the General Director or Director of the business rated credit;

   ii. the code of ethical standards;

   iii. the credit rating method;

   iv. the rank of credit rating;

   v. the list and ratio of capital contribution of shareholders or capital contributors owning more than 5 percent of the charter capital of the credit rating enterprise;

   vi. a change in the ownership ratio of shareholders or capital-contributing members with the ownership ratio of the actually contributed charter capital of the credit rating enterprise of more than 5 percent; and

   vii. a report of the credit rating results in accordance with Article 35 of Decree 88 for each credit rating contract.

d. *Reporting mechanism.* The credit rating enterprises shall make annual or irregular reports on the enterprise's operation results, specifically:

   i. annual reports, namely:

      A. report period: annual report on the performance of credit rating enterprises from 1 January to 31 December;

      B. time frame for report submission: before 30 April of the year preceding the reporting period; and

      C. place of report receipt: Ministry of Finance;

   ii. unexpected report, that is, within 10 working days from the date of changes in the following content, credit rating enterprises shall report unexpectedly at the request of the Ministry of Finance and the business registration agency, particularly:

      A. a failure to meet one of the credit rating service business conditions specified in Article 14 of Decree 88;

B. the name, head office address, website address of the credit rating business;

C. the legal representative of the enterprise;

D. the dissolution, bankruptcy or self-termination of a credit rating service business; and

E. the revocation of certificate of business registration.

> **The development of KYC helps to filter and prevent identity theft, financial fraud, money laundering and terrorism financing**

Know Your Customer ('KYC')

The development of KYC helps to filter and prevent identity theft, financial fraud, money laundering and terrorism financing, which often depend on anonymous accounts. It also allows banks to detect potential customers or potential fraud before it reaches the bank, allowing the bank to prevent fraud before it happens.

Currently, Vietnam still does not have a solid legal framework for providing digital banking services in Vietnam to ensure confidentiality and protection of personal information and for prevention of business fraud, including paying attention to the issue of customer authentication on a digital platform (eKYC/digital KYC); the legality of digital and digital signatures in the digital banking era; and monitoring banking activities and preventing money laundering.

Under the Law on Prevention of Money Laundering and related regulations, as for banking services such as opening bank accounts or opening E-wallet accounts, non-physical identification cards or establishing first-time relationships with financial organisations or a new technology financial service provider, these organisations must meet customers directly or face-to-face to verify the information and should note the following issues:

1. Identification information:[16]
   a. in relation to information that identifies customers as Vietnamese or foreign organisations, individuals must include the following information:

      i. for individual customers who are Vietnamese: full name; date of birth; nationality; occupations and positions; phone number, identity card number or passport number, date of issue and place of issue; address of permanent residence and current residence;

      ii. for foreign individual customers: full name; date of birth; nationality; occupations and positions; passport number, date of issue, place of issue, entry visa; the address of the place of residence registration abroad and the address of the place of residence registration in Vietnam;

      iii. for institutional customers: full transaction names and abbreviations; address of the head office; phone number, fax number; operation and business fields; information about the founder, representing the organisation including the above information;

   b. for individual customers who are stateless, identity information includes: full name; date of birth; occupations and positions; visa book; visa-granting agency; address of the place of residence abroad and in Vietnam;

   c. for individual customers who have two or more nationalities, in addition to the information specified in point (a) above, the reporting subject must collect additional information about the nationality and registered addresses of residence in the nationality;

   d. the subject of reporting verifies customer identification information in accordance with

Article 11 of the Law on Prevention of Money Laundering.

2. How to classify customers according to risk level:[17]

   a. the reporting subject must develop regulations on customer classification based on the risks belonging to each type of customer, type of product, service used by the customer, place of residence or the client's head office;

   b. for customers with low risk levels, the reporting subject may apply customer identification measures at lower level and must ensure that sufficient information about specified customers is collected in accordance with Article 9 of Under the Law on Prevention of Money Laundering;

   c. for customers, transactions that have a high level of risk, in addition to implementing identification measures specified in Article 9 of the Law on Prevention of Money Laundering, the reporting subjects must apply enhanced evaluation measures;

   d. for other customers, transactions with a high level of risk who do not fall into the cases specified in point (c) above, in addition to implementing identification measures, the reporting subject must apply enhanced evaluation measures as prescribed by the State Bank of Vietnam.

Conclusion

This article purports to provide an overview of the regulatory framework for fintech in Vietnam. It is worth noting that the Vietnam government has undoubtedly done a lot more to attract and make it possible for fintech firms to grow in Vietnam by inventing and enhancing existing competitive advantages. According to the State Bank of Vietnam, it has focused time and efforts on building up and intensifying the legal framework for fintech activities in the banking industry in a way that keeps pace with the world's digitised economy and fintech developments. In response to unregulated fintech practices, the State Bank of Vietnam would consider studying and experimenting with a regulatory sandbox in alignment with internationally recognised customs and practices, eventually promulgating laws governing fintech activites.[18]

Notes

[1] See 'ASEAN FinTech Census 2018' by Ernst & Young (EY), available at https://www.ey.com/Publication/vwLUAssets/EY-asean-fintech-census-2018/$FILE/EY-asean-fintech-census-2018.pdf.
[2] See 'Cooperation between Bank and Fintech Contributing to Access to Financial Services', available at: https://sbv.gov.vn/webcenter/portal/m/menu/trangchu/ddnhnn/nctd/nctd_chitiet?leftWidth=0%25&showFooter=false&showHeader=false&dDocName=SBV400234&rightWidth=0%25&centerWidth=100%25&_afrLoop=23301465824317095#%40%3F_afrLoop%3D23301465824317095%26centerWidth%3D100%2525%26dDocName%3DSBV400234%26leftWidth%3D0%2525%26rightWidth%3D0%2525%26showFooter%3Dfalse%26showHeader%3Dfalse%26_adf.ctrl-state%3Dk9zky4ro5_9.
[3] See n 1 above.
[4] See National Plan 844, available at http://en.dean844.most.gov.vn/decision-844-on-support-innovative-startup-ecosystem-in-vietnam-until-2025-national-program-isev-vietnamese.htm.
[5] See n 2 above.
[6] See ibid.
[7] See Article 2.2 of Circular No 39/2014/ TT-NHNN of the State Bank dated 11 December 2014 guiding the intermediary payment services ('Circular 39').
[8] See Article 8 of Circular 39.
[9] See Article of 4.16 of the Law on Credit Institutions.
[10] See ibid, Article 98.3(a) .
[11] See ibid, Article 108.1(d).
[12] See Artice 468 of the Civil Code.
[13] See Articles 70.1, 71.2 and 72.2 of Decree No 52/2013/ND-CP dated 16 May 2013 on E-commerce ('Decree 52').
[14] See Article 9.3 of Decree No 88/2014/ND-CP dated 26 September 2014 on credit rating services ('Decree 88').
[15] See ibid, Article 39.
[16] See Article 4 of Decree 116 Decree No 116/2013/ND-CP detailing implementation of a number of articles of the Law on Prevention and Combating of Money Laundering, dated 4 October 2013 ('Decree 116').
[17] See Article 12 of the Law on Prevention of Money Laundering and related regulations.
[18] See n 2 above.

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Mr Bui Tien Long, Partner of DIMAC Law Firm, has practised law for over 12 years. Mr Bui earned a Master of Laws (LL.M) at Transnational Law and Business University (TLBU) in Seoul, Korea and Master of Business Administration (MBA) at Shidler College of Business, University of Hawaii at Manoa, was a Scholar of the IPBA and a Young Lawyer of the IBA. He has extensive knowledge and experience in relation to cross-border investment transactions and corporate & M&A, real estate and construction and arbitration and mediation practice. His practical expertise also involves advertising, entertainment and emerging technologies, including fintech and legaltech.

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Australia, Marcus Connor *Connor & Co Lawyers Pty Ltd*	**India,** Megha Mahajan *Niti Business Advisors LLP*
Australia, Rodolphe Ruffie *Clifford Chance*	**India,** Rajan Gupta *Chambers of Rajan & Indraneel*
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2. The article is of good quality both in terms of technical input and topical interest for IPBA members;
3. The article is not written to publicise the expertise, specialization, or network offices of the writer or the firm at which the writer is based;
4. The article is concise (2500 to 3000 words) and, in any event, does not exceed 3000 words; and
5. The article must be written in English (with British English spelling), and the author must ensure that it meets international business standards.
6. The article is written by an IPBA member. Co-authors must also be IPBA members.
7. Contributors must agree to and abide by the copyright guidelines of the IPBA.

Members' Notes

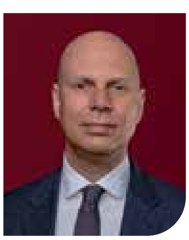
Dr. Frédéric Dal Vecchio

Dr. Frédéric Dal Vecchio, Attorney at law and Jurisdictional Council Member (France) since April 2019, was appointed as a Visiting Scholar at the University of Chulalongkorn, Bangkok (Thailand) in July 2019. His main research topics are International Tax Law and Comparative Tax Law. He also published, in April and June 2019, two papers regarding the French Tax Procedures for the encyclopedia of JurisClasseur (LexisNexis).

Meryl Koh, Singapore

Meryl Koh was promoted to an equity director of Drew & Napier LLC in Singapore in 2019. She is a recognised civil, commercial and intellectual property litigator, having earned respect from her peers and considerable praise from international legal ranking publications, such as *The Asia Pacific Legal 500*. Meryl has acted in complex patent infringement and trademark disputes. She recently successfully represented TWG Tea, a luxury tea brand, in Suit HC/S799/2017, where the ownership of TWG Tea's Domain Name was wrestled from a former office holder and successfully defended TWG Tea against claims of malicious falsehood and conspiracy.

Dr Justus Jansen, Germany



Dr Justus Jansen has won the 'Litigation Lawyer of the Year' award in Germany. As part of a large survey named 'Germany's Best Lawyers', the renowned German newspaper Handelsblatt together with the American publisher Best Lawyers each year determines the best lawyers in different fields of law and nominates 'Lawyer of the Year' for each field. The underlying survey upon which the award is based asks a large number of lawyers in Germany which colleagues, outside their own law firm, would they recommend if they cannot take on a case themselves due to time constraints or a conflict of interest.

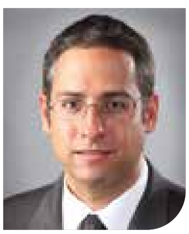
Shabbir S Wakhariya, India

Shabbir S Wakhariya authored the India Chapter on Corporate Governance in the 2019 Chambers and Partners Law and Practice Global Practice Guide. Mr Wakhariya is a triple qualified (India, New York and England and Wales) lawyer and founder of Wakhariya & Wakhariya, a full-service law firm based in Mumbai, India. Prior to the founding of his own firm, he practised in New York for 20 years after obtaining an LL.M. from Duke University School of Law. He advises international clients and lawyers on Indian law and cross-border issues, international arbitration and enforcement of awards against Indian companies.

Stephan Wilske, Germany

Stephan Wilske, Germany, presented a paper on 'International Arbitration and its Dark Sides, in Particular Corruption: What Arbitral Institutions Could and Should Do to Tackle Such Unwelcome Issues' at the 2019 Taipei International Conference on Arbitration and Mediation.

John Wilson, Sri Lanka



John Wilson is the Managing Proprietor of John Wilson Partners in Sri Lanka and Director of the European Chamber of Commerce of Sri Lanka. He is the Hon. Secretary of and a Director of The Chartered Instituted of Arbitrators (Sri Lanka).

John spearheaded the launch of the Sri Lanka branch of the Chartered Institute of Arbitration in Sri Lanka. The Resolver publication of The Chartered Institute of Arbitrators in its Autumn issue had an article 'Successful Launch of the Sri Lankan Branch' which described the launch as follows: 'John Wilson, Hon Secretary and a Director of CIArb, Sri Lanka, was pleased to welcome CIArb Director General Anthony Abrahams and more than 150 guests to the official launch of CIArb's Sri Lanka Branch in Colombo in July. As the 40th CIArb Branch, it will support 114 members. The launch was the culmination of a long process that started in February 2018, when the idea of a branch was first proposed.'

John also attended an accelerated route to Membership program in Singapore in August which involved assessments and an examination over the course of one and half days and is now at member level (MCIArb) of the Chartered Institute of Arbitrators.

Inter-Pacific Bar Association Scholarship Programme

The Inter-Pacific Bar Association (IPBA) is pleased to announce that it is now accepting applications for the IPBA Scholarship Programme to enable practicing lawyers to attend the IPBA's 30th Annual General Meeting & Conference to be held in Shanghai, April 20-23, 2020.

What is the Inter-Pacific Bar Association?

The Inter-Pacific Bar Association is an international association of business and commercial lawyers with a focus on the Asia-Pacific region. Members are either Asia-Pacific residents or have a strong interest in this part of the world. The IPBA was founded in April 1991 at an organising conference held in Tokyo attended by more than 500 lawyers from throughout Asia and the Pacific. Since then, it has grown to become the pre-eminent organisation in respect of law and business within Asia with a membership of over 1400 lawyers from 65 jurisdictions around the world. IPBA members include a large number of lawyers practising in the Asia-Pacific region and throughout the world that have a cross-border practice involving the Asia-Pacific region.

What is the Inter-Pacific Bar Association Annual Meeting and Conference?

One of the highlights of the year for the IPBA is its annual conference, which has become the 'must-attend event' for international lawyers practicing in the Asia-Pacific region. In addition to plenary sessions of interest to all lawyers, sessions are presented by the IPBA's 23 specialist committees and one Ad Hoc committee. The IPBA Annual Meeting and Conference provides an opportunity for lawyers to meet colleagues from around the world and to share the latest developments in cross-border practice and professional development in the Asia-Pacific region. Previous annual conferences have been held in Tokyo, Sydney, Taipei, Singapore, San Francisco, Manila, Kuala Lumpur, Auckland, Bangkok, Vancouver, Hong Kong, New Delhi, Seoul, Bali, Beijing, Los Angeles and Kyoto/Osaka.

What is the IPBA Scholarship Programme?

The IPBA Scholarship Programme was originally established in honour of the memory of M.S. Lin of Taipei, who was one of the founders and a Past President of the IPBA. Today it operates to bring to the IPBA Annual Meeting and Conference lawyers who would not otherwise be able to attend and who would both contribute to, and benefit from, attending. The Scholarship Programme is also intended to endorse the IPBA's mission to develop the law and its practice in the Asia-Pacific region. Currently, the scholarships are principally funded by The Japan Fund, established and supported by lawyers in Japan to honour IPBA's accomplishments since its founding; the Host Committee of the Annual Meeting and Conference in Vancouver, Canada, 2014; and a generous donation by the family of M.S. Lin.

During the conference, the Scholars will enjoy the opportunity to meet key members of the legal community of the Asia-Pacific region through a series of unique and prestigious receptions, lectures, workshops, and social events. The program aims to provide the Scholars with substantial tools and cross-border knowledge to assist them in building their careers in their home country. Following the conference, the Scholars will enjoy three years of IPBA membership and will be invited to join a dedicated social networking forum to remain in contact with each other while developing a network with other past and future Scholars.

Who is eligible to be an IPBA Scholar?

There are two categories of lawyers eligible to become an IPBA Scholar:

1. Lawyers from Developing Countries
   To be eligible, the applicants must:
   a. be a citizen of and be admitted to practice in Bangladesh, Cambodia, Laos, Mongolia, Myanmar, or the Pacific Islands;
   b. be fluent in both written and spoken English (the conference language); and
   c. currently maintain a cross-border practice or desire to become engaged in cross-border practice.

2. Young Lawyers
   To be eligible, the applicants must:
   a. be under 35 years of age at the time of application and have less than seven years of post-qualification experience;
   b. be fluent in both written and spoken English (the conference language);
   c. have taken an active role in the legal profession in their respective countries;
   d. currently maintain a cross-border practice or desire to become engaged in cross border practice; and
   e. have published an article in a reputable journal on a topic related to the work of one of our committees or have provided some other objective evidence of committed involvement in the profession.

Preference will be given to applicants who would be otherwise unable to attend the conference because of personal or family financial circumstances, and/or because they are working for a small firm without a budget to allow them to attend.

Former Scholars will only be considered under extraordinary circumstances.

How to apply to become an IPBA Scholar

To apply for an IPBA Scholarship, please obtain an application form and return it to the IPBA Secretariat in Tokyo no later than **October 31, 2019**. Application forms are available either through the IPBA website (ipba.org) or by contacting the IPBA Secretariat in Tokyo (ipbascholarships@ipba.org).

Please send completed applications by e-mail attachment to:

The IPBA Secretariat
E-mail: ipbascholarships@ipba.org

What happens once a candidate is selected?

The following procedure will apply after selection:

1. IPBA will notify each successful applicant that he or she has been awarded an IPBA Scholarship. The notification will be provided at least two months prior to the start of the IPBA Annual Conference. Unsuccessful candidates will also be notified.
2. Airfare will be agreed upon, reimbursed or paid for by, and accommodation will be arranged and paid for by the IPBA Secretariat after consultation with the successful applicants.
3. A liaison appointed by the IPBA will introduce each Scholar to the IPBA and help the Scholar obtain the utmost benefit from the IPBA Annual Conference.
4. Each selected Scholar will be responsible to attend the Conference in its entirety, and to provide a report of his/her experience to the IPBA after the conference.

The IPBA Secretariat
Roppongi Hills North Tower 7F • 6-2-31 Roppongi, Minato-ku • Tokyo 106-0032, Japan
Telephone: +81-3-5786-6796 • FAX: +81-3-5786-6778 • E-mail: ipbascholarships@ipba.org

An Invitation to Join the Inter-Pacific Bar Association

The Inter-Pacific Bar Association (IPBA) is an international association of business and commercial lawyers who reside or have an interest in the Asian and Pacific region. The IPBA has its roots in the region, having been established in April 1991 at an organising conference in Tokyo attended by more than 500 lawyers from throughout Asia and the Pacific. Since then it has grown to over 1400 members from 65 jurisdictions, and it is now the pre-eminent organisation in the region for business and commercial lawyers.

The growth of the IPBA has been spurred by the tremendous growth of the Asian economies. As companies throughout the region become part of the global economy they require additional assistance from lawyers in their home country and from lawyers throughout the region. One goal of the IPBA is to help lawyers stay abreast of developments that affect their clients. Another is to provide an opportunity for business and commercial lawyers throughout the region to network with other lawyers of similar interests and fields of practice.

Supported by major bar associations, law societies and other organisations throughout Asia and the Pacific, the IPBA is playing a significant role in fostering ties among members of the legal profession with an interest in the region.

IPBA Activities

The breadth of the IPBA's activities is demonstrated by the number of specialist committees: 23. Each committee focuses on different aspects of business law, indicating the scope of expertise and experience among our membership as well as the variety of topics at our seminars and conferences. All IPBA members are welcome to join up to three committees, with the chance to become a committee leader and have a hand in driving the programmes put on by the IPBA.

The highlight of the year is our Annual Meeting and Conference, a four-day event held each spring. Past conferences have been held at least once, sometimes twice, in Tokyo, Osaka, Sydney, Taipei, Singapore, San Francisco, Los Angeles, Manila, Kuala Lumpur, Auckland, Bangkok, Vancouver, Hong Kong, New Delhi, Seoul, Bali, and Beijing. Conferences in recent years have attracted over 1,000 delegates and accompanying guests. In addition to the Annual Conference, the IPBA holds in various jurisdictions seminars and conferences on issues such as Arbitration, Dispute Resolution, M&A, and Cross-Border Investment. Check the IPBA web site (ipba@ipba.org) for the latest information on events in your area.

IPBA members also receive our quarterly IPBA Journal, with the opportunity to write articles for publication. In addition, access to the online and annual printed Membership Directory ensures that you can search for and stay connected with other IPBA members throughout the world.

APEC

APEC and the IPBA are joining forces in a collaborative effort to enhance the development of international trade and investments through more open and efficient legal services and cross-border practices in the Asia-Pacific Region. Joint programmes, introduction of conference speakers, and IPBA member lawyer contact information promoted to APEC are just some of the planned mutual benefits.

Membership

Membership in the Association is open to all qualified lawyers who are in good standing and who live in, or who are interested in, the Asia-Pacific region.

- Standard Membership ¥23,000
- Three-Year Term Membership ¥63,000
- Corporate Counsel ¥11,800
- Young Lawyers (35 years old and under) ¥6000

Annual dues cover the period of one calendar year starting from January 1 and ending on December 31. Those who join the Association before 31 August will be registered as a member for the current year. Those who join the Association after 1 September will be registered as a member for the rest of the current year and for the following year.
Membership renewals will be accepted until 31 March.

Selection of membership category is entirely up to each individual. If the membership category is not specified in the registration form, standard annual dues will be charged by the Secretariat.

There will be no refund of dues for cancellation of all membership categories during the effective term, nor will other persons be allowed to take over the membership for the remaining period.

Corporate Associate

Any corporation may become a Corporate Associate of the IPBA by submitting an application form accompanied by payment of the annual subscription of (¥50,000) for the current year.
The name of the Corporate Associate shall be listed in the membership directory.
A Corporate Associate may designate one employee ('Associate Member'), who may take part in any Annual Conference, committee or other programmes with the same rights and privileges as a Member, except that the Associate Member has no voting rights at Annual or Special Meetings, and may not assume the position of Council Member or Chairperson of a Committee.

A Corporate Associate may have any number of its employees attend any activities of the Association at the member rates.

- Annual Dues for Corporate Associates ¥50,000

Payment of Dues

The following restrictions shall apply to payments. Your cooperation is appreciated in meeting the following conditions.

1. Payment by credit card and bank wire transfer are accepted.
2. Please make sure that related bank charges are paid by the remitter, in addition to the dues.

IPBA Secretariat

Roppongi Hills North Tower 7F, 6-2-31 Roppongi, Minato-ku, Tokyo 106-0032, Japan
Tel: 81-3-5786-6796 Fax: 81-3-5786-6778 E-Mail: ipba@ipba.org Website: ipba.org

See overleaf for membership registration form

IPBA SECRETARIAT

Roppongi Hills North Tower 7F, 6-2-31 Roppongi, Minato-ku, Tokyo 106-0032, Japan
Tel: +81-3-5786-6796 Fax: +81-3-5786-6778 Email: ipba@ipba.org Website: www.ipba.org

IPBA MEMBERSHIP REGISTRATION FORM

MEMBERSHIP CATEGORY AND ANNUAL DUES:

[ ] Standard Membership ¥23,000
[ ] Three-Year Term Membership ¥63,000
[ ] Corporate Counsel ¥11,800
[ ] Young Lawyers (35 years old and under) ¥6,000

Name:______________ Last Name______________ First Name / Middle Name ______________________

Date of Birth: year ______ month______ date______ Gender: ________ M / F

Firm Name: ____

Jurisdiction: ____

Correspondence Address: ____

____

Telephone:________________ Facsimile: ____________

Email: ____

CHOICE OF COMMITTEES (PLEASE CHOOSE UP TO THREE):

[ ] Anti-Corruption and the Rule of Law
[ ] APEC
[ ] Aviation and Aerospace
[ ] Banking, Finance and Securities
[ ] Competition Law
[ ] Corporate Counsel
[ ] Cross-Border Investment
[ ] Dispute Resolution and Arbitration
[ ] Employment and Immigration Law
[ ] Energy and Natural Resources
[ ] Environmental Law
[ ] Insolvency
[ ] Insurance
[ ] Intellectual Property
[ ] International Construction Projects
[ ] International Trade
[ ] Legal Development and Training
[ ] Legal Practice
[ ] Maritime Law
[ ] Scholarship
[ ] Tax Law
[ ] Technology, Media & Telecommunications
[ ] Women Business Lawyers
[ ] **NEW!** Ad Hoc Next Generation (40 and under)

I AGREE TO SHOWING MY CONTACT INFORMATION TO INTERESTED PARTIES THROUGH THE APEC WEB SITE. YES NO

METHOD OF PAYMENT (PLEASE READ EACH NOTE CAREFULLY AND CHOOSE ONE OF THE FOLLOWING METHODS):

[ ] Credit Card

[ ] VISA [ ] MasterCard [ ] AMEX (Verification Code:________________)

Card Number:________________________ Expiration Date:____________________

[ ] Bank Wire Transfer – Bank charges of any kind should be paid by the sender.

to DBS Bank Limited, MBFC Branch (SWIFT Code: DBSSSGSG)
Bank Address: 12 Marina Boulevard, DBS Asia Central, Marina Bay Financial Centre Tower 3, Singapore 018982
Account Number: 0003-027922-01-0 Account Name: INTER-PACIFIC BAR ASSOCIATION
Account Holder Address: 9 Battery Road #15-01, MYP Centre, Singapore 049910

Signature:________________________ Date: ________________________

PLEASE RETURN THIS FORM TO:

The IPBA Secretariat, Roppongi Hills North Tower 7F, 6-2-31 Roppongi, Minato-ku, Tokyo 106-0032, Japan
Tel: +81-3-5786-6796 Fax: +81-3-5786-6778 Email: ipba@ipba.org