

CHINA BUSINESS 商 LAW JOURNAL 法

July/August 2015 | Volume 6, Issue 7

2015年7/8月 | 第6辑第7期

继往开来

企业该如何调整适应经济新常态

《商法名录》特刊
Special Directory Edition

Changing horizons

How businesses should adapt to the new normal



步向更艰险的世界：
倾听企业法务团体的心声

Navigating a tougher field:
Voices from in-house groups

棋逢强手，背水而战：律所
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Forced moves: How law firms
survive the current climate

古老大地的新商机：
中东、北非投资新热点

New business in ancient
lands: MENA investment



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细察中国

China under a microscope

本期《商法》连续第四年推出“商法名录”，提供针对中国法律服务市场的便捷参考。感谢所有参与者、支持者与我们共同创造了这份实用的指南，帮助企业法务和公司高管找到他们需要的优质法律服务。

除了律所名录外，本年度名录专题还包含了三篇深度分析文章。封面文章《继往开来》回顾了过去年来对境内外投资产生重要影响的监管动态和市场变化。日渐临近出台的《外国投资法》是许多人关注的重点，新法旨在全面修订、整合对外企过时而分散的监管制度。对于为了寻求更高市场地位而搭建 VIE 结构的企业，草案也发出了清晰的警告信号。近期之所以会出现红筹企业拆除境外 VIE 并回归中国市场的趋势，草案或许是其中的原因之一。

更多的监管举措进一步放开了中国的边境。审批和申报程序的放宽刺激中国企业掀起了一股对外投资的浪潮。沪港通、基金互认安排的推出，在大陆市场和世界市场之间搭建了一条重要的连接桥梁。

名录专题第二篇文章《步向更艰险的世界》收录了三位企业法务团体负责人的观察与体会，他们来自全球企业法律顾问协会、香港公

This double issue of *China Business Law Journal* features our fourth annual *China Business Law Directory*, a handy reference guide for the China-related legal services market. We would like to give hearty thanks to all of our participants and supporters who have worked with us to create a useful tool for corporate counsel and business leaders to find the quality legal services they require.

Our directory this year spotlights listings and in-depth investigations in three insightful features. *Changing horizons* is an overview of regulatory and market developments in the previous year that significantly bear on inbound and outbound investment. The ramp-up to the release of the Foreign Investment Law tops the watch list of many, promising an overhaul of the outdated bifurcated regulatory system for domestic and foreign companies. It also signals clear warnings to those using variable interest entity (VIE) structures to seek more advantageous market positions, which may explain in part recent trends of red chip companies dismantling foreign VIEs and returning to the China market.

Further regulatory events have opened China's borders as well. Relaxed approval and filing procedures have facilitated the rising wave of Chinese outbound investment. And the Shanghai-Hong Kong Stock Connect and mutual recognition of funds have forged an important link of mainland markets to the world.

Also in the directory, leaders from three in-house counsel groups – the Association of Corporate Counsel, Hong Kong

司法律顾问协会，以及中国政法大学企业法务管理研究中心。文章分享了他们如何认识现今市场环境对企业法律工作的影响。由于监管执法力度日益严厉且全球化，企业合规工作也更加复杂与昂贵，这使企业法务在战略决策中有了更多的话语权。角色的不断改变要求企业法务具备将法律策略与公司总体业务版图相结合的能力。

《棋逢强手，背水而战》探索经济新常态给国内和国际律师事务所带来的挑战。客户渴求更精细、更专业化而成本更低廉的服务，这使得律师事务所之间已然激烈的竞争变得更趋白热化。许多受访者认为，许多律所正处在十字路口：究竟应该选择成为精品所，还是应该通过合并或结盟而扩大规模？

除了名录专题外，本期还在文章《古老大地的新商机》中探讨中国在中东及北非地区的投资情况。许多人仍将中东和北非视为石油和天然气的重要来源，不过中国在这里的投资其实很多样化。

中国投资者将锐利的目光投向了这里的资本市场、零售业、科技、可再生能源、社会基础设施以及医疗卫生行业。然而投资不会一路平坦，投资者既需要留意潜在的政局动荡，也需要留意法律的限制。

Corporate Counsel Association and China Enterprise Legal Management Research Centre – share with readers how they are *Navigating a tougher field*. The groups offer their perspectives on how the current market landscape impacts China-related corporate

legal work. The increasing strictness and globalization of domestic regulatory enforcement have made internal compliance more complex and costly – which is giving in-house counsel more say in strategic decisions. This changing role requires the ability to incorporate legal strategies into the wider overall business picture.

Forced moves explores how the new economic normal has posed challenges to domestic and international firms in the legal services market. Client demand for sophisticated and specialized legal services at an attractive cost is making the already tough competition between law firms even more fierce. Many indicate that firms now face the choice of walking the boutique path or increasing their size and scope through mergers or alliances.

Beyond the directory, *New business in ancient lands* discusses Chinese investment in the Middle East and North Africa (MENA). Many may consider oil and gas MENA's key attractions, but we find Chinese investments there far more diverse. Investors have fixed their keen eyes on MENA's capital markets and its retail, technology, renewable energy, social infrastructure and healthcare sectors. Yet roadblocks remain – companies should be aware of not just potential instability but regulatory restrictions.



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2015年7/8月 | 第6辑 第7期
Volume 6, Issue 7
July/August 2015
ISSN: 2077-1541

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香港出版 Published in Hong Kong

题字 Calligraphy: 翁丽莉 Lily Yung



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互联网 INTERNET

监管制度历史性突破， 互联网金融路在何方？ How will recent regulatory breakthroughs lead online finance?

互联网金融业的第一部规定在为行业带来法律指引的同时，也将对行业格局产生巨大影响，不过法律专家认为，仍有一些问题有待明确。

中国人民银行、工业和信息化部等十部委近期发布了《关于促进互联网金融健康发展的指导意见》，明确了互联网金融业务的概念，并规定了互联网支付、网络借贷、股权众筹融资等领域的监管责任和监管职责分工。

汉路律师事务所创始合伙人曾智红对《商法》介绍说，该《指导意见》的出台对于互联网金融多个方面都有非常重大的意义，主要体现在两个方面：“第一是相关业务合法与否的问题，第二就是法律法规的适用问题。”

曾律师介绍说，此前法律对于个人网络借贷（即P2P网络借贷）机构的业务是否合法一直没有明确的界定。其次，在具体操作上，P2P业务是适用民间借贷方面还是金

融方面的法律法规也是一个很大的问题。

关于《指导意见》，曾智红认为需要关注的重点内容主要包括：个体网络借贷机构要明确其为信息中介性质，不得提供增信服务，不得非法集资；第三方支付的客户备付金不得用于垫付基金和理财产品赎回等。

对于不少互联网企业来说，这些规定都意味着挑战，P2P就是其中之一。“现在《指导意见》明确P2P机构为信息中介，这个行业就可能重新洗牌，整个行业的业务模式要做一些改变，”曾律师说。

他认为，P2P网络借贷机构的业务模式会从提供增信服务的机构转变为信息中介，但是关于增信服务的定义《指导意见》并没有明确。“至于某些业务是否属于增信服务，还是要等待实施细则的出台，”他补充道。

《指导意见》也对互联网支付、互联网金融基金、股权众筹融资等进行了进一步的明确，其中规定，股权众筹的融资方应为小微企业，并要承担披露信息的责任。

曾智红认为：“既然现在指导意见已经确定了股权众筹的法律地位，相信也会有相关的后续规定来支持这个股权众筹。”

《指导意见》也多次提到客户信息和消费者权益保护的问题。曾智红认同这些都是比较重要的问题。例如，对于互联网支付公司，“个人信息的收益远比它的支付收益要大，所以如果客户信息得不到保护，就会产生更多的问题，”他说。

The first set of regulations for the online finance industry not only sets out the legal guidelines for the industry, but will also have a major impact on its structure. Legal experts nevertheless believe that certain issues still require clarification.

The People's Bank of China, the Ministry of Industry and Information Technology and eight other authorities recently issued their Guiding Opinions on Promoting the Healthy Development of Internet Finance, defining the concept of internet finance business and setting forth the regulatory responsibilities and the division of regulatory duties for such areas as internet payment, online lending and crowd funding.

John Tsang, founding partner of DLF Lawyer, told *China Business Law Journal* that the guiding opinions are of great significance to numerous aspects of online finance, mainly manifested in two. “Firstly, the issue of whether the relevant business





曾智红 John Tsang

is lawful, and secondly, the issue of the applicable laws and regulations”.

Previously, Tsang said, the law did not expressly set out the legality of commercial online peer-to-peer (P2P) lending institutions. Further, whether laws and regulations related to private lending or finance are applicable to P2P

businesses in practice is another major outstanding question.

Tsang noted two crucial points of the guiding opinions. First, an individual online lending institution is required to specify that it is an information intermediary in nature; it may not provide value-added telecommunication services or illegally raise funds.

Second, customer reserve funds that have been contributed by third parties may not be used to advance the cash redemption of funds or other wealth management products.

These provisions signify a challenge to a substantial number of online enterprises, including P2P. “Now the guiding opinions specify that P2P institutions are information intermediaries, so the industry could shuffle the deck again, as certain changes will need to be made to the business model of the entire industry”, Tsang said.

Tsang stated that the business model of P2P lending institutions will change from providing value-added telecommunication services to being an information intermediary, although the guiding opinions do not expressly define the term “value-added telecommunication service”.

He further added that the detailed implementing rules will need to be issued before it can be known what types of businesses are considered value-added telecommunication services.

The guiding opinions give further clarification on online payments, online funds, and crowd funding. They provide that a party seeking crowd funding is required to be a micro or small enterprise, and that the party is obliged to disclose certain information.

“As the guiding opinions have now determined the legal status of crowd funding, I am confident that the relevant supplemental regulations to come will support crowd funding”, Tsang said.

The guiding opinions also raise the issues of the protection of customer information as well as the rights and interests of consumers in several places. Tsang agreed that these are relatively important issues.

For example, Tsang said, “the income that [online payment companies] derive from personal information is much greater than that on payments. Accordingly, they will experience many more problems if their customer information is not accorded protection”.

外商投资 FOREIGN INVESTMENT

中国向境外电子商务投资者 敞开市场大门

China's door opened to e-commerce investors from overseas

工业和信息化部(工信部)出台新规定,在全国范围内放开了电子商务领域的外资持股比例,不过法律专家提醒投资者不要误解新规定的适用范围。

这部新规定是工信部于6月19日发布的《关于放开在线数据处理与交易处理业务(经营类电子商务)外资股比限制的通知》(196号文),自发布之日起生效。

中国对电商领域的对外开放并非一蹴而就。“上海自贸区首先进行了试点;国家发

改委和商务部随后在今年新颁布的《外商投资产业指导目录》中取消了对电商领域外资比例不得超过50%的限制,将这项政策推开至全国;在这个背景下,工信部制定了新的部门规章,为行业开放提供了可操作的具体规定。”达辉律师事务所北京办公室合伙人张继达对《商法》介绍说。

根据新出台的工信部《通告》,外资电商企业可以申请在线数据处理与交易处理业务(经营类电子商务)方面的许可(电子商

务许可),以从事相关经营活动。但这不同于目前市场的通行做法。张继达介绍说,目前市场上占主流的平台类电商(即向第三方商家提供在线商品交易平台的企业),无论是中资还是外资企业,基本都申请互联网信息服务业务许可(ICP证)进行经营。

根据达辉向多地主管机关咨询后掌握的情况,未来外资平台类电商企业根据工信部《通告》取得电子商务许可后即可经营,无需再取得ICP证。取得电子商务许可后,外资持股比例就可以最多达到100%。

不过,投资者需要留意,工信部《通告》下的电子商务许可的适用范围是有限的。“不少客户对于新规定的适用范围都有误解。事实上,电子商务的定义比较窄,属于ICP证范畴的大部分业务仍然没有对外国投资者全面放开,”张继达说。

汉坤律师事务所深圳办公室合伙人张蕾表示,例如搜索、社交网络(SNS)、分类信息、为第三方发布广告等传统上ICP证范畴内的有偿信息服务业务对外国投资者的限制依然存在。

如果工信部《通告》能够在实践中执行,将会对电商行业常常使用的 VIE 架构产生一定影响。

张蕾认为,如果 VIE 架构中的外商独资企业(WFOE)其外方主要投资者能够具备《外商投资电信企业管理规定》下要求的“经营增值电信业务的良好业绩和运营经验”,那么该 WFOE 就有机会申请电子商务许可,从而对 VIE 架构的重新安排提供了一些灵活性,降低这一架构的潜在风险。

New rules issued by the Ministry of Industry and Information Technology (MIIT) have opened up China's e-commerce sector nationwide to foreign ownership, however legal experts warn that investors need know where those rules apply.

The MIIT issued the rules in the Notice on Lifting the Foreign Equity Ownership Cap on Businesses Providing Online Data Processing and Transaction Processing Services, which took effect on 19 June.

E-commerce has not opened to foreign investment overnight. Zhang Jida, a partner of DaHui Lawyers based in Beijing, told *China Business Law Journal* that a pilot programme was first initiated in Shanghai.

“After the pilot programme, the National Development and Reform

Commission and Ministry of Commerce removed the 50% cap on foreign equity ownership for this sector in this year's Catalogue Guiding Foreign Investment, which applies to the whole country”, he said. “Against this backdrop, the MIIT drafted ministry-level regulations to provide specific operational rules.”

The notice provides that foreign e-commerce companies can apply for an online data processing and transaction processing (e-commerce business) licence to engage in the relevant business.

This is a divergence from the current market practice. Zhang Jida noted that the dominant platform e-commerce companies – companies that provide online trading platforms to third-party retailers – generally use internet content provider (ICP) licences for their business operations at present, regardless of whether they are domestic or foreign-invested companies.

According to a survey by DaHui Lawyers to a number regional authorities, going forward, foreign investors into platform e-commerce will only need to apply for a e-commerce business licence, and an ICP licence will no longer be necessary

Once the e-commerce business licence is obtained, foreign equity ownership will be allowed to reach 100%.

But foreign investors must note that the applicability of the e-commerce business

licence is limited.

“Many clients have misunderstood the new rules”, Zhang Jida said. “E-commerce has a narrow definition. Many of the business activities requiring an ICP licence remain not completely open to foreign investment.”

Leia Zhang, a partner of Han Kun Law Offices in Shenzhen, told to *China Business Law Journal* that foreign investment access remains restricted when it comes to commercial data services traditionally requiring an ICP licence. These services include online search, social networks, data classification and third party advertising.

The notice is expected to influence the variable interest entity (VIE) structures that are commonly used in the e-commerce sector if it is enforced in practice.

Leia Zhang pointed out that, with a VIE structure, if the key foreign investor in the wholly foreign-owned enterprise (WFOE) can be proven to have “excellent performance records and operation experience for value-added telecommunication business” – as required by Regulations on the Administration of Foreign Investment in Telecommunication Enterprises – then the WFOE can apply for an e-commerce business licence.

This can give VIE users some flexibility to rearrange the VIE structure and moderate its potential risks, she said.



高位阶法律加强中国互联网 监管实践

National legislation beefs up online regulatory practice

作为中国最高立法机构的全国人民代表大会近期的法律制定工作将对互联网行业产生重大影响，互联网企业和网络用户必须加以正视。

由全国人大常委会颁布的《国家安全法》自7月1日起生效。仅相隔几日，人大常委会又发布了《网络安全法（草案）》，向社会公开征求意见。

《国家安全法》规定了针对经济、国防、社会等领域安全问题的总体原则；与此同时，该法也明确表示了加强网络监管的意图，引起了业界的关注。

该法第24条和第25条的规定强调了国家必须确保关键信息技术、数据和基础设施安全可控。法律第59条规定，对可能影响国家安全的外商投资、关键技术、网络信息技术产品和服务等重大事项和活动，国家应该进行安全审查。

欧华律师事务所驻香港合伙人 Scott Thiel 表示，《国家安全法》由中国最高立法

机关颁布，这显示出中国最高立法系统逐渐对网络安全问题加以重视。

不过由于法律为原则性规定，Thiel 认为还有不少模糊不清之处有待后续更细致的规定来明确。他表示其中一个不明确的地方是，法律就如何确保信息技术系统的安全可控，并没有提供明确的要求可供执行。

另一个问题是，法律缺少关于如何进行国家安全审查的细节，例如哪些职能部门负责、如何评估对国家安全的影响大小等实际操作问题，Thiel 说。

《网络安全法（草案）》的意见征求期刚于8月5日截止。草案在开篇就明确提出，《网络安全法》的制定目的在于维护网络空间主权和国家安全、社会公共利益，以及个人或组织的合法权益。

而且根据第二条的规定，该法应该会对在中国境内建设、运营、维护和使用网络的公司或个人，以及网络安全的监管者，产生广泛的影响。

Online businesses and internet users cannot turn a blind eye to the great influence of recent legislation out of the National People's Congress (NPC), China's legislative body.

The much-anticipated National Security Law was issued and took effect on 1 July. A draft Cybersecurity Law was released a few days later for public comment.

While the National Security Law sets out general principles on security in areas including the economy, national defence and society, one highlight is its clear intention to increase scrutiny in virtual spaces.

Articles 24 and 25 of the law emphasize that key information technologies, data and infrastructure must be ensured to be secure and under control. Article 59 further sets out that the state should conduct national security reviews on important activities and items that may impact national security, including foreign investment, key technologies and internet and information technology products and services.

Since the National Security Law was issued by China's top legislature, it indicates the importance being placed on cybersecurity at the highest level of China's legislative system, said Scott Thiel, a Hong Kong-based partner of DLA Piper.

Due to the general nature of the law, Thiel said that there remains considerable ambiguity that must be clarified by more specific implementing regulations to follow. He pointed out that one



vague area in the law is that it provides no specific requirements for ensuring that information technology systems are secure and controllable.

Another issue is the lack of details on practical issues such as how the national security review will be conducted, its competent authorities and the criteria for

assessing impact on national security, said Thiel.

The draft Cybersecurity Law aims to uphold national sovereignty and security in online spaces in addition to upholding the public interest, and the rights and interests of Chinese citizens and organizations in these spaces.

When passed, the law will have broad influence on companies or individuals that construct, operate, maintain and access information networks within Chinese jurisdiction, as well network security regulators.

The public consultation period for the draft ended in early August.

人士动态 PEOPLE MOVES

港交所资深主管获选为 香港公司法律顾问协会新主席

HKEx senior elected to head HK in-house counsel association

香港公司法律顾问协会 (HKCCA) 近日选举史琳为新一任主席; 与此同时, 协会也在继续转变思路, 以求更好地为其会员服务。

“作为新任主席, 我想做的其中一件事是更有效地运用我们的资源。执行委员会的成员都是志愿从事协会工作的, 平时各人都有其他的正式工作和责任, 所以我要确保我们举办的活动能为会员带来最大的裨益,” 史琳向《商法》介绍说。

“因此, 我在执委会下面新设立了一个战略策划团队, 重点研究我们怎样才能更好地照顾到会员们的需要。”

史琳表示, HKCCA 举办活动的思路在不断转变, 更着重于提供机会让企业法务顾问增强在今日商业世界立足所需要的软实力。例如, 协会现在更注重围绕单独一位法律总顾问举行交流会, 分享更个性化的经验。这样, 资深的法律总顾问不仅有机会展示其敏锐的分析力, 更可以分享其在跨国集团中生存和成功的经验。(更多关于史琳

对当前市场的看法和 HKCCA 的近期动态, 可参阅她在本期第 38 页的文章。)

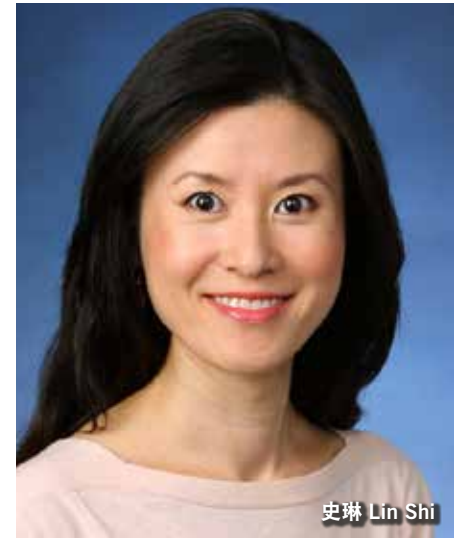
史琳是香港交易及结算有限公司上市部上市审核科联席副总监。在此之前, 她曾担任美国银行美林集团的投资银行顾问和大中华区法律总顾问。史琳是美国纽约州执业律师。

HKCCA 的前任主席 Jasmine Karimi 现已搬至新加坡接受新工作, 担任跨国生物科技公司 Illumina 亚太区高级主管及法务顾问。

Hong Kong Corporate Counsel Association (HKCCA) recently appointed Lin Shi as the new president of the association and continues to shift its direction to better serve its members.

“One of the things that I want to do as the new president is to more effectively use our resources. The members of the executive committee are all volunteers with full-time jobs and other responsibilities, so I want to make sure that the events we offer have the highest value to our members”, Shi told *China Business Law Journal*. “For this reason I have created a strategy team, a sub-committee within our executive committee to focus on how we can better address the needs of our members.”

Shi said that HKCCA has been shifting its focus to providing in-house counsel



史琳 Lin Shi

“*HKCCA has been shifting its focus to providing ... soft skills*”

with the soft skills they need in today's business world. One example is having more focused sessions around a single general counsel for a more personal experience. This gives a chance for senior general counsels to share not only their analytical acumen, but also how to survive and flourish in a multinational organization. (For more of Shi's insights about the current market and HKCCA's updates, please read her article on page 38)

Shi is the codeputy head of the IPO transactions department in the listing division of Hong Kong Exchanges and Clearing Limited. Prior to this, she worked as investment banking counsel and greater China general counsel for Bank of America Merrill Lynch. Shi is admitted to the New York state bar.

HKCCA outgoing president Jasmine Karimi has moved to Singapore, taking on a new in-house position as the Asia Pacific senior director and counsel of Illumina, a multinational biotechnology company.

“**[HKCCA] 更着重于提供机会让企业法务顾问增强...软实力**”

竞天公诚与孖士打联营 加强跨境业务

Jingtian, Mayer Brown join hands to enhance cross-border practice

中国律师事务所竞天公诚近期宣布将与国际律师事务所孖士打在香港缔结联营合作。

两所联营旨在结合中国律师和国际律师的法律专长,使一方的客户可以更方便地

“**香港是金融枢纽以及
进出中国的窗口**”

获得另一方的法律服务。“香港是金融枢纽以及进出中国的窗口。与孖士打的联营将显著地增强我们在跨境业务上向客户提供高水平法律服务的能力,” 竞天公诚战略和发展委员会主席赵洋说。

两家事务所仍将继续作为独立的主体运营。孖士打将在香港向竞天公诚提供办公场所及其他资源支持。

目前,两家律所的联营仍有待获得香港律师会的审批。

“**Hong Kong is a financial hub and gateway into and out of China**”

The Chinese law firm Jingtian & Gongcheng recently announced its proposed association with the international firm Mayer Brown JSM in Hong Kong.

The alliance is expected to integrate international and Chinese legal knowledge, providing both firms' clients with easier access to the other firm's expertise. "Hong Kong is a financial hub and gateway into and out of China. The association with Mayer Brown JSM will greatly strengthen our ability to provide high-quality service to clients in international matters," said Zhao Yang, chairman of Jingtian's strategy and development committee.

The two firms will still operate as separate entities, and Mayer Brown JSM will also provide office space and other resources for secondees from Jingtian in Hong Kong. The association presently is still subject to approval from the Law Society of Hong Kong.

奥睿律师事务所北京团队 新添科技业务专家

Orrick boosts Beijing team capacity with new tech expert

奥睿律师事务所近日任命张宁为该所北京代表处的公司部合伙人。加盟奥睿前,张宁供职于美迈斯律师事务所。

在中国互联网科技市场方面,张宁拥有丰富相关经验。他曾代表阿里巴巴对KTPlay和安全宝进行投资及收购;代表软通动力在纽约上市,发行总额1.62亿美元,以及与华为成立合资公司。

张律师还曾经代表红杉资本和宽带资本携手与领英(LinkedIn)成立合资公司以开展其中国业务。

张宁也能处理并购、私募股权、风险投资以及美国、香港资本市场方面的业务。“张律师对中国技术领域具有深入认识,而这

正是本所其中一个最活跃和不断增长的业务领域,”奥睿全球资本市场业务部负责人陆继锵说。

Orrick Herrington & Sutcliffe recently appointed Zhang Ning as a new corporate partner in its Beijing office.

Zhang joined from O'Melveny & Myers and brought his considerable experience in the Chinese online technology market. He advised Alibaba on its investments in and acquisitions of KTPlay and Anquanbao, acted for iSoftStone on its US\$162 million IPO in New York and its formation of a joint venture with Huawei, and represent-



张宁 Zhang Ning

ed Sequoia Capital and CBC Capital in forming a joint venture with LinkedIn to launch LinkedIn's China operations.

Zhang is also capable in M&A, private equity and venture capital, and the US and Hong Kong capital markets. "He brings deep knowledge of China's technology sector, which is one of the most active and growing areas of our practice", said Edwin Luk, global leader of Orrick's Capital Markets practice.

覆盖100多个国家和地区 集合3500多个投资项目
covering over 100 countries and regions, collecting more than 3,500 investment projects



这里
聚焦全球
目光



2015.10.22-23 中国·北京 Beijing China

第七届中国对外投资合作洽谈会 The 7th China Overseas Investment Fair

主办单位：中国产业海外发展协会 国家开发银行
Hosted by: China Overseas Development Association(CODA)
China Development Bank

活动详情，请登录 / For details, please visit official website: www.codafair.org

中国对外投资合作洽谈会组委会 / The Organizing Committee of China Overseas Investment Fair

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微信平台
Wechat QR CODE



微博平台
Sina Weibo



中国网络社会：更多保护，更少虚假

More protection and fewer falsehoods in Chinese online communities

中国网络社会的快速发 展开启了新的业务和宣传模式，作为这些新发展的核心问题，政府无法对隐私问题视而不见。

去年，中国政府出台了 许多规范电子商务和社会媒体的规定。其中，采用网络、电视、电话或邮购方式销售商品和服务的经营者必须遵守国家工商行政管理总局颁布的《侵害消费者权益行为处罚办法》（《办法》）。

自 2015 年 3 月 15 日实施的《办法》规定经营者不得销售不符合特定要求的产品，还要求经营者接受无理由退货。经营者无正当理由在十五日内拒不退货的，视为故意拖延或无理拒绝，并会受到处罚。

《办法》是中国法律首次明确定义“个人信息”。《办法》第 11 条规定消费者个人信息是指经营者在提供商品或者服务活动中收集的消费者姓名、性别、出生日期、身份证件号码、住址、联系方式、职业、收入和财产状况、健康状况、消费情况等能够识别消费者的信息。

这个定义出现在中国正在准备出台个人信息保护法的时候。国家互联网信息办公室网络安全局副局长杨春燕在二月份与新华社的采访中表示，中国政府正在从立法、立规及建立技术保护手段等多方面促进网络个人信息保护。杨春燕指出了相关法律法规的研究制定已被加快，表示“重点将加强

The rapid expansion of Chinese communities online has cranked up new forms of businesses and promotional methods, and authorities cannot afford to turn a blind eye to privacy issues at the heart of these new developments.

A number of rules regulating e-commerce and social media have emerged in the past year. For one, businesses providing goods and services via the internet, television, telephone or post must comply with Measures for the Punishment of Conduct Infringing the Rights and Interests of Consumers, issued by State Administration for Industry and Commerce (SAIC).

The measures, which took effect on 15 March, set out that businesses are prohibited from selling products that do not meet certain standards. There is also a requirement for operators to accept goods returns without requiring an explanation. Failure to respond to a return request without a justified reason within 15 days is deemed an intentional delay or refusal and subject to penalty.

The measures provide the first definition for “personal data” in Chinese law. Article 11 defines personal data as information collected by goods or service providers that may help identify a consumer’s name, gender, date of birth, identity card number, address, contact information, profession, financial status, health, consumption habits or other such information.

This definition comes at a time when China has been inching closer to issuing a personal data protection law. Yang Chunyan, deputy director general of the Cyberspace Administration Network Security Bureau, stated in an interview with Xinhua News Agency in February that China is working to build strong legislative, regulatory and technical measures to protect personal data. Yang noted that plans have accelerated to draft legislation, saying, “the focus will be on strengthening supervision of online service providers and increasing efforts to crack down on illegal collection, disclosure and sales of personal data”.

There are at present three methods of recourse to protect personal data after it has been leaked. First, an individual can demand that the service provider delete the data and take action to stop the leak per the National People’s Congress’ Decision on Strengthening Online Information Protection. Second, they can file a complaint with the Illegal Information



对网络服务提供者的监管,加大对非法收集、泄露、出售个人信息行为的打击力度。”

目前,个人信息遭泄露后,公民可通过三种方式维权。一是按照全国人大常委会《关于加强网络信息保护的決定》,遭遇信息泄漏的个人有权立即要求网络服务提供者删除有关信息或者采取其他必要措施予以制止。第二,个人可以通过不同渠道进行投诉举报,包括向公安部门。最后,个人可以根据《消费者权益保护法》等规定,要求侵权人赔偿损失等。

救济措施

权益受到侵害的网络用户还可以依赖最高人民法院最新司法解释中规定的程序。《最高人民法院关于审理利用信息网络侵害人身权益民事纠纷案件适用法律若干问题的规定》(《规定》)规定受害者可以起诉网络服务提供者,要求提供涉嫌侵权的信息网络用户的身份信息。

《规定》还明确侵权行为地包括被侵权人住所地,这使得被侵权人可以更加容易地提起诉讼,并且被侵权人可以获得法定赔偿。

网络服务提供者在答辩中可以考虑使用安全港抗辩,并且应当扩大其通知和删除政策以更好地利用该抗辩理由。在中国运营在线平台的经营者应当加强其监控工作,并采取必要措施处理其网站上公布的负面或诽谤信息。

实名注册

最后,如今有越来越多的经营者通过微信等大众广泛使用的社交媒体平台进行自我宣传。不过,如果他们尚未注册账号,法规现在要求他们在申请特定社交媒体账号时使用实名进行注册。博客、微博、即时通信工具、论坛、贴吧和相关服务都受到影响。

社交媒体服务提供者在通过网络用户注册前必须审核网络用户提交的账户名称、头像和其他身份信息。

九种用户名被完全禁止使用,包括任何危害国家安全、泄露国家秘密、煽动民族歧视和民族仇恨、破坏民族团结的。散播色情、赌博、暴力、恐怖、封建迷信和谣言的账号也被新规定禁止。■



Reporting Centre via various agencies including the police. Third, they can take action per legislation such as the Consumer Protection Law to demand compensation, among other actions.

Personal rights infringement

Internet users whose rights have been breached may also rely on the procedural rules set out in a new judicial interpretation from the Supreme People's Court. The Regulations on Several Issues Concerning the Application of the Law in the Trial of Civil Dispute Cases Involving the Use of Information Networks to Infringe Personal Rights and Interests set out that a victim may sue an internet service provider to release the identity of online infringers.

The regulations also stipulate that the place of infringement is the location where the victim resides – which allows claims to be filed more easily – and that victims may be entitled to statutory damages.

Service providers may consider using a safe harbour defence in response, and should expand their notice and takedown policies to take advantage of this defence. Businesses operating online platforms in China should increase their

monitoring efforts and take necessary action against negative or defamatory data published on their sites.

Real name registration

Finally, a rapidly increasing number of businesses are promoting themselves through popular communications and social media platforms such as WeChat. However, if they have not yet registered an account, new regulations now require them to use their real names when applying for certain social media accounts. Blogs, microblogs, instant-messaging services, online discussion forums, news comment sections and related services are all affected.

Services must now verify account names, photos and other identification information submitted by users before approving their registration.

Nine categories of usernames have been banned outright, including anything that harms national security or national secrets, incites ethnic discrimination or hatred or harms national unity. Names that promote pornography, gambling, violence, terror, superstition and rumours are also prohibited under the new regulations. ■

最高院发布有关劳动争议纠纷案件的会议纪要草案

Supreme People's Court issues draft meeting minutes on labour issues

最高人民法院于四月份发布了《全国民事审判工作会议纪要（征求意见稿）》（《征求意见稿》）。《征求意见稿》就若干劳动问题提供了指南，但还是存在着一些不确定性。

首先，在用人单位未按照法律规定签署无固定期限劳动合同时，劳动者该如何寻求救济仍然不是非常明确。《征求意见稿》提供了两种相反的意见，但是没有指出最高人民法院更倾向于哪种意见。

一种观点是劳动者有权并要求签订无固定期限劳动合同，而用人单位不同意与劳动者签订劳动合同的，用人单位应被认定与劳动者之间存在无固定期限劳动合同。另一种观点是劳动者可以请求用人单位承担违法解除劳动关系的赔偿金，即二倍的法定经济赔偿。不过，最高人民法院在该问题上的态度可能会对目前各地的不同实践做法产生重要影响。

《征求意见稿》还规定除非劳动合同另有约定，用人单位通过“末位淘汰”或“竞争上岗”等形式单方解除劳动合同，劳动者以用人单位违法解除劳动合同为由提起诉讼，

法院应予支持。在末位淘汰制度中，如果劳动者的表现在全组中最低，就会被解雇。《征求意见稿》的表述似乎表明如果劳动合同中明确约定了末位淘汰制度，那么用人单位以这些理由解除劳动合同将会得到支持。

中国法律规定，如果因劳动者不能胜任工作而解除劳动合同的，用人单位负有举证责任并且必须举出明确证据表明劳动者不能胜任工作，并且经过培训或者调整工作岗位，仍不能胜任工作。许多下级法院法官都对末位淘汰制度提出了质疑，因为组内表现最差的员工不一定是在客观方面不能胜任工作。

最后，《征求意见稿》规定用人单位已经为劳动者办理了社会保险手续，但因用人单位欠缴、拒缴社会保险费或者因为缴费基数错误，当事人向法院起诉的，法院不予支持。这些争议应当向劳动行政部门申请解决。

不过，《征求意见稿》对于法院是否应当接受劳动者因用人单位不足额缴纳社会保险遭受养老金的损失或自付医疗费用等损害或损失而提起的诉讼仍然不明确。■

The Supreme People's Court (SPC) issued draft meeting minutes regarding civil cases for public comment in April. The draft minutes provide guidance on several labour issues, but also leave several areas of uncertainty.

First, it is not very clear how an employee should seek remedies when an employer fails to sign an open-term contract as required by law. The draft minutes provide two contrasting opinions, but failed to indicate which position the SPC is more inclined to take.

One opinion is that when an employee is entitled to and demands an open-term employment contract and the employer refuses to sign such a contract, the employer should be deemed to have entered into an open-term contract. The other opinion is that the employee could sue for financial remedies – i.e. double statutory severance – for wrongful termination.

However, the SPC's position on this issue will likely have a significant impact on local practices, which are currently varied.

The draft minutes also provide that, unless otherwise agreed in the employment contract, the court would support an employee wrongful termination claim where the company terminates the employee under a “forced ranking” system. In such a system, an employee is terminated if their performance ranks the lowest in a group.

The language in the draft minutes appears to suggest that terminations on these grounds would otherwise be upheld if the employee's employment contract specifically provides for a forced ranking system.

Chinese law provides that, to terminate an employee because of incompetence, the employer has the burden of proof and must demonstrate with objective evidence that the employee is incompetent, and that the employee remained incompetent after training or changing roles. Many judges at the lower levels have questioned the forced ranking system, as workers at the bottom of a group in terms of performance are not necessarily objectively incompetent.

Finally, the draft minutes provide that the court would dismiss employee claims regarding the employer's failure to pay social insurance or incorrect contribution amounts, if the employer has enrolled the employee in the social insurance scheme. Instead, such claims should be brought before the labour administration bureau.

The draft minutes are, however, unclear as to whether the courts should accept employee claims for damages or losses as a result of underpayment, e.g. loss of pension or out-of-pocket medical expenses. ■



新措施旨在创造更加安全的工作环境

New measures aimed at creating safer working environments

政府部门采取了一系列的措施加强劳动安全的监督，促使用人单位及其管理者更加关注潜在的风险。

国务院办公厅《关于加强安全生产监管执法的通知》于4月2日起实施。此外，国家安监总局关于修改现行四部规章的决定也于5月初起施行。

新的规章明显加强了对不合规企业的处罚力度，并加大了企业防止安全生产事故的责任。以下总结了一些关键点。

事故发生单位在某些情形下会被处人民币2000万元的罚款(320万美元)，比如瞒报或谎报特别重大事故。

如果生产经营单位的决策机构、主要负责人未依法保证安全生产所必需的某些资金投入，比如用于配备劳动防护用品的经费、用于安全生产教育和培训的经费，生产经营企业最高会被处以三万元罚款，主要负责人最高会被处以一万元罚款。

此外，主要负责人在事故发生后不立即组织事故抢救的，将会面临更重的罚款。如果主要负责人在事故调查处理期间擅离职守的，他们也将面临更重的罚款。最严重的罚款为主要负责人上一年年收入100%。

生产、经营、储存危险物品或矿山、金属冶炼单位未建立应急救援组织或未指定兼职应急救援人员的，将最高被处以3万元罚款。■

《商法摘要》由贝克·麦坚时律师事务所协助提供，内容仅供参考之用。读者如欲开展与本栏内容相关之工作，须寻求专业法律意见。读者可通过以下电邮与贝克·麦坚时联系：张大年（上海）danian.zhang@bakermckenzie.com

Business Law Digest is compiled with the assistance of Baker & McKenzie. Readers should not act on this information without seeking professional legal advice. You can contact Baker & McKenzie by e-mailing Danian Zhang (Shanghai) at: danian.zhang@bakermckenzie.com

Authorities undertook a series of measures to strengthen the supervision of work safety, urging employees and their managers to keep closer watch on possible risks.

The State Council's Notice on Strengthening Supervision and Law Enforcement of Work Safety took effect on 2 April. In addition, an amendment to four existing work safety regulations, made by the State Administration of Work Safety, also took effect at the beginning of May.

The new legislation significantly increased the severity of sanctions for noncompliant companies and also increased corporate responsibility to prevent work safety accidents. Some key points are summarized below.

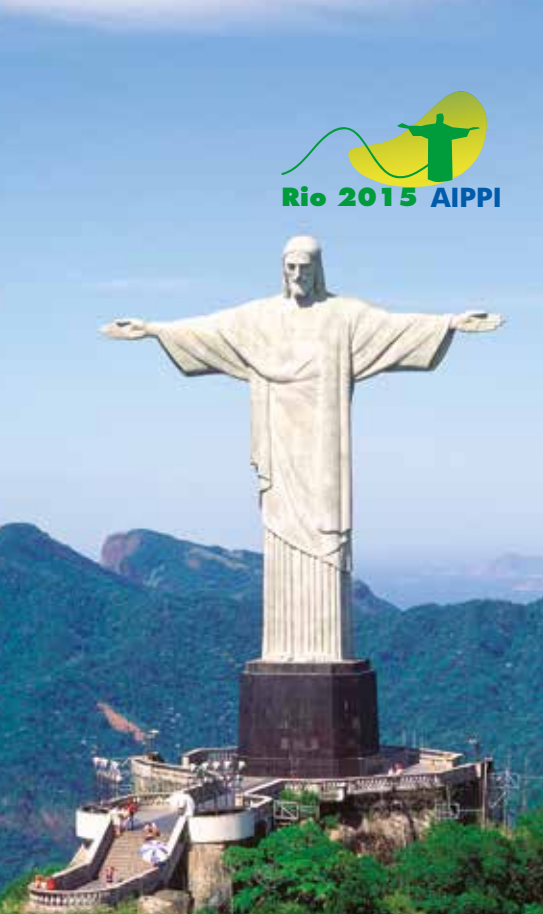
Companies will receive a fine of RMB 20 million (US\$3.2 million) in several circumstances, for instance, if they conceal or falsely report a serious accident.

If the main decision-making body or primary responsible manager of the company fails to secure the necessary budget for ensuring that the company operates safely – e.g. ensuring the funding for labour protective equipment or safety production, education or training – the company will be fined up to RMB 30,000, and the primary responsible manager will be fined up to RMB 10,000.

In addition, the primary responsible manager will receive a comparatively heavier fine for failing to organize immediate rescue at the time a work safety accident occurs. They will also be fined rather heavily if they leave their post or flee while the accident is under investigation. The most severe fines range up to 100% of the primary responsible manager's annual income from the previous year.

Companies which produce, manage or store hazardous goods, or those which are engaged in mining or metal smelting, will be fined up to RMB 30,000 if they fail to plan emergency rescue procedures or fail to appoint part-time emergency rescue staff. ■





AIPPI, the International Association for the Protection of Intellectual Property, was founded in 1897 and is dedicated to the development, improvement, and legal protection of intellectual property. AIPPI is a non-affiliated, non-profit organization headquartered in Switzerland, having approximately 9,000 members representing over 100 countries. The members of AIPPI include lawyers, attorneys, and agents working across all fields of intellectual property in corporate and private practice throughout the world, as well as academics, judges, government officials and other persons interested in intellectual property. AIPPI is organized into 66 National and Regional Groups.

The objective of AIPPI is to improve and promote the protection of intellectual property at both national and international levels. It does this by studying and comparing existing and proposed laws and policies relating to intellectual property, and working with both government and non-government organisations for the development, expansion and improvement of international and regional treaties and agreements, and national laws.

More than 1,195 participants from 77 countries have already registered. Don't miss this opportunity to join the AIPPI community during its unforgettable international event in Rio.

The programme boasts a vast range of topics covering the entire field of intellectual property:

Plenary Sessions

- Q244** Inventorship of Multinational Inventions
- Q245** Taking unfair advantage of trademarks: parasitism and free riding
- Q246** Exceptions and limitations to copyright protection for libraries, archives and education and research institutions
- Q247** Trade secrets: Overlap with restraint of trade, aspects of enforcement

Panel Sessions

Pharma related topics

- "Don't miss the (right) mark"
- "Personalized Medicine"
- "Technology transfer: public versus private interests"
- "Double jeopardy: policy-based examination of patent validity"

Patent related topics

- "Inventor remuneration: the global puzzle"
- "Post grant oppositions: a game changer?"
- "Plant variety protection: using the right tools"
- "Green technology: a changing climate for IP rights"

Design related topic

- "Industrial designs: form over function?"

Open meeting of AIPPI's Standing Committee on UP/UPC

Trademark related topics

- "Collective marks and GIs"
- "Keeping the faith: dealing with bad faith registrations"
- "Non-traditional marks: sounds like a mark, smells like a mark..."

Copyright related topic

- "ISP liability: a run-down on take-downs (and more)"

General topic

- "Mediation in IP cases: expedient or coercive?"

Extra Panel Session – (double session)

- "Focus on FRAND: injunctions and safe harbours, FRAND determination and the use of ADR"

Lunches with Keynote Speakers

- Continuous improvement of IP systems
- How to manage innovation in an anti-IP climate

Detailed information on the programme and online registration are available at www.aippi.net

深圳国际仲裁院 Shenzhen Court of International Arbitration

法人治理模式：仲裁机构独立与公正的保证

Independence and impartiality via an arbitral institution's corporate governance structure

独立公正是商事仲裁机构的生命线。不同于司法审判机构依赖国家公权力做后盾，商事仲裁机构的管辖权源自合同当事人意思自治，其裁决能否顺利执行取决于仲裁庭能否独立、公正地行使终局裁决权解决争议。

成立于1983年的华南国际经济贸易仲裁委员会（又称“深圳国际仲裁院（SCIA）”，曾用名“中国国际经济贸易仲裁委员会华南分会”），其作为粤港澳地区第一家仲裁机构，开创了中国仲裁机构的数个先例。

自2012年5月终止了和其他仲裁机构

的业务合作后，SCIA又通过特区专门立法的方式，建立了中国内地第一个也是目前唯一以理事会为核心的法人治理机制。

以特区立法作为改革基石。2012年11月，深圳市政府以特区立法形式颁布施行《深圳国际仲裁院管理规定（试行）》，该立法是SCIA实行法人治理机制的基石。

依据《管理规定》，SCIA理事会被授权行使包括制定和修改章程、理事会议事规则、仲裁规则、调解规则及其他形式的争议解决规则，审议提出SCIA院长、副院长人

Independence and impartiality are, without a doubt, the method of survival for a commercial arbitral institution. Distinct from the judiciary, which is authorized and executed by the state power, commercial arbitral jurisdiction stems from party autonomy. Whether its rulings can be enforced hinges upon the independence and impartiality of its arbitral awards.

SCIA

The South China International Economic and Trade Arbitration Commis-



Shenzhen

选等在内的重大事项决策权，还对 SCIA 的财务预决算、重要规章制度等进行审议和监督。

SCIA 实行理事会决策与管理机构执行相分离的架构，以院长为法定代表人的执行管理层负有执行理事会决议、管理日常仲裁程序和行政管理的职责，院长对理事会负责，接受理事会监督。理事会还设立了战略发展和规则修订委员会、仲裁员资格和操守考察委员会、财务监督和薪酬评估委员会，对执行管理层的相关工作定期进行评估和监督。

实行国际化的理事会结构。根据《管理规定》，理事会理事必须由法律界、工商界和其他相关领域的知名人士担任，其中来自港澳等地的境外人士不少于三分之一。

SCIA 理事会目前有理事 12 名，全部由深圳市政府在境内外遴选和聘请。12 名理事中，除了院长刘晓春为执行管理层人士外，其余 11 名均为外部理事。境外理事共有 5 名，包括香港特区政府前任律政司司长梁爱诗女士、香港证监会前主席梁定邦先生、香港律师会前会长王桂坝先生，以及曾经担任香港城市大学法学院院长的 Peter Malanczuk 教授。

SCIA 现任理事长是澳门科技大学法学院院长、上海大学法学院院长沈四宝教授。

法人治理机制有效保证了 SCIA 的独立性和公正性。国际化的理事会结构以及理事会与执行管理层分开的治理模式，消除了当事人对于内地仲裁机构可能被行政干预、地方保护或者内部人控制的顾虑，当事人的信心得以持续增强。SCIA 在 2014 年全年受理仲裁案件 838 件，比 2013 年增长率超过 200%，其中涉及香港当事人的案件 545 件，占受案总数的 65%。

另外，根据香港国际仲裁中心统计，2014 年香港法院执行全球仲裁裁决的最新数据显示，当年 SCIA 有 5 件仲裁裁决获得香港法院执行，约占香港法院当年执行内地仲裁裁决总数的 40%，居中国内地仲裁机构之首。

“ **独立公正是商事仲裁机构的生命线** ”

sion, also known as the Shenzhen Court of International Arbitration (SCIA), was the first arbitral venture in the Guangdong-Hong Kong-Macao Pearl River Delta region. It was previously known as the China International Economic and Trade Arbitration Commission South China Sub-commission. It has set a series of precedents in Chinese arbitration since its establishment in 1983.

SCIA terminated its cooperation with other Chinese arbitral institutions in May 2012. Since then, it has established the first and only council-based corporate governance structure in mainland China supported by special economic zone-specific legislation.

Legislation is the cornerstone

In November 2012, Shenzhen issued the Regulations on the Administration of Shenzhen Court of International Arbitration (for Trial Implementation) to immediate effect. These special economic zone regulations set out a solid foundation for SCIA's council-based corporate governance structure.

The regulations authorize the SCIA council to render decisions as well as nominate and examine potential SCIA presidents and vice presidents. The council also acts to formulate and revise SCIA's articles of association, arbitration and mediation rules and other provisions on dispute resolution of SCIA. Regulations on financial budgets, reports and other vital topics also also under the supervision of the council.

The SCIA president, as the person leading the council, is in charge of the arbitral procedure and administration and executes the council's meeting minutes in addition to their decision-making role.

The council also has several special committees, including the strategic development and rules revision committee, the arbitrator qualification and discipline supervision committee, and the financial supervision and remuneration evaluation committee, which regularly review executive management performance.

Council-based corporate structure

Pursuant to the regulations, “the council members shall be selected as the celebrities from the law society, trade and industrial societies as well as other related fields, and the people from

“ **Independence and impartiality are, without a doubt, a commercial arbitral institution's means of survival** ”

overseas (i.e. not from mainland China) shall be at least one third of the total council members”.

There are at present 12 council members, all of whom were selected by the Shenzhen municipal government. Only SCIA president Liu Xiaochun works within the Shenzhen municipal government as a member of the executive management team. Five of them come from other jurisdictions, including former Hong Kong secretary for justice Elsie Leung, former Hong Kong Securities and Futures Commission president Anthony Neoh, former Law Society of Hong Kong president Albert Kwai Huen Wong and former City University of Hong Kong School of Law dean Peter Malanczuk. The current SCIA chairman is Shen Sibao, dean of both Macau University of Science and Technology Faculty of Law and Shanghai University Law School.

Independence and impartiality

The council-based corporate governance structure separates the SCIA council from management. This allows SCIA to avoid local protectionism, governmental intervention and insider control and is an incentive for parties to submit disputes. SCIA received 838 cases in 2014, an increase from the previous year by over 200%.

According to data published by the Hong Kong International Arbitration Centre, SCIA ranked top in 2014 among all the mainland's arbitration institutions in terms of the number of arbitral awards that were enforced in Hong Kong. Of the cases accepted in 2014, 545 involved Hong Kong parties – 65% of the cases in total. Almost 40% of all mainland arbitral awards enforced by the High Court of Hong Kong were rendered by SCIA.

作者：深圳国际仲裁院理事会秘书陈睿博士
Dr Chen Rui is the secretary of the SCIA Council

贸仲证据规则：引入普通法举证概念

New burdens of proof adopted from common law

上期的文章比较了中国国际经济贸易仲裁委员会（贸仲）新制定的《证据指引》与国际律师协会（IBA）《国际商事仲裁取证规则》在举证责任、举证期限及证人证言等方面的异同。除此之外，贸仲《指引》还首次在中国引入了“特定披露请求”制度。

特定披露请求

证据/电子证据的披露在普通法体系内的仲裁中被广泛运用，IBA《规则》第三条也有相关规定：在仲裁庭指定的时间内，任何一方当事人可以向仲裁庭或其它当事人提出“特定披露请求”（Request to Produce），要求被请求人提供某一类书证。

以前，当事人在中国仲裁中只需提供对自己有利的证据。现在，如果当事人选择适用贸仲《指引》，就需要全面披露证据，包括在对方要求下披露对自己不利的证据。

这一证据规则的引入有利于证据的收集和仲裁庭作出合理判断。贸仲《指引》第七条规定，“一方当事人可请求仲裁庭指令对方当事人披露某一特定书证或某一类书证”，但特定披露请求的“申请方需阐明请求理由，详细界定该有关书证，以及说明该书证的关联性和重要性。仲裁庭应安排对方当事人对特定披露请求发表意见”。

而在IBA《规则》中，除了上述要求外，申请方还需要向仲裁庭陈述该书证不在申请人控制下和认定该书证在被请求人控制下的理由。对于电子文档，IBA《规则》更要求申请方指明具体的文件夹、搜索关键词或其他搜索方法。可见，对于当事人提出的特定披露申请，IBA《规则》提出了更高的证明要求。

然而，特定披露是一项费时费力的取证工作。在普通法诉讼体系下，旷日持久的特定披露经常耗尽当事人双方的精力。当事人和律师可以采用多种手段，拖延诉讼

In the last issue, the author considered China International Economic and Trade Arbitration Commission's (CIETAC) new Evidence Guidelines in light of International Bar Association's (IBA) Rules on the Taking of Evidence in International Arbitration in *CIETAC evidentiary rules suit Chinese practice*. The article reviewed areas of overlap, including rules on burden of proof, time limits for evidentiary submission and witness testimony.

This article considers additional overlapping areas in the evidentiary guidelines, including requests to produce evidence – a new feature for arbitrary practice in China.

Request to produce

In common law jurisdictions, evidence, including electronic evidence, has been widely accepted. Article 3 of the IBA rules sets out a similar provision: Within the time ordered by the arbitral tribunal, any party may submit a request to produce



进程, 增加对方律师的工作负担和对方当事人的费用, 迫使对方当事人坐下来和解, 并接受一个不能令人满意和信服的结果。

为避免这种情况, 贸仲可以考虑制定更具体和严格的申请要求和披露规范。首先, 对于特定披露的申请, 贸仲可以将提出申请的次数限定在一次, 或由双方约定申请次数。此外, 仲裁庭应严格把握“详细界定”的规定, 要求申请方提供的申请能够尽量准确详尽, 对于故意模糊界定, 要求对方提供大量文件的申请, 应予以驳回。

对于电子文档,《指引》可仿效 IBA《规则》, 对特定披露的申请作出更详细的规定。对于根据特定披露申请所提供的文件和数据, 贸仲可以规定一定的格式或提供方法, 并要求被请求人提供合理的索引或目录。在此, IBA《规则》有一定的借鉴价值, 其第 3.12 (b) 条规定除双方另有约定或仲裁庭另有规定外, 电子文档应以最方便经济, 且可以被接受者合理利用的方式提供。

最后, 对于故意不提供索引, 或提供海量文件等增加对方负担的行为, 仲裁庭可做出不利于被申请方的推定。在这方面, IBA《规则》已经先行一步, 在第 9.7 条规定, 在对仲裁费用, 包括举证费用的分配做出裁决时, 仲裁庭将充分考虑取证中任何一方的非善意行为。

证明标准

贸仲《指引》第 24 条对于证明标准做出了规定。对于一般事实, 采用优势证据标准; 而对于有关欺诈的事实, 则采用有充分说服力的证据标准。

“优势证据”和“有充分说服力的证据”都是来自英美法的舶来品。

“优势证据”对应的英美法概念为“preponderance of evidence”,《指引》的英文版也直接采用了这个表述。

所谓“优势证据”, 即仲裁一方提供的证据虽不足以完全排除所有的合理怀疑, 但是其证据的证明力超过对方的证据, 则仲裁庭应根据证据证明力强的那一方所提出的主张来认定事实。

“优势证据”标准应用广泛, 无论在英美法国家还是大陆法国家, 一般的民事诉讼和商事仲裁均以该标准作为认定事实的标准。在当前的实践中, 仲裁员一般也

to the tribunal or to the other parties, requesting that opposing party produce certain kinds of documentary evidence.

Prior to the CIETAC guidelines, arbitral parties needed only to submit evidence in their favour. Now when parties opt to apply the guidelines, they must fully disclose evidence, including producing evidence that is adverse to themselves under the other party's request. This new rule will aid evidence collection as well as allow the arbitral tribunal to make reasonable determinations.

Article 7 of the CIETAC guidelines sets out that “a party may request the tribunal to order the other party to produce a specific document or a narrow and specific category of documents”, but “the requesting party shall state the reasons for its request, identify in sufficient detail the requested document(s), and explain the relevance and materiality of the requested document(s). The tribunal shall invite the other party to comment on the request to produce”.

The IBA rules, in contrast, set out that the requesting party needs to explain to the tribunal why the requested documents are in the possession, custody or control of the the requested party, rather than the requesting party. The IBA rules also require that the requesting party specify the relevant folders, keywords or other elements necessary to find the requested electronic documents. Thus, the IBA rules have stricter requirements on the requesting party's burden of proof in requests to produce.

However, requests to produce are time-consuming and laborious. In common law systems, they tend to exhaust both parties' time, patience and money. Involved parties and their lawyers may use various methods to prolong the litigation process, and increase the other party's costs as well as the workload of their lawyer. The other party may then be forced to seek accommodation and accept an unsatisfactory and unconvincing result.

To avoid this problem, CIETAC can consider more specific and rigorous application requirements and disclosure standards. First, CIETAC is able to limit the number of times parties can submit requests to produce. For example, they may stipulate that each party can request to produce only once, or some other number agreed by both parties.

Moreover, the tribunal must ensure the request is made “in sufficient detail”, and require that the requesting party provide

an accurate and detailed description of documents requested. Requests that are intentionally vague so as to obtain a large quantity of documents will be denied.

The CIETAC guidelines follow the IBA rules on electronic document requests. The guidelines require more detailed stipulations in requests to produce electronic documents. CIETAC may specify the forms or methods of submission of electronic documents or data produced. It may also require that the requested party provide a reasonable index or table of contents for the documents.

Here, the IBA rules can be a good reference for CIETAC. Article 3.12(b) of the IBA rules provides that “documents that a party maintains in electronic form shall be submitted or produced in the form most convenient or economical to it that is reasonably usable by the recipients, unless the parties agree otherwise or, in the absence of such agreement, the arbitral tribunal decides otherwise”.

Finally, if the requested party intentionally increases the opposing party's burden by refusing to provide an index or provides a massive quantity of documents, the tribunal may draw adverse inferences against this party. The IBA rules take this one step further by providing in Article 9.7 that if any party has failed to conduct itself in good faith, the tribunal may “take such failure into account in its assignment of the costs of the arbitration, including costs arising out of or in connection with the taking of evidence”.

Standard of proof

Article 24 of the CIETAC guidelines establishes evidentiary standards of proof:

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《商法》欢迎您对“争议摘要”栏目的内容提出宝贵意见。我们力求将该栏目打造成意见交流、案例分享及时事互动的平台, 因此我们诚邀您提供稿件, 长度最好在600英文字或1000中文字上下。请将稿件发至我们的邮箱 editor@cblj.com。《商法》将于每月甄选出版最好、最贴近时事热点的文章。

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采用这个标准,因此在《指引》颁布后,仲裁庭的具体裁决尺度应该不会受到任何实质性的影响。

“有充分说服力的证据”标准所对应的英美法概念为“clear and convincing evidence”,《指引》的英文版也采用了这个表述。

“有充分说服力的证据”标准对于证据的证明力要求比“优势证据”标准更高,仅仅证明力上超过对方并不能满足该标准的要求,证据的证明力必须达到使被证事实具有高度盖然性或者相当的确定性。

对于证据证明的事实是否具有高度盖然性,在英美法的实践中,大量的判例和法官、陪审团或者仲裁庭的心证会对证据的认定提供依据和保障。但是,在没有相关判例支持的情况下,中国的仲裁庭如何准确把握“有充分说服力”这一证据标准,需要在实践中审慎裁夺。

preponderance of evidence, applicable to general facts, and clear and convincing evidence, applicable to facts related to fraud. Neither originates from Chinese legal tradition; rather, they have been imported from common law.

The standard of preponderance of evidence refers to instances where the arbitral tribunal should conclude that the position held by the party whose evidence has a greater evidentiary weight is fact, though that evidence may be insufficient to exclude all reasonable doubt.

The standard is widely applied, in both common and civil law jurisdictions, to ascertain facts in civil litigation and commercial arbitration. Arbitrators apply the standard as well, thus it should not have any substantial impact on the granting of arbitral awards by the tribunal in practice.

The standard of clear and convincing evidence sets a higher burden of proof than the standard of preponderance of

evidence. One party's evidence must not only carry more weight than the opposing party's evidence; its alleged facts must reach a high level of probability or reasonable certainty.

In common law, precedence and the evaluation of evidence made by judges, juries or arbitral tribunals is the basis to determine the probability of facts. However, accurately applying the clear and convincing evidence standard without a system of precedence is a challenge for Chinese arbitral tribunals. Arbitrators may need to exercise caution when applying it in practice.

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Xu Guojian is an arbitrator at CIETAC. He is also the managing partner of Boss & Young, and vice chairman of the China Society of Private International Law

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A leader in IP protection, Chang Tsi & Partners offers a complete set of legal services to clients from a broad spectrum of industries including Fortune 100 and 500 companies. Our expertise and effectiveness in developing legal strategies and solutions are recognized many times by well-known legal organizations and magazines, including Managing IP, Chambers & Partners, Legal 500, World Trademark Reviews etc, as a leading law firm in China for legal matter relating to intellectual property, dispute resolution and mergers & acquisitions.

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PROGRAMME AT A GLANCE

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10.15

The Use of Med-Arb in the Resolution of Cross-Border Disputes

by ICC/ICC-HK | 9:00 - 12:00

Is Time on Our Side?

by CIETAC HK | 14:00 - 17:00 | Conrad Hong Kong

HKArbWeek Welcome Reception

by HKArbWeek Organisers | 18:00 - 20:00 | Hong Kong Club

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10.15

ADR in Asia Conference

by HKIAC | 9:00 - 17:00 | Four Seasons Hotel Hong Kong

HK Arbitration Charity Ball

by HKACB | 18:30 - 23:00 | JW Marriott Hotel Hong Kong

28
10.15

UNCITRAL Asia-Pacific Judicial Summit

by UNCITRAL, HK Department of Justice, HKIAC | 9:00 - 17:00 | Harbour Grand Hong Kong

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10.15

5th Annual GAR Live Asia

by Global Arbitration Review | 9:00 - 17:30 | HKIAC

GAR Live Closing Dinner

by Global Arbitration Review | 19:00 - 22:00 | Hong Kong Club

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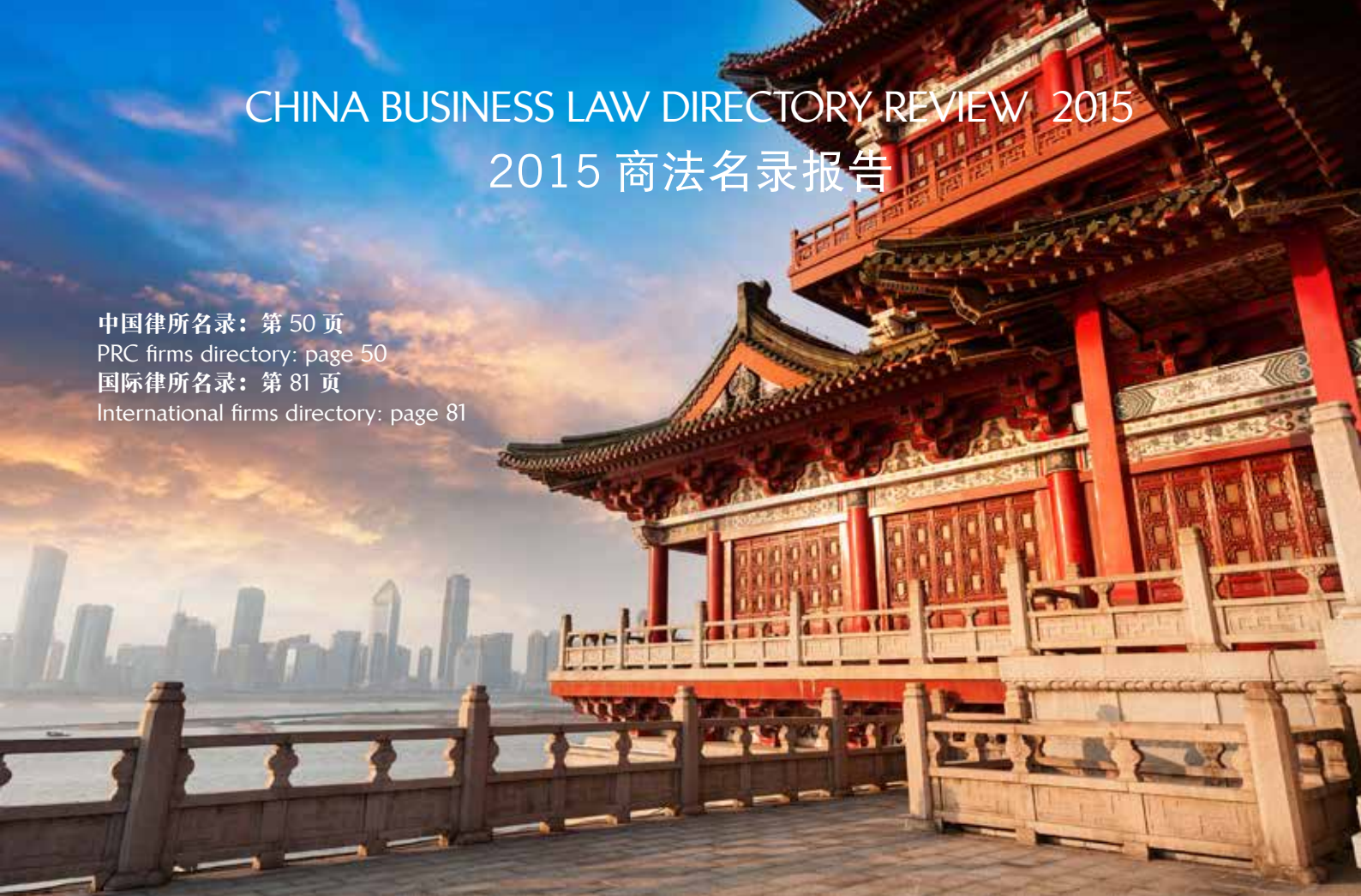
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继往开来 Changing horizons

在中国经济步入新常态之际，众多法律专家对近来影响市场的主要法规变化以及未来一年的前景发表了自己的看法。作者：黎爱莲

Experts give insight into the regulatory developments influencing the market and what the coming year promises as China adapts to the new normal, writes Alainna Wrigley

在 今年的《商法》名录报告中，我们咨询了众多来自领先律师事务所的专家，了解在过去一年他们眼中影响其客户及其法律服务的主要法规和市场动态。这些专家在报告中分享了他们的经验，并根据专业知识展望即将发生的重要变化。

中国放宽了对境内外投资以及审批流程的限制，不少律所对此表示支持。其中很多律所也期待中国会进一步解除针对国内外公司的监管制度。但是这也意味着目前制度下的可变利益实体（VIE）结构将会走向尾声，因此也有一些专家对此保持审慎态度。

同时，中国在合规以及竞争方面的立法与执法力度的加强，也进一步体现了中央政府对于反腐的承诺。监管者发起了为期两年的反腐运动去打击建设行业的裙带关系。这个行业的腐败导致了豆腐渣

For this year's directory report, we consulted experts from leading firms to gain their insights into the major regulatory and market developments over the past year that have impacted their clients and the services they provide them. These experts share their experiences herein, and give their informed predictions of important changes on the horizon.

Firms are welcoming with open arms relaxation of restrictions on both inbound and outbound investment and less approval red tape. Many also look forward to the further dismantling of the bifurcated regulatory system for foreign and domestic companies. However others remain cautious as this may also herald the end of variable interest entities taking advantage of this system.

At the same time, increased legislation and enforcement in compliance and competition has reinforced the central authori-

工程的出现,造成了公众资金的滥用以及人身伤亡。律所也了解到,知识产权方面的反垄断工作也变得越来越突出。

IP 法庭引领保护新时代

2008年发布的《国家知识产权战略纲要》提出,要发挥司法对知识产权保护的主导作用。去年,中国的知识产权制度取得了重要发展,三个专门的知识产权法院分别在北京、上海和广州设立,并都于2014年11月起开始运作,受理涉及商标认定和技术秘密的民事和行政一审案件,还会受理针对商标评审委员会等机构的行政决定提起诉讼的一审案件,以及涉及版权等民事及行政二审案件。

“知识产权法院的设立只是一个标志,体现了国家加大对知识产权保护力度、提高知识产权案件的审判质量和统一审判标准,进而为国家创新战略保驾护航、提供动力的愿景,”中国国际贸易促进委员会专利商标事务所业务发展处副处长与专利律师郭小军说。

中国数量庞大的知识产权案件正在压垮民事和行政案件法庭,因此没有人会否认知识产权法院系统的设立是业界所欢迎的。但很多人也强调了需要将期望控制在合理范围内。知识产权法院的法官和司法干部是否拥有针对知识产权或其中部分领域的丰富经验,这仍然是一个未知数。

铸成律师事务所创始合伙人苍雨春也曾听到有客户对这些法院表示担忧。“我们比较关心对知识产权法院的行政及司法安排。目前,我们不少客户多次提到他们在知识产权法院提请诉讼时面对极大的挑战。”苍雨春说,客户特别提到法院要求提交某些在知识产权诉讼中并不常见的文件。

另外,铸成律师事务所合伙人兼专利部经理孟锐指出,不少律师期待《专利法》第四次全面修订。今年四月,国家知识产权局发布了专利法草案的征求意见稿,尽管这只是知识产权局自己发布而不是国务院发布的。他补充说,国家知识产权局也修订了其他法规去配合《专利法》的修订,例如在一月修订的《专利行政执法办法》。

至于将来还会有哪些进展,中国专利代理(香港)有限公司总经理曾祥麦预计,在不远的将来,不同法域之间很有可能将会进行更深入的合作以及工作分享。“中、美、欧、日、韩五大知识产权局近日达成了合作共识,将不断加强五局之间的工作共享、合作提高专利审批的质量和权利的稳定性,并降低公众获取专利信息的门槛。”曾祥麦认为:“这些都是惠及产业界用户和社会公众的措施,但也给知识产权代理机构在互联网时代的服务和管理模式带来了新的挑战。”

知识产权反垄断新焦点

在过去,国家知识产权战略的一项额外目标是在知识产权方面设立关于不正当竞争的法规;七年之后,这个目标正逐步完成。四月,国家工商行政管理局发布了《关于禁止滥用知识产权排除、限制竞争行为的规定》,该规定于八月生效。国家发展和改革委员会也将于近期发布针对知识产权许可的反垄断指导意见。

“考虑到高通反垄断案、华为诉IDC案等最近的一些案件,中国的反垄断执法机关似乎在近期将更多的注意力投向知识产权相关的问题,”安杰律师事务所管理合伙人詹昊说。二月,在经历高调

ties' commitment to the anticorruption campaign. Regulators have launched a two-year campaign to fight nepotism in the construction industry, where corruption has resulted in misuse of public funds and the loss of life due to shoddy materials. Firms have also seen greater emphasis on antitrust in intellectual property.

IP courts usher new era for protection

The Outline of the National Intellectual Property Strategy, issued in 2008, called for the judiciary to play a leading role in protecting IP rights. In the past year, China's intellectual property regime received a major boost from three specialized intellectual property courts. The courts, established in Beijing, Shanghai and Guangzhou and operational from November 2014, will hear first instance civil and administrative cases regarding, among others, trademark recognition and technological secrets, first instance judicial appeals against administrative decisions from agencies such as the trademark review board and second instance (appeal) civil and administrative cases on copyright, among others.

“Setting up IP courts is a symbolic embodiment of China strengthening protection of IP, improving the quality of IP rights trials, and unifying IP trial standards”, says Guo Xiaojun, patent attorney and deputy business development director of CCPIT Patent & Trademark Law Office in Beijing.

“They will act as bodyguards for the innovation-driven development strategy and provide the aspirations for the strategy with a motivating power”, he says.

None would deny that the IP court system is a welcome development due to the immense number of IP cases weighing down the caseloads of civil and administrative courts. However, many lawyers stress the need to balance expectations. Whether the judges and judicial officers of the IP courts have a strong legal background in IP, or specific areas of IP, remains unclear.

Spring Chang, a founder and partner of Chang Tsi & Partners, has heard disquiet from clients regarding the courts. “We are concerned about the bureaucratic and judicial arrangements for IP courts”, Chang says. “Currently many of our clients have repeatedly expressed the extreme challenges presented to them while filing litigation before the IP courts.” She notes that clients have raised in particular that certain documents required by the court are atypical for IP litigation.

Further, Martin Meng, a partner of Chang Tsi & Partners and manager of their patent department points out that lawyers should look forward to the fourth revision of the Patent Law. In April this year, the State Intellectual Property Office (SIPO) circulated the draft revision for public comment, albeit by the SIPO itself rather than the State Council. He adds that the SIPO has also been revising other legislation to coordinate the revision of the Patent Law, e.g. a draft revision of the Measures on Patent Administrative Enforcement in January.

As for what is to come, Zeng Xiangling, general manager of China Patent Agency in Hong Kong, sees the potential for greater cooperation and work-sharing between jurisdictions in the near future. “Recently intellectual property institutions in five countries – the US, China, EU, Japan and South Korea – came to an agreement, affirming that they would increase their cooperation and work sharing to improve the quality of patent examination and stability of rights and lower the threshold for public access to patent information.”

在技术密集型行业…的公司，
应该在其专利策略方面保持谨慎

Companies in technology-intensive industries ... should be cautious in their patent strategies



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的反垄断专利许可审查之后，高通被罚款 9.75 亿美元（60.5 亿元人民币）。华为诉 IDC 案涉及标准必要专利的许可，最终 IDC 赔偿华为损失约 2000 万元人民币。

西盟斯律师事务所驻上海合伙人李蕾思 (K. Lesli Ligorner) 注意到，针对含有知识产权的产品销售，反垄断执法有了显著的提升。“相关部门评估了如何对一些国际大型公司及国内公司进行处罚。这要求商业运营者去审视他们的模板协议以及商业活动，以确保对反垄断法的合规，”她提醒道。

除了合规问题要解决外，观韬律师事务所驻北京合伙人孙韶松提到，最近的反垄断调查以及处罚让不少公司变得更为谨慎，尽可能少采用近乎垄断的策略。

“在技术密集型行业，例如信息及电信、医药、医疗设备以及汽车等行业的公司，应该在其专利策略方面保持谨慎并密切留意相关部门的执法动态，”詹昊说。

金融市场的更多选择

2014 年 3 月，中国证券监督管理委员会发布了《优先股试点管理办法》，允许公司通过优先股这种股票和债券的混合体提高对资本和融资的运用。中伦文德律师事务所副主任兼管理合伙人甄庆贵说：“国家近期支持优先股项目的发展，在此基础上，[我所] 团队开展了某著名国企在境内发行优先股项目，此次发行采取向合格投资者非公开发行的方式，发行优先股总数不超过 1.35 亿股，募集资金总额不超过人民币 135 亿元。”

预计即将到来的首次公开发行的注册制改革同样多次被谈及。北京天元律师事务所合伙人杨科提到，人大常委会最近对《证券法》的修订进行了审议，预计将在今年通过。此次修订将带来 IPO 制度的彻底变革，从评估审核制度转变为仅要求上市公司进行注册与信息披露。估计此次修订最早会在今年十月通过。

希望完全回避资本市场的人或许正在寻找其他的融资方法，但 these 方法未必已经得到了法律支持。“互联网 + 金融是推动中国金融业改革的重要动力，”卓纬律师事务所管理合伙人朱宁说。朱宁特别提到 P2P 个人借贷。于 2013 年横空出世的 P2P 借贷将资本

“These measures are beneficial to the industry as well as the general public, but they also bring new challenges to IP agency services and management in the internet era”, Zeng says.

New focus on antitrust in IP

An additional goal of the national IP strategy was provisions on intellectual property relating to unfair competition; after seven years, that goal is being achieved. In April, the State Administration for Industry and Commerce issued the Regulations on the Prohibition of Intellectual Property Rights Abuse to Eliminate or Restrict Competition, effective since August. The National Development and Reform Commission is also expected to release antitrust guidelines in the licencing of IP in the near future.

“Considering recent cases such as the Qualcomm case and Huawei vs IDC case, China’s antitrust enforcement agencies seem to intend to pay more attention to IP-related issues in the near future”, says Zhan Hao, managing partner of AnJie Law Firm. In February, Qualcomm was fined US\$975 million after a high-profile antitrust review of its patent licencing. The Huawei vs IDC dispute concerned the licencing of standards-essential patents and resulted in damages of RMB 20 million to Huawei.

Shanghai-based Simmons & Simmons partner Lesli Ligorner has also seen a particular increase in antimonopoly enforcement with IP interface and in a distribution context. “Penalties have been assessed against both international giants and domestic players”, she cautions. “This requires business operators to review their template agreements and business activities to ensure compliance with the Antimonopoly Law.”

Sun Shaosong, a partner of Guantao Law Firm in Beijing, notes that, while there remain issues of compliance to be addressed, recent antimonopoly investigations and penalties have made companies more cautious, and less likely to adopt monopoly-esque strategies.

“Companies in technology-intensive industries such as information and telecommunications, pharmaceuticals, medical equipment and automobiles should be cautious in their patent strategies and keep a watchful eye on the enforcement acts of the agencies”, adds Zhan.

More choices in financial markets

In March 2014, the China Securities Regulatory Commission issued the Measures for the Administration of the Preferred Stock Pilot Programme, allowing companies to have increased access to capital and financing via preferred shares, a hybrid of stock and bonds.

Zhen Qinggui, deputy director and managing partner of Zhonglun W&D Law Firm, says, “Based on the support the state has shown for the preferred stock programme, [we] led a team on a domestic preferred stock transaction involving a major state-owned enterprise via a non-public offering to qualified investors that raised just under RMB 13.5 billion (US\$2.18 billion) after an issuance of under 135 million shares.”

Much talked about this year has also been the anticipated overhaul of the registration regime for initial public offerings. Yang Ke, a partner of Tian Yuan Law Firm in Beijing, notes that the revision to the Securities Law was recently deliberated by the Standing Committee and is expected to be passed this year. The amendments are expected to revamp the IPO system, moving from requiring assessment and approval to simply requiring reg-

不少中国互联网和科技公司在上市地点的选择上做出了急剧改变

[We see] a rapid change of direction in listing venues for most Chinese internet and technology companies



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需求者与潜在借贷人直接对接。“新行业的诞生、政策的不确定性，使得法律服务行业面临更大的挑战，我们将会遇到之前从未遇到的问题情况。”

互联互通

君泽君律师事务所驻北京合伙人李云波说，对于目前很多律师事务所来说，最为活跃的领域之一是资本市场，特别是风险投资和上市。

吴理文律师事务所上海办公室高级合伙人张燕介绍说：“过去12个月，中国资本市场的复苏对本所的资本市场业务，以及与该业务相关的私募和并购业务产生了重大影响。”“未来12个月，预计中国资本市场将持续复苏和发展。与之相应，预计本所客户对IPO、私募以及并购法律服务的需求将增加，”她说。

去年，中国大陆资本市场经历了一系列的变化。2014年11月，中国大陆和香港的资本市场通过沪港通完成了对接，目前深港通也在酝酿中。沪港通允许一方市场的投资者通过其当地的股票经纪以及结算交易所，买卖对方交易所上市的股票。4月9日，香港证交所交易额创下了2915亿港元的记录，是平日交易额的三倍多，业界认为这部分归功于沪港通。

盛信律师事务所合伙人以及中国业务负责人陈磊明说，另一里程碑式的发展是香港与中国大陆的基金互认安排。基金互认让各自市场的资产管理人可以将基金卖给另一个市场的散户。“这两者都有利于中国大陆和香港的投资者，也被视为中国将其资本市场与世界其他市场对接的重要一步，”他说。

人民币国际化

中国国际化进程的一个重要部分是人民币的国际化。三月，中国人民银行货币政策司官员郭建伟在一个关于人民币国际化的论坛上提到，中央银行以及其他部门已经向国务院报送了旨在拓宽中国企业跨境投融资渠道、简化海外投融资审批流程的政策议案。相关政策预计将在近期推出。

istration combined with information disclosure. Estimates put October as the earliest time the amendment may be adopted.

At the same time, those who may wish to avoid capital markets entirely are finding new methods of raising funds – methods not yet supported by legislation.

“The financial sector in China is becoming more digitized, a trend that is pushing significant changes in China’s commercial and finance industries”, says Ning Zhu, managing partner of Chance Bridge Partners.

Ning indicates that peer-to-peer (P2P) lending in particular, which links those in need of capital directly to potential lenders, has taken off since 2013. “Because it is a new industry, the policies are uncertain and this has led to challenges, problems and opportunities.”

New connections

One of the most active areas for many firms at present, says Li Yunbo, a Beijing-based partner of JunHeJun Law Firm, is the bubbling capital markets – particularly venture capital and listings.

“The capital market recovery over the past 12 months had a significant impact on our firm’s work in capital markets, private equity and M&A”, says Yan Zhang, a senior partner in HaoLiWen Partners’ Shanghai office. “We expect that the capital markets will continue to recover and develop in the next year and that our client demand for IPO, private equity and M&A services will increase accordingly.”

In the past year, mainland capital markets have undergone a number of changes. In November 2014, the mainland and Hong Kong financial markets were connected with the Shanghai-Hong Kong Stock Connect programme, and a Shenzhen-Hong Kong link is on the horizon. The stock connect allows investors to trade on the other market using their local brokers and clearing houses, and was credited in part for the record trading on the Hong Kong exchange HK\$291.5 billion (US\$37.61 billion) on 9 April, more than three times the daily average.

Another landmark development, notes Chen Leiming, partner and head of Simpson Thacher’s China practice, is the Hong Kong-China mutual fund recognition programme, which allows asset managers in each market to sell funds to retail investors on the other side. “Both events will benefit the investors in China and Hong Kong and meanwhile are seen as important steps for China to integrate its financial markets with the rest of the world”, he says.

RMB going global

One major part of China’s further global push has been RMB internationalization. In March, Guo Jianwei, an official from the People’s Bank of China monetary policy department, revealed during a forum on RMB internationalization that central bank and other agencies had submitted policy proposals to the State Council to broaden cross-border investment financing channels and simplify approval procedures for overseas investment and financing by state-owned enterprises. The policies are expected to be released within the near future.

A recent report from King & Wood Mallesons (KWM) estimated that the RMB may be fully convertible by 2020. Wang Ling, KWM’s managing partner of China, points to the pilot free trade zone programmes such as the Shanghai International Gold Exchange – all gold traded on the exchange’s international border

根据金杜律师事务所最近一份报告的估计,到2020年,人民币将可能完全实现自由兑换。金杜律师事务所中国区管理合伙人王玲提到上海自贸区的一些项目,例如上海黄金交易所国际板的启动,让所有黄金交易都可以用人民币标价进行。“这项举措通过吸引国际投资者以及境外人民币基金参与境内金融市场的交易活动,迈出了人民币国际化的重要一步,”她说。

政府及工业融资新途径

2014年修订的《预算法》在今年一月生效,政府债务的发行受到严格监管;地方政府要在立法机构和中央部门的管控下发行债券。随着此次修订,国务院一连发布了四份文件,以清除现存的优惠政策并鼓励在特定领域(包括公众机构改革以及医疗)的私有资本投资,其中包括《关于加强地方政府性债务管理的意见》以及《关于创新重点领域投融资机制鼓励社会投资的指导意见》等。

“对地方政府及其融资平台企业而言,原先主要依靠融资平台企业沉淀政府债务、不透明预算及自行制定税收等优惠政策招商的做法[现在]受严格管控,”上海邦信阳中建中汇律师事务所合伙人陆国飞说,“上述规定在堵死地方政府旧模式的同时,又为其开启了以PPP模式为代表的与社会资本合作模式,包括各种投融资创新。”

今年五月,财政部、国家发改委以及中国人民银行联合发布了《关于在公共服务领域推广政府和社会资本合作模式的指导意见》,以支持PPP项目(Public-Private Partnership)的发展。“目前中国中央和地方均在力推政府和社会资本合作的项目,”中伦律师事务所驻北京合伙人王霁虹说。“各大部委频繁发文作出相关指示。PPP成为了各个地方的讨论热点,社会上也兴起了多种学习PPP的热潮。”

作为财政部PPP中心的专家,王霁虹参与了财政部PPP项目合同指南的讨论和编写,她认为PPP项目的发展将成为近期的一个重点,“相应地,市场对于能够提供PPP项目法律服务人才的需求缺口也在扩大。”

“走出去”趋势

2014年,中国境外投资首次超过境内投资。根据商务部公布的数据,中国的境外直接投资攀升至1030亿美元,与前年相比增长了14%,而境内直接投资达到1200亿美元,只上升了1.7%。“目前,绝大多数的境外投资项目都只需要办理备案手续,境外投资的自由化和便利化程度大大提高,”中伦律师事务所管理合伙人吴鹏说。

温斯顿律师事务所合伙人兼亚洲业务主席陆志明表示:“境外投资法规的放宽将意味着低于10亿美元项目的投资者只需要提交申请而不需要像过去那样去审批。”他认为:“这让中国的境外投资得到增长。”

去年,很多促进中国进行海外投资的新法规得到通过并开始生效。《境外投资管理办法》在2014年10月生效,减少了海外投资项目所需的行政审批,并将行政权力下放到更低的政府层级。2014年5月生效的《境外投资项目核准和备案管理办法》在当年12月进行修订,规定只有在敏感法域和行业或者数额超过10亿美元的投资项目才需要国家发改委的批准。

“从我们的角度来看,最为重要的一项趋势是中国企业正在增加

will be denominated in RMB. “This launch marks a significant step forward in the internationalization of RMB by attracting international investors and offshore RMB funds to participate in the trading activities on the onshore financial market”, she says.

New financing methods for government and industry

In the 2014 amendment of the Budget Law, effective January this year, the issuance of government debt came under strict control; local governments were permitted to sell bonds under the control of the legislature and central authorities. Following the revision, the State Council released a series of four documents, including the Opinions on the Strengthening the Administration of Local Government Debt and the Guiding Opinions on Innovating the Investment and Financing Mechanism for the Key Fields and Encouraging Social Investment. The documents set out measures to clean up existing preferential policies and encourage private capital investment in areas such as public institution reform and healthcare.

In May this year, the Ministry of Finance, National Development and Reform Commission and the People's Bank of China issued their Guiding Opinions on Promoting a Model for Cooperation between Government and Private Capital in the Public Services Field to support public-private partnership (PPP) projects.

“Investment incentives on which local governments and their financing platform enterprises relied in the past, including precipitating on sovereign debt, opaque budgets and local taxes, have come under strict control,” says Shanghai-based Boss & Young partner Lu Guofei. “These regulations have cut off local governments from their old financing vehicles and launched the PPP as one method of private cooperation, including various investment and financing innovations.”

“Currently the central and local governments are promoting cooperative capital projects between the government and private sector, i.e. PPP,” says Wang Jihong, a partner of Zhong Lun Law Firm in Beijing. “All the ministries, departments, and commissions have been issuing directives on this. PPP projects are the hot topic everywhere, and there is an upsurge throughout various parts of the private sector of people considering PPP.”

[外国投资法]草案将取消外商在中国投资所适用的全面审批制度

The draft [foreign investment] law will abolish the comprehensive approval system ... applicable to foreign investment in China



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Head of China Offices
Deacons
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PPP成为了各个地方的讨论 热点

There is an upsurge throughout various parts of the private sector of people considering PPP



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对欧洲投资的兴趣，不论是外商直接投资还是通过并购，”隆路律师事务所驻香港合伙人 Jan Willem Möller 说。“中国经济的持续放缓在过去一年并没有对这股趋势产生负面影响。”

柯杰律师事务所管理合伙人何杰表示，今年境外投资交易特别活跃，尤其是在欧洲大陆以及英国等热门地区。确实，贝克·麦坚时律师事务所和荣鼎咨询公司的研究显示，中国对欧洲发达国家的投资在 2014 年打破纪录，达到 180 亿美元。并购市场资讯 (Mergermarket) 的报告显示，今年第一季度已经有 11 项对欧洲的投资交易，总额达到 96 亿美元；这个积极的趋势看来仍将持续。

中国对其他区域的投资预计也会继续发展。金杜的王玲指出：“一带一路计划对于中国近期的境内外投资有了显著的促进作用。我们预计这个计划将继续为中国企业以及相关区域、国家带来机遇。”

一带一路计划在 2013 年底公布，是新丝绸之路经济带及海上丝绸之路国家的“升级版”发展框架。新丝绸之路从中国穿越中亚、西亚，海上丝绸之路则沿着南中国海、南太平洋以及印度洋一路延伸。中国中西部的十八个地区也将参与其中。这个计划由直接向国务院报告的特别领导小组推动，旨在连接和提升众多沿线国家（大部分是新兴市场）的联系。一带一路计划涉及的国家中有些是亚洲基础设施建设发展银行的成员国家。

Grata Law Firm 北京代表处中国业务负责人 Gulnur Nurkeyeva 提到，自从一带一路计划提出以及一些国家为响应一带一路而提出了配套计划之后（例如哈萨克斯坦的“光明大道”项目），中国对中亚的投资就出现了一个强有力的上升趋势。“以前，投资者会通过欧洲国家对哈萨克斯坦进行投标和投资，”她说，例如此前中国石化通过荷兰公司购买石油。“但现在，他们正直接投资到哈萨克斯坦和其他国家。”

位于上海的锦天城律师事务所高级合伙人兼管委会主任吴明德说：“[一带一路规划] 不仅增加了国际法律服务业的发展机遇，更主要的是能带动中西部地区法律服务业的新发展。”吴明德指出，中国 26 万人的律师群体中有 34% 在中西部地区工作，但是业务创收只占内地律所业务创收的 16%。“显然，未来几年中西部地区律师业发展有很大潜力，”他说。

Wang, who is listed as an expert in the Ministry of Finance's PPP Centre, and has participated in preparing the ministry's guidelines for PPP projects, feels that PPP projects will be a key focus of the government in the near future. “Accordingly, the demand for skilled lawyers who can provide PPP services is also increasing.”

Going global trend not flagging

For the first time, outbound investment nearly eclipsed inbound investment in 2014. According to figures released by the Ministry of Commerce, China's outbound direct investment leaped to US\$103 billion, an increase of 14% over the previous year, while inbound direct investment hit US\$120 billion, an increase of only 1.7%.

“The extent to which outbound investment is being facilitated and liberalized has increased dramatically”, says Zhong Lun Law Firm managing partner Wu Peng.

“The relaxation of rules governing outbound investment means investment under US\$1 billion will only require filing rather than approvals as in the past”, says Simon Luk, partner and Asian practice chairman of Winston & Strawn. “This has led to increased outbound investment from China.”

In the past year, numerous new legislation facilitating Chinese investment overseas was adopted or became effective. The Measures for the Administration of Foreign Investment, which took effect in October 2014, reduced the amount of administrative examination and approval required for overseas investment projects; it also moved administration and delegation power to lower levels of government.

The Measures for the Administration of Verification, Approval and Filing of Outbound Investment Projects, which took effect in May 2014 and then were further revised in December 2014, set out that NDRC approval is required only for projects in sensitive jurisdictions or industries, or with investment at or exceeding US\$1 billion.

“One of the most significant developments from our firm's perspective is the increased interest of Chinese parties to pursue investments in Europe, both by way of direct foreign investments and through mergers and acquisitions”, says Jan Willem Möller, a partner of Loyens & Loeff based in Hong Kong. “The continuing slowdown of the Chinese economy does not appear to have had any adverse impact on this trend during the last 12 months.”

Kejie Law Office managing partner He Jie notes that this year has been particularly active for outbound investments, especially into more developed regions such as continental Europe and the UK.

Indeed, research from Baker & McKenzie and Rhodium Group reveals that Chinese investment into the developed economies of Europe hit record levels in 2014 at more than US\$18 billion. This positive trend is expected to continue, with Mergermarket reporting that the first quarter of the year has already seen 11 announced investment deals into Europe totalling US\$9.6 billion.

Investments are expected to continue in other regions as well. KWM's Wang Ling points out, “the One Belt, One Road initiative has contributed significantly to China's recent outbound and inbound investments. We expect it to continue to bring opportunities to Chinese enterprises as well as related regions and countries.”

[一带一路规划]能带动中西部地区法律服务业的新发展

The [One Belt, One Road] initiative can spur development in the central and western region of China



吴明德
Wu Mingde
锦天城律师事务所主任
上海
Managing Director
AllBright Law Offices
Shanghai

并购的热门活动

根据汤森路透的数据,中国境内并购在今年前两个季度已经达到了3053亿美元,是中国有记录以来成绩最好的半年。而根据《中国日报》报道,同一时期的境外并购已经达到了447亿美元,是2008年以来最高的。

康德明律师事务所香港合伙人兼联席主席林大维(David Lamb)说:“在2015年第一季度,整个亚洲的并购活动前所未有地活跃。整个领域的交易在中国大陆和更广阔的亚太地区都有显著的提升。”林大维引用彭博社最近的数据说,在第一季度亚太地区的交易总量首次超过了欧洲、中东和非洲。另外,中国的参与带动了新兴市场的并购活动,参与度之高远超另外两个金砖国家巴西和俄罗斯。

“亚洲并购市场的发展很大程度上是由中国民营企业以及它们稳健的资产负债表驱动的,”史密夫·斐尔律师事务所合伙人兼北京代表处负责人邹兆麟说,“在这样的背景下,随着市场投资者将其投资组合多元化并延伸至其他行业,我们预计私募基金将会带动这些地区的活动。我们也期待,中国与澳大利亚、韩国签署的自由贸易协议将会在今年催生更多的跨境交易。”

中国在六月宣布与韩国、澳大利亚签订了自由贸易协议。根据《The Diplomat》报道,按照协议所影响的交易额来计算,中韩自由贸易协议对于中国来说是最大的自贸协议,也被看作是最终实现中日韩三国自贸协议的基础。但在澳大利亚,中澳自由贸易协议却遭到工会和行业组织的批评,特别是关于劳动市场问题以及协议的一项条款——该条款规定,如果澳大利亚的某些政策对中国利益造成负面影响,中国可以控告澳大利亚政府。

境内投资限制放宽

“在境内外投资方面逐步放开的监管法规意义最为重大,”乌利亚律师事务所北京代表处合伙人 Francisco Martínez Boluda 说。“在境内方面,我们很高兴能够看到外商投资产业指导目录的改变,这让外国投资者可以在更广阔的领域进行更自由的投资。”

Announced in late 2013, the One Belt, One Road initiative is a developmental framework along the Silk Road “economic belt”, which stretches from China through central and west Asia to Europe, and the “maritime Silk Road”, which runs through countries along the South China Sea, South Pacific and Indian Ocean; also earmarked for involvement are 18 areas in central and western China.

Bolstered by a specialized leading group reporting directly to the State Council announced in February, the initiative aims to connect and increase cooperation between the countries, the majority of which are emerging economies. The target jurisdictions also overlap in part with membership in the Asian Infrastructure Investment Bank.

Gulnur Nurkeyeva, the head of Grata Law Firm’s China desk in Beijing, reports an intense uptake in transactions in Central Asian states since the start of the One Belt, One Road Initiative and complementing initiatives such as Kazakhstan’s Bright Road initiative.

“Before investors would bid and invest in Kazakhstan through European countries”, Nurkeyeva says, such as Sinopec’s prior purchase of oil via a Dutch company. “However now they are investing directly into Kazakhstan and other countries.”

Wu Mingde, senior partner and managing director of AllBright Law Offices based in Shanghai, says, “The initiative does not just provide greater opportunities for developing international legal services; more importantly, it can spur development in the central and western region of China.” Wu points out that 34% of China’s more than 260,000 professional lawyers work in these regions, with earnings of only 16% the national total. “There is great development potential for legal services there”, he says.

Hot activity in M&A

According to data from Thomson Reuters, domestic M&A reached US\$305.3 billion in the first two quarters of this year, the best first half year recorded for Chinese M&A. Per *China Daily*, outbound M&A reached US\$44.7 billion in the same period, the highest since 2008.

[上海黄金交易所国际板的启动]迈出了人民币国际化的重要一步

This launch [of the Shanghai International Gold Exchange] marks a significant step forward in the internationalization of RMB



王玲
Wang Ling
金杜律师事务所
管理合伙人
北京
Managing Partner
King & Wood Mallesons
Beijing

亚洲并购市场的发展很大程度上是由中国民营企业…驱动的

The growth in Asia's M&A market is largely being driven by the rise of private Chinese companies



邹兆麟

Tom Chau

史密夫·斐尔律师事务所
北京代表处负责人
Head of Beijing Office
Herbert Smith Freehills



四月，中国 2015 年修订的《外商投资产业指导目录》正式生效，取代了 2011 年的较早期版本。新近的修订见证了 20 年来限制条款的最大规模删减，其中有 41 个行业的限制被取消，两个行业的禁止性规定被取消。（如欲了解关于该目录的更多信息，请参阅《商法》月刊 2015 年 5 月号《新的外国投资目录下投资进一步放开》以及 6 月号《新外商投资目录放开更多领域》。）

“政府将限制类行业的数量由 79 个减少到 38 个，要求中外合资经营的行业由 43 减少到 15 个，要求中方控股的行业由 44 减少到 35 个，”德同律师事务所亚洲区管理合伙人 Mitch Dudek 介绍说。他特别指出制造、医药、基础设施、能源、娱乐等行业的外商投资变得更自由了。

来自史密夫·斐尔的邹兆麟预计，由于这个目录的修订，他们有意在中国进行外商直接投资的客户在种类及数量上都会得到一定程度的提升。邹律师提到：“总的来说，这些改变将为人们目前所了解的中国投资环境带来积极的影响，并吸引更多的潜在参与者进入曾经的限制领域以及新的鼓励领域中。”

自贸区

投资目录的修订体现了在中国部分地区——尤其是上海自贸区——此前试行的投资促进政策。中国（上海）自由贸易试验区在 2013 年启动，在投资、对外贸易、专业服务以及金融领域进行改革创新。四月，自贸区已经扩展到上海之外的多个地方，包括天津、福建以及广东，并进一步简化了投资程序。

自贸区是培育并测试经济改革的试验田，区内的创新举措一般都有望在不久后复制到整个中国。改革措施中最多被提及的是投资的负面清单管理制度，这一制度被复制到了《外国投资法》草案。不像《指导目录》那样将行业分为禁止类、限制类及鼓励类（没有被列出的行业则属于允许类），负面清单只列举了关键或敏感行业的部分项目，包括自然资源、测绘、干细胞研究、广播以及印刷媒体、教育、专业服务、制造业、金融、基建以及互联网和电信。但是，一

David Lamb, a Hong Kong-based partner and co-chairman of Conyers Dill & Pearman, notes, “M&A activity was unprecedented throughout Asia in Q1 2015. Deal activity in this sector has increased significantly across China and the wider Asia-Pacific region.”

Pointing to recent data from Bloomberg, Lamb says that the Asia-Pacific deal volume in the first quarter is greater than that of Europe, the Middle East and Africa for the first time. Additionally, Chinese involvement drove M&A activity in emerging markets, far outpacing its BRICS compatriots Brazil and Russia.

“The growth in Asia's M&A market is largely being driven by the rise of private Chinese companies and their strong balance sheets”, says Tom Chau, partner and head of Herbert Smith Freehills' Beijing office. “We expect private equity to drive activity along these corridors with market participants diversifying their portfolios and expanding into other industries. We also anticipate that China's free trade agreements (FTA) with South Korea and Australia will generate more cross-border activity during the course of this year.”

China announced FTA with both South Korea and Australia in June. According to *The Diplomat*, the Sino-South Korean FTA is the largest for China in terms of the volume of trade affected by the deal and viewed as a stepping stone to an eventual Sino-South Korea-Japan trilateral FTA. In Australia, however, the Sino-Australian FTA has come under attack by unions and industry groups alike, particularly regarding labour and a clause allowing China to sue the Australian government should certain policies negatively impact China's interests.

Restrictions loosened on inbound investment

“The gradually relaxed regulatory rules on inbound and outbound investments are of the most significance,” says Francisco Martínez Boluda, a partner of Uría Menéndez in Beijing. “On the inbound side, we are glad to see reforms on the foreign investment industries catalogue, which allows foreign investors to invest in more sectors with less restrictions.”

In April, the 2015 revision of the Catalogue for the Guidance of Foreign Investment Industries took effect, superseding an earlier version of the catalogue issued in 2011. The latest revision saw the greatest number of reductions in the catalogue's 20-year history, with restrictions being removed on 41 industries and prohibitions removed from two. (For further information on the catalogue, see “Further liberalizations under revised foreign investment catalogue” and “More industries open to foreign investors under new catalogue” *China Business Law Journal*, May and June 2015.)

“The government reduced the number of restricted sectors from 79 to 38, the number of sectors of Sino-foreign JVs was reduced from 43 to 15, and the number of sectors requiring Chinese majority shareholding decreased from 44 to 35”, explains Mitch Dudek, partner in charge for Dentons Asia, noting liberalizations on foreign investment in the manufacturing, pharmaceutical, infrastructure, energy and entertainment sectors.

Herbert Smith Freehills' Chau expects an increase in diversity and quantity of their clients interested in foreign direct investment in part due to the catalogue's influence. “Overall, these changes will bring a positive influence upon the perceived investment climate in China and attract more potential participants from previously restricted and newly encouraged industrial sectors.”

无论自贸区进行了哪些改革, [不久]
就会在自贸区以外的地方推行

*Whatever reforms are introduced
in the FTZ will be soon ...
implemented outside the FTZ*



鄂丽福
Ulrike Glueck
CMS中国
管理合伙人
上海
Managing Partner
CMS China
Shanghai

些律师认为这些限制和《指导目录》上列出的项目并没有太大差别, 只是用了不同的术语分类而已。

另外, 在自贸区的一些投资项目会受到国家安全审查。国际安全审查也是新实施的《国家安全法》和即将全国实行的《外国投资法》的一个要点。关于在自贸区进行国家安全审查的试行办法自四月起实施, 可能为这些审查在全国的推广实施提供有益经验。

虽然很多律所提到他们的客户对自贸区项目表现出兴趣, 但某些律师注意到, 这种兴趣并没有转化成交易。CMS 中国公司业务负责人兼上海代表处管理合伙人鄂丽福 (Ulrike Glueck) 说, 他们的客户中还没有进入自贸区的。她指出, 总的来说, 除了经营电信领域的投资者, 其他客户要选择进入自贸区经营似乎并不明智。

“首先, 自贸区的基础设施成本比自贸区外要高。第二, 无论自贸区进行了哪些改革, 在短短半年至一年内就会在自贸区以外的地方推行,” Glueck 说, “例如, 从资本账户中取出注册资本并及时兑换成人民币的操作模式当时是首先在自贸区实行的, 现在已经推广至全国。另外, 外商投资企业使用注册资本对其他公司进行再投资的操作模式也是首先在自贸区实行的, 而从 6 月 1 日起已经开放至其他地方。所以, 这些改革很多都会在短时间内推广至自贸区外的其他地方。”

美国商会《2015 年中国商业报告》的结果也支持了这个观点。在大约 300 多家受访的美国公司中, 73% 的受访企业表示自贸区并未给其业务带来实际利益, 48% 表示自贸区并没有为其业务带来明显改变。但 35% 的受访公司表示, 自贸区使中国海关以及检验检疫服务部门的程序更加简化。

新境内投资制度即将登场

一月, 中国商务部发布了《外国投资法》草案征求意见稿。一旦通过, 该法将会取代现行的三部外商投资法, 即《中外合资经营企业法》、《中外合作经营企业法》以及《外资企业法》。

该草案意味着外国投资以及并购在中国的处理模式将会有明显的变化, 这个变化将会激起投资者不小的兴趣。的近律师事务所

Free Trade Zones

Changes in the catalogue reflect the trend for liberalizations on investment seen elsewhere in China, most overtly in the free trade zones (FTZ).

The China (Shanghai) Pilot Free Trade Zone was launched in 2013 to carry out reforms and innovations in the investment, foreign trade, professional services and financial sectors. In April, the FTZ have expanded to three additional areas of Shanghai, as well as in areas of Tianjin, Fujian and Guangdong, and further simplified investment procedures.

The FTZ are breeding and testing grounds for economic reforms, with many of the innovations soon expected to be replicated throughout the rest of the country. Among the most heralded of the reforms is the negative list for investment, which has been reproduced in the draft foreign investment law.

Unlike the catalogue, which groups industries as prohibited, restricted, encouraged and – for those not listed at all – permitted, the negative list only enumerates certain projects in key or sensitive industries including natural resources, mapping, stem cell research, broadcast and print media, education, professional services, manufacturing, finance, infrastructure, internet and telecommunications. However, several lawyers comment that the restrictions more or less remain the same as those in the catalogue, and are simply classified using different terminology.

Further, certain investments within the FTZ are subject to a national security review. The national security review is also a feature of the newly implemented National Security Law as well as the foreign investment law anticipated to be adopted nationwide in the near future. Provisional measures for national security reviews within the FTZ were implemented in April, and these may be guidance for how the national security reviews will be implemented nationwide.

While many firms report client interest in projects within the FTZ, some note that the interest does not translate into transactions. Ulrike Glueck, head of CMS China's corporate practice area and Shanghai office managing partner, says that they have not had a single client to go into the Shanghai Free Trade Zone. Generally, she points out, it does not make sense for their clients to go into business in the FTZ – apart from those certain industries where the benefit is unique to the FTZ, such as telecommunications.

“First, the infrastructure costs are higher inside the FTZ than outside”, she explains. “Second, whatever reforms are introduced in the FTZ will soon, within half a year to one year, be implemented outside the FTZ.”

“Withdrawing registered capital from a capital account and immediately exchanging that into RMB was first introduced in the FTZ and now is nationwide”, Glueck notes. “Also, foreign invested enterprises using registered capital to reinvest in other companies also was introduced first in the FTZ and now, as of 1 June, is open. So all of these reforms are also implemented outside the FTZ in a very short time frame.”

Results from the American Chamber of Commerce's 2015 China Business Survey support this view. Of the approximately 300 US companies polled, 73% stated that the FTZ offers no tangible benefits and 48% stated that it offered no noticeable changes for business. However, 35% stated that procedures from Customs and the China Inspection and Quarantine Services had been streamlined as a result of the FTZ initiative.

迈向反腐大道的建筑行业

中国的一项部级动态可能会为建筑行业带来重大的变化，建纬律师事务所高级合伙人邵万权说。隐藏于建筑行业中的常见腐败问题导致了项目的高价、在投标过程中的成本浪费以及缺乏保证的建筑质量——对于为社会大众利益而兴建的项目，其在公众心目中的形象会受到严重损害。

住房与城乡建设部一直把解决这类腐败问题作为近期工作的重点。在去年 8 月，该部门发起了“工程质量治理两年行动方案”。该计划旨在提高建筑项目的总体水平，计划提出要规范建筑市场秩序，建立健全的建筑市场诚信体系，遏制违法发包、转包、分包，并让该部门在项目管理中进一步发挥监管作用。

这个行动方案中还包含了建筑合同的重要立法——《建筑工程施工转包违法分包等违法行为认定查处管理办法（试行）》以及《住房城乡建设领域违法违规行为举报管理办法》，这两个办法分别于 2014 年 10 月以及 2015 年 1 月生效。同时，住房与城乡建设部宣布在 2014 年 11 月至 2016 年 6 月期间发起对建筑项目中的非法分包行为的打击行动。

邵万权所在的建纬律所参与了这两个办法的咨询工作。他指出，政府正在努力打击腐败行为，例如将工程发标给亲朋好友、将工程分包给原标书里没有提及的公司等行为，因为这些做法可能会导致质量的下降以及整个制度信誉的缺失。他说，上述两个管理办法生效后，他们律所看到了建筑行业的积极反响，他们的客户也在投标中向着提高透明度以及更廉洁的商业运作迈进。

合伙人兼中国业务负责人张永财说，这个草案将会废除近四十年来指导外商在中国投资的关键法律监管框架。

“这个法律草案将取消外商在中国投资所适用的全面审批制度，取而代之的是一个只需要有限准入许可以及长期报告的制度，”张永财说，“业界对此的看法非常积极，我们预计这次修订会催生不少的业务机会。我们预计进入中国的外国公司会大幅增加，进而有力带动对法律及其他专业服务的需求。”

浩天信和律师事务所驻北京合伙人姜江认为，预计将写入《外国投资法》的负面清单制度已经在自贸区试行，这对于律所来说应该是一项重要的变化。

虽然这个草案在正式被采纳前还需要经过进一步审议，很多人预料它肯定会通过。张永财表示：“可以这样理解，在中国有机会审视负面清单制度的实施成效之后，《外国投资法》生效的时机就到了。”

诺顿罗氏律师事务所北京代表处合伙人及负责人王昶提醒道，这个法律草案并不一定会受到外国投资者的热烈欢迎。“尽管它在某些领域去除了审批过程，但随之而来的是更严格的国家安全审查过程、中国投资规定的境外影响，以及加重对外国投资企业的报告要求。它也预示着 VIE 架构的终结，这个架构多年来被很多外国投资者用于投资科技领域。”

New inbound investment regime soon to come

In January, the Ministry of Commerce released a draft Foreign Investment Law for public comment. Once passed, the law is expected to replace the three existing foreign investment laws – the Sino-foreign Equity Joint Venture Law, the Sino-foreign Cooperative Joint Venture Law and the Wholly Foreign-owned Enterprises Law.

The draft law signals a radical transformation of how foreign investment and M&A deals would be handled in China and was met with considerable interest. Franki Cheung, partner and head of Deacons' China offices, explains that the draft provides for the repeal of the key legal regulatory structure that has guided foreign investment in China for nearly four decades.

“The draft law will abolish the comprehensive approval system that has been applicable to foreign investment in China and replace it with one that requires only limited entry permitting and ongoing reporting,” Cheung says. “This has been very positively viewed and we expect a lot of business opportunities to arise from this change. We expect a major increase in foreign companies going into China which in turn will lead to a strong demand for legal work and other professional services.”

Jiang Jiang, a partner of Hylands Law Firm based in Beijing, points out that the negative list expected to be a part of the new law that is currently undergoing a trial in the FTZs should be a major change for firms.

While the draft must undergo additional deliberation before it can be adopted, many envisage its inevitable passage. Deacons' Cheung notes, “it has been given to understand that the draft Foreign Investment Law will come into effect at such time after China has had a chance to review the results of the implementation of the negative list”.

Wang Yi, partner and head of Norton Rose Fulbright's Beijing office, cautions that the draft law may not be completely welcomed by the warm and open arms of foreign investors. “Although it will eliminate the foreign investment approval process in certain sectors, it comes with an increasingly strict national security review process, extraterritorial application of PRC investment rules and increased reporting requirements for foreign-invested companies”, she says. “It also signals the end of VIE structures, which had been used for years by foreign investors to set up certain investments in the technology sector.”

Further, Greg Knowles, partner and head of corporate of Maples and Calder's Hong Kong office, notes that the law, if passed, may impact the usage of Cayman Island or British Virgin Island vehicles for foreign investment into China. “The draft indicates that Chinese-controlled Cayman or BVI structures will be treated as domestic enterprises and there is some possibility that the Negative List will include fewer industries off-limits to foreign-controlled investments, thus permitting foreign access via offshore structures to a greater range of industries.”

Cayman and BVI companies listed on major international exchanges also may still be regarded as Chinese-controlled depending on share ownership, he notes. “These are all potential positives, although of course foreign-controlled VIE structures in prohibited sectors will no longer be possible it seems.”

Packing up VIEs

Since the release of the draft foreign investment law, one topic on many minds is what is to be done with variable interest

此外, 迈普达律师事务所香港办公室合伙人以及公司业务负责人 Greg Knowles 表示,《外国投资法》草案将可能影响外国投资者使用开曼群岛或英属维尔京群岛 (BVI) 架构作为进入中国的工具。“这个草案意味着中方控股的开曼或 BVI 架构将会被视为国内企业, 而且负面清单可能会减少禁止外商投资的行业, 从而允许外国投资者通过离岸架构进入更广泛的行业。”

在重要境外交易所上市的开曼或 BVI 架构公司依据其股份权属, 可能仍然会被视为中方控股的公司, Knowles 提到。“这些都是潜在的积极影响。当然在禁止类行业, 再想使用外资控股的 VIE 架构似乎是不可能了。”

取消 VIE, 走向私有化

自从《外国投资法》草案在一月公布以来, 很多人思考的一个问题是如何处理 VIE 架构。多年来, 中国公司往往效仿“新浪模式”, 利用 VIE 架构前往美国等国际资本市场上市。之所以称为“新浪模式”, 是因为新浪网最先使用 VIE 架构于 2000 年成功在纳斯达克上市。相似地, 外国投资者也使用 VIE 架构投资互联网、电信等《指导目录》中禁止外商投资的行业。

天达共和律师事务所驻北京合伙人陆志芳说, 尽管 VIE 架构从来没有在中国法律中被清晰规定, 但它们实际上是被默许的。但是他提到, 这个草案规定公司国籍的判定应依据其实际控制人的国籍, 而非公司的注册地。陆志芳说, 在最近几个月, 拆除 VIE 架构的工作量有所上升。

高锐律师事务所北京代表处公司与证券组合伙人顾家端也表示, 拆除 VIE 架构的繁琐工作是目前最繁忙的一项业务。但是, 他也指出, 市场可能存在的周期性波动也是推动境外上市公司退市并拆除 VIE 架构的一个因素。“大约 18 到 24 个月前, 中概股表现不是很好, 当时有一些公司进行了私有化, 例如分众传媒和盛大。我们曾经存在的担忧是, 如果这些公司都退市, 这个执业领域的未来将如何?” 顾家端说, “但是之后就有阿里巴巴在美国上市以及一系列的 IPO 项目。”

[外国投资法草案]预示着VIE架构的终结

[The draft Foreign Investment Law] signals the end of VIE structures



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entities (VIEs). For many years, Chinese companies have created VIE structures to list in foreign markets such as the US, with many following the “Sina structure” – so dubbed for Sina.com’s pioneering use of a VIE to list on NASDAQ in 2000. Similarly, foreign investors have used VIE structures to invest in sectors restricted to foreign investment under the catalogue, such as internet and telecommunications.

While these structures were never explicitly stipulated in Chinese law, says Lu Zhifang, a partner of East & Concord Partners based in Beijing, they were effectively permitted. However, he notes, the draft law provides that the national origin of the company be determined based on that of its actual controller rather than where the company is registered. Lu reports an increase in work dismantling VIE structures in recent months.

Jerry Ku, a partner in the corporate and securities group of Gunderson Dettmer in Beijing, agrees that the complex process of dismantling VIE structures is one of the busiest areas at the moment. However, he notes the potentially cyclical cycle of the market as influencing the move to delist and dismantle VIEs. “About 18-24 months ago when the China concept stocks were not doing so well, and there was a wave of companies going private – Focus Media, Shenda – there was concern that, if all these companies delist, where does the practice go from there?” says Ku. “But then there was the Alibaba listing and the host of IPOs in the wake of that.”

“While the US stock markets will remain relatively attractive to a small number of large-scale Chinese internet companies,” says Simpson Thatcher’s Chen, “the recent wave of going private transactions involving US-listed Chinese companies signals a rapid change of direction in listing venues for most Chinese internet and technology companies due to the valuation gap between the Chinese stock markets and the US stock markets as a result of the strong performance of the China stock markets since late last year.”

Offshore still a popular destination

The VIE structures frequently found in offshore jurisdictions may be soon faced with increased scrutiny, but the appeal of offshore jurisdictions remains. Paul Christopher, the managing partner of Mourant Ozannes’ Hong Kong office, notes, “The market continues to adapt and change to new laws and regulations, the use of Cayman Islands and the British Virgin Islands, where appropriate, is still extremely strong.”

According to data released by Appleby in May in their *Offshore-i* report, China was the top onshore target for offshore outbound deals in the first quarter this year, with 89 deals at a value of US\$6.78 billion total. Hong Kong was also the busiest offshore acquirer by volume, with 151 deals at a total deal value of US\$13.1 billion.

“China is a significant market for offshore law firms and, as part of our Asia practice development, will continue to be a feature in the strategic plan for Appleby”, says Frances Woo, the group chairman and managing director of Appleby in Hong Kong, noting that Southeast Asia is seen as a growing region as well.

“The rise of the high net worth individual, particularly in this part of the world, may be the next big story”, Woo says. “The Boston Consulting Group highlights the growing volume of private wealth globally – up more than 14% to US\$152 trillion in 2013 – and wealth in the Asia-Pacific region (excluding Japan),

高净值人群的增加，特别是在这一地区，可能将成为下一个大热点

The rise of the high net worth individual, particularly in this part of the world, may be the next big story



胡麟斯
Frances Woo
毅柏律师事务所
集团主席
香港
Group Chairman
Appleby
Hong Kong

“虽然美国资本市场对少数大型的中国互联网公司仍然会较有吸引力，”来自盛信的陈磊明说，“最近一轮在美上市中国公司的私有化交易显示出，由于自去年底开始中国股市的强劲表现造成中美股市之间的估值差，不少中国互联网和科技公司在上市地点的选择上做出了急剧改变。”

离岸仍是热点

离岸法域常见的 VIE 架构不久可能面对更严格的监管，但离岸法域的魅力犹在。Mourant Ozannes 律师事务所香港管理合伙人 Paul Christopher 说：“市场会继续适应新的法律法规并随之变动，在适当的情况下，运用开曼和 BVI 架构仍是非常有优势的选择。”

根据毅柏律师事务所今年五月发布的报告，中国在今年第一季度仍然是离岸公司进行海外交易的首要目标，共有 89 项交易，交易额合计 67.82 亿美元。按照交易额计算，香港是最为繁忙的离岸收购方，共有 151 项交易，总额达 131 亿美元。

“对于离岸律所来说，中国是非常重要的市场，而且作为我们亚洲业务发展的一部分，中国将继续是毅柏战略计划的重点，”毅柏律师事务所集团主席及香港办公室管理合伙人胡麟斯说。她同时指出东南亚也是另一片正在成长的区域。

“高净值人群的增加，特别是在这一地区，可能将成为下一个大热点，”胡麟斯说。“波士顿咨询公司指出，全球个人财富的上升总量在 2013 年上升了超过 14%，达到 152 万亿美元。到 2018 年，亚太区除日本外的财富预计会翻倍达到 61 万亿美元。财富和需求的成长为离岸法律服务创造了新的机遇。”

《跨境担保外汇管理规定》去年生效，国家外汇管理局放松了外汇交易限制以促进中国海外投资。瑞生律师事务所亚洲业务主席兼香港办公室合伙人 Bryant Edwards 视之为重要的发展。“这些法规将会促进中国公司的离岸债券发行并拓展离岸融资渠道，使中国发行人的债券对经常担心次级架构的国际投资者更有吸引力，并将提高对中国公司的估值，”Edwards 说，“反过来，这又会进一步推动中国公司发行国际债券，这是我们中国业务的重要部分。”

is expected to almost double in value reaching US\$61 trillion by 2018. The rise in wealth and demand creates opportunity for offshore legal services.”

Bryant Edwards, chair of Latham & Watkins's Asia practice and a partner in the firm's Hong Kong office, sees significant development from the State Administration of Foreign Exchange's move to loosen constraints on transactions of foreign exchange to facilitate Chinese investment offshore in the Regulations on the Administration of Cross-border Guarantee of Foreign Exchange that took effect last year.

“These rules will facilitate offshore bond offerings and other offshore financings by Chinese companies, make their bonds more attractive to international investors, who have always worried about structural subordination, and should improve the pricing for Chinese companies,” says Edwards. “This, in turn, will continue to grow the market for international bonds issued by Chinese companies, which is an important part of our Chinese business.”

Construction ministry moves to curb corruption

One development at the ministerial level could signal considerable change in the construction industry, notes Kevin Shao, senior partner of City Development and the vice chief of the firm's land department. The oft-hidden corruption in the construction industry results in overpriced projects, wasted expenses on tendering bids and lack of faith in build quality – a great harm in public perception of useful projects created for the greater good.

The Ministry of Housing and Urban-Rural Development (MOHURD) has made tackling this corruption a key focus for the near future. In September last year, MOHURD launched its Two-year Action Plan on Quality Management in Projects. Aimed at improving the overall level of construction projects, the plan calls for regulating the construction market order, instituting a clear project accountability system, curbing illicit contracting and subcontracting and creating a greater role for the ministry in project supervision.

Accompanying the action plan included important legislation on contracting – the provisional Measures on the Administration of Identifying and Handling Violations of the Law in the Housing and Urban and Rural Construction Projects and the Measures for the Administration of Reporting Violations of the Law in the Housing and Urban and Rural Construction Projects, effective October 2014 and January 2015 respectively. At the same time, MOHURD announced a crackdown on unlawful subcontracting in construction projects to be launched from November 2014 through June 2016.

Shao's firm participated in the consultations for the measures. He points out that the efforts to fight corrupt practices such as awarding bids to friends and family and subcontracting work to firms not mentioned in the original bid can result in a potential loss of quality, as well as loss of trust in the system. Since the measures took effect, he says, his firm has seen positive response in the construction industry, as clients to move to increased transparency in their bids and cleaner business practices.

步向更艰险的世界

Navigating a tougher field

随着商业竞争的加剧和监管执法力度的加强,在中国乃至全球市场,各类企业及其公司法务注定要面对日益复杂的工作环境。

合规是许多企业法务眼中最棘手的问题,而且这个问题正变得更加全球化。一些世界大国加强了合规要求,关于税收、腐败和反垄断的规定给本国以外的许多法域带来了广泛而深刻的影响。

日益全球化的执法格局导致合规的成本增加,也使企业内部的法律工作管理更为复杂。区域性的法律总顾问正忙于联络总部和其他区域总顾问,群策群力制定区域性和全球性的公司内部政策,并确保两者尽可能相辅相成。

由于法律工作的不易,企业法务在决策层面获得了更强的话语权。中国公司的内部法务在战略问题的决策中扮演着更重要的角色,他们的国际同行更是如此。

在本栏目中,三位企业法务组织的负责人分享了他们的真知灼见。他们分别来自全球企业法律顾问协会、香港公司法律顾问协会,以及中国政法大学企业法务管理研究中心。对于影响中国企业和跨国公司内部法务工作的法规和市场动态,他们谈了自己的见解与观察。 ■

Increased competition and tightened regulatory enforcement in China and the global market are bound to present a more complex landscape for companies and their in-house legal teams worldwide.

Compliance is the thorny, and increasingly globalized, issue in the side of many a corporate counsel. The world's economic powerhouses are stepping up compliance regulation, and issues involving taxation, corruption and antitrust have overreaching influence across jurisdictions.

The globalized enforcement landscape makes compliance a costly issue, resulting in more sophisticated internal legal management. General counsel are busy coordinating with their peers and HQ to create regional and global policies that are as mutually compatible as possible.

The sophisticated legal chops needed to succeed in these initiatives have given in-house legal teams a greater role at the table. Counsel in Chinese companies are getting more say in strategic decisions, while their counterparts in multinational companies are seeing an increase of their already significant influence on strategy.

In this section, leaders of three in-house counsel groups, the Association of Corporate Counsel, the Hong Kong Corporate Counsel Association and the China Enterprise Legal Management Research Centre, share their perspectives on the current situation. They reveal observations on the current regulatory and market landscape, particularly where it impacts their work in Chinese enterprises and multinationals with a China connection. ■

拓展企业法务网络

Expanding an in-house network

对于在当今全球经济中经营的公司，发展和变化是不变的主题。新的法律法规不断颁布，企业法务就要对那些影响他们日常运作和公司商业运营的法律保持关注。因此，为了在公司业务的区域需求和个别市场的法律需求之间取得平衡，首席法务官和企业法律总顾问可谓费煞苦心。

企业法务之间在全球范围内不断增加的业务合作也表明，企业法务面对的很多问题都具有普遍性。

无论是管理法律部门、反思与外部律师及供应商的关系、留意可能对公司带来法律影响的商业活动，还是紧跟法律变化，所有这些对于全世界的首席法务官和法律总顾问都是重要的。

连续三年来，行为准则和合规是最让世界各地首席法务官夜不能寐的难题。

根据全球企业法律顾问协会 (ACC) 2015 年的首席法务官调查，亚太区 30% 的首席法务官或法律总顾问指出，合规是过去一年来其法律部门人员增加需求最多的三个领域之一。相比之下，欧洲、中东以及非洲地区的相应比例仅为 20%，加拿大为 18%，美国为 17%。这个调查访问了包括中国大陆、香港及新加坡在内的 46 个法域的 1300 位首席法务官或法律总顾问。

对于如何缓解合规问题的持续关注，进一步凸显了合规对企业的重要意义，企业需要发展并巩固稳健的合规程序，以求建立合适的内部管控政策。这些公司同样需要不时留意其内控政策能否跟得上日新月异的法规。

随着法规变得越来越复杂，很多公司就必须寻求微妙而合规的平衡点。

关于与外部律师的关系，首席法务官、法律总顾问或公司法律部门人员都乐于建立不同以往、多管齐下的程序，用以反思他们与律所及服务供应商的互动关系，内容包括：有助于精简工作流程、提升成果的价值型服务环节、根据最终成果而非付出的努力支付律师费，以及对影响法律后果的操作决策进行更强的全面把控。另外，



Veta Richardson

Evolution and change is the norm for companies operating in today's global economy. New laws and regulations are continuously enacted, requiring corporate counsel to keep a keen focus on those affecting their daily practice and company's business operations. And as a result, chief legal officers (CLOs) and general counsel (GC) grapple with balancing the regional demands of their businesses and specific legal requirements of individual markets.

Increased business collaboration of in-house counsel worldwide has exemplified the notion that many of the concerns of corporate counsel are universal.

Whether it is law department management, rethinking relationships with outside counsel and vendors, staying aware of company business activities that may have legal implications or staying up-to-date on changes in law, all are significant matters for CLOs and GCs across the globe.

For the third year in a row, ethics and compliance topped the list of issues keeping CLOs around the world up at night.

In fact, according to the Association of Corporate Counsel (ACC) CLO 2015 Survey, 30% of CLOs and GCs in the Asia-Pacific region noted compliance as one of the top three areas in which new positions were being created in their law departments over the past year, compared to 20% in the Europe, Middle East and Africa (EMEA) region, 18% in Canada and 17% in the United States. The survey polled nearly 1,300 CLOs and GCs in 46 jurisdictions, including mainland China, Hong Kong and Singapore.

The continued focus on mitigating compliance issues further underscores how vital it is for companies to develop and sustain solid compliance programmes in order to have suitable corporate policies and controls. Companies also need to regularly monitor that their policies account for new and rapidly changing regulations.

And as regulations grow more complex, companies will have to navigate striking a delicate – and compliant – balance.

When it comes to relationships with outside counsel, CLOs, GCs and members of their law departments are embracing innovation and building transformative, multi-pronged programmes as a way to rethink their interactions with their law firms and legal service providers. This includes value-based practices to streamline work processes and achieve better results, paying for results rather than effort, and taking stronger overall control of operational decisions affecting legal outcomes. Specifically, 62% of respondents to the survey located in the Asia-Pacific region offered flat fees for entire matters, compared to 39% in the US.

Demonstrating that CLOs and GCs are increasingly involved with enhancing the company's corporate strategy and bottom

62% 的亚太区受访者表示为整套法律事务支付固定费用；相比之下，在美国这一比例只有 39%。

亚太区受访企业法务中有将近三分之一表示他们在过去 12 个月将大多数时间投入到为执行官提供法律意见并参与到公司的战略事务中，这显示出首席法务官和总法律顾问越来越多地参与到公司企业战略的制定和业绩的提升工作中。

企业法务需要用正确的思维去解决交易中的实际风险，让公司的协议内容和跨境交易最佳做法保持一致。

首席法务官的地位随着商业市场的快速发展而提升，对于这个职位的满足感也在提升。调查发现，79% 的受访者对目前的工作岗位表示满意。而 ACC 在 2014 年的全球工作与生活平衡状态报告发现，亚太区 33% 的首席法务官和总法律顾问对于他们的工作与生活平衡状态满意。

看起来首席法务官群体不只在适应，而且也在成长，我们预计“成为企业法务”未来仍会是一个值得期待的选择。

法务需要

作为 ACC 的主席兼首席执行官，我的首要任务是确保 ACC 可以继续促进内部法务成员利益的关键议题上，通过实践资源、丰富的教育项目、社交机会以及行业领袖思维使我们分布于全球的会员获益。

在五月，我到香港与企业法务会面并担任跨太平洋律师协会 (Inter-Pacific Bar Association) 2015 年会议的评委。很多跨国公司在华拓展业务，在这一区域的企业法务面临复杂和多变的监管环境。随着腐败、反垄断及数据保护方面的监管风险日益增多，企业法务亟需对此有坚实的理解。

另外，他们还需要掌握如何以既支持公司业务又保持高道德标准的方式，引导法务部门渡过这些风险。在这一区域的企业内部律师应该拥有和同行合作、探讨法律新趋势以及分享资源的机会。

因此，我们敲定并宣布了与澳大利亚企业律师协会 (ACLA) 的结盟，将其纳为 ACC 全球企业法务网络的一部分。随着 ACLA 加盟，ACC 在澳大利亚地区确立了关键地位，并增强了我们为该地区及更大范围内的会员提供更有服务资源和资源的能力，覆盖范围包括新加坡、中国大陆、香港等。自从香港被列为 ACC 会员及其所属公司最感兴趣的区域之后，我们也加快了在亚太地区的发展步伐。

我们计划增加针对特定国家/地区的资源，例如在《ACC Docket》半年增刊 Asian Briefings 上的专题文章，以及在亚太地区反腐合规方面的简短参考指南。对于在香港经营业务或设立总部的公司来说，这类合规问题是非常重要的话题。

ACC 在全球拥有数以万计的会员，致力于加强企业法务之间的联系并增进他们的共同利益。亚太市场为该区域甚至更广范围的企业律师提供了很多机会。

line, nearly one-third of corporate counsel in the Asia-Pacific region spent the majority of their time in the past 12 months advising executives and participating in strategic corporate issues.

In-house counsel need to be prepared with the right mindset to tackle the practical risks confronting every transaction in order to align their company's protocols with cross-border best practices.

As the role of CLO advances with the fast pace of business markets, so does satisfaction with the position. The survey found that 79% of respondents stated they were satisfied with their current role. And the 2014 ACC Global Work-Life Balance Report found that 33% of Asia-Pacific CLOs and GCs are happy with their work-life balance.

It appears that CLOs are not only adapting, but also thriving, and we expect that "going in-house" will remain highly desirable in the future.

In-house concerns

My priority as president and CEO of ACC is to ensure that we continue to bring value to our global membership through practical resources, informative educational programmes, networking opportunities and thought-leadership regarding advocacy issues vital to advancing the interests of the in-house bar.

In May, I travelled to Hong Kong to meet with in-house counsel and served as a panellist during a session on anti-corruption at the Inter-Pacific Bar Association's 2015 Annual Meeting and Conference. Many multinational companies are expanding operations in China and in-house counsel operating there face a complex and highly dynamic regulatory environment. It is important for corporate counsel to have a solid understanding of the increasing regulatory risks around corruption, antitrust and data protection.

Additionally, they must have knowledge of how to lead the law department through these risks in a way that supports the business and high standards of integrity. In-house lawyers based in the region should have opportunities to collaborate with peers, discuss emerging legal trends and share resources.

To that end, we finalized and announced an alliance with the Australian Corporate Lawyers Association (ACLA) to become part of ACC's global network of in-house counsel.

With the addition of ACLA to its global membership base, ACC establishes a key presence in the Australasian region and strengthens our ability to provide stronger services and resources to members in the region and beyond, including Singapore, Hong Kong and mainland China. And since Hong Kong ranked as one of the areas of greatest business interest for ACC members and their companies, we are stepping up our efforts in the Asia-Pacific region.

We plan to increase the creation of country-specific resources, such as feature articles in Asian Briefings, a biannual region-focused supplement published in the ACC Docket, as well as short reference guides on issues such as anti-corruption compliance in the Asia-Pacific region – a crucial topic for members whose businesses are headquartered or operate in Hong Kong.

With tens of thousands of members worldwide, ACC is committed to strengthening the in-house legal community and advancing their shared interests. And the Asia-Pacific marketplace provides many opportunities for corporate lawyers working both in the region and beyond.

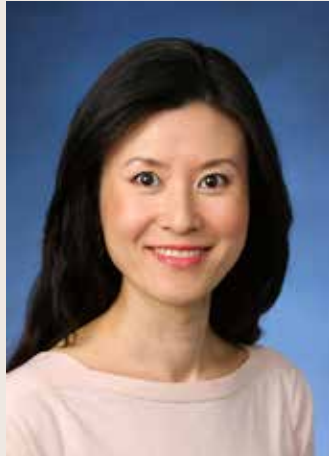
Veta Richardson 是全球企业法律顾问协会主席兼首席执行官
Veta Richardson is the president and chief executive officer of the Association of Corporate Counsel

全球市场变幻莫测 企业法务角色转变

In-house counsel's role in a tough and changeable global market

企业法务的角色正在转变，他们不再只是某个法律问题的专业人员，更需要成为公司“值得信赖的顾问”，这意味着企业法务需要全盘了解公司的商业运作，并思考法律工作如何与公司整体的商业模式相契合。

企业法务的职能不再只限于判断某个问题是否合法，他们还应该向公司指出最佳发展路向，以及如何沿这一路向合法前行。



史琳
Lin Shi

多变的资本市场。去年年底，中国证监会宣布了对 IPO 审批制度的全面改革计划，让市场为之振奋。但是对计划上市的企业，中国市场的吸引力由于近期前所未有的剧烈动荡以及监管机构采取的强力应对措施而蒙上了阴影。

随着内地近期 IPO 暂停和过半上市公司股票停牌，原来似乎只限于理论的监管不确定性和金融风险变为了现实。证监会的救市措施是否能最终恢复投资者信心，抑或只是推迟了不可避免的局面，这还有待观察。

同时，上市公司也处于两难境地：停牌可以使一部分股东避免因股价跳水而蒙受更多损失，但也使另一些投资人无法在股价进一步下跌前抛售套现。

之前考虑返回国内上市的中国海外上市企业目前不得不重新部署战略。他们在评估各种方案的利弊时都需要企业法务的参与。

新的法规草案。中国还颁布了几部值得关注的法律，如《国家安全法》《网络安全法（草案）》《反恐怖主义法（草案）》等。除了企业要遵守这些法律，对中介机构来说，合规也已经扩展到客户尽职调查的层面。

为了符合上述法律、草案的要求，企业法务目前都在加强公司的 IT 系统。

金融服务公司在检讨自身的尽职调查程序和政策，以确保“了解客户”及其他客户受理程序涵盖可能受新法律影响的客户活动。这就要求法律、IT、合规、销售和其他面对客户的部门之间加强协调，以确保在日益严格的监管制度下的持续合规。

Corporate counsel are transitioning from simply a technical expert on a subject matter to be a trusted adviser, which implies that in-house counsel should be aware of the business operation of their companies holistically, and contemplate how the legal piece can fit into the company's bigger business model.

The role of corporate counsel is no longer simply about what is legal and what is not. They are expected to advise on the best way forward for the company, and how to navigate that legally.

Capricious capital market. Late last year, China Securities Regulatory Commission (CSRC) announced plans for a sweeping overhaul in its approval regime for IPOs which created a lot of excitement in the market. However, the attractiveness of listing in China has been eclipsed by the recent unprecedented volatility of the Chinese stock markets and the aggressive response by the regulators.

Regulatory uncertainty and financial risks that seemed theoretical have now been realized in the wake of the recent suspension of IPOs and trading in over half of the listed companies in the mainland. Whether measures introduced by CSRC to stabilize the stock markets will ultimately succeed in restoring investor confidence or just delay the inevitable remains to be seen.

In the meantime, listed companies are sitting on the horns of a dilemma where suspension of trading may benefit some shareholders by preventing them from losing more of their savings as share prices plunge, while it would disadvantage other investors who want to sell before shares lose even more value.

Overseas listed Chinese companies that were considering returning to China are now reconsidering their strategy. In-house counsel will be involved in analysing the costs and benefits of available options.

New proposed regulations. China also issued several notable laws, such as the National Security Law, the draft Cyber Security Law and the draft Antiterrorism Law. Not only do companies have to comply with the laws themselves, for intermediaries, compliance extends to diligence on their customers as well.

In-house counsel are now beefing up their IT policies to ensure that systems meet the standards of the proposed laws. Financial services firms are reviewing their due diligence procedures and policies to make sure that “know your client” and other client onboarding procedures cover client activities that may be implicated under the new laws. This calls for greater coordination between legal, IT, compliance, sales and other customer-facing departments to ensure continued compliance in the face of a stricter regulatory regime.

Continued crackdown against corruption. The mainland government kept the heat on bribery and corruption this year. Many of the major investigations against multinational companies were

继续整顿腐败。今年中国政府继续保持对贿赂和腐败行为的打击力度。对跨国企业的许多重要调查都是根据举报展开的。

心怀不满的员工利用举报制度所提供的庇护，对企业进行举报甚至敲诈。无论指控是否属实，收到举报的公司必须就指控展开彻底调查，并且一旦发现任何涉嫌违规的证据，就要向主管部门进行自我报告。

跨国企业的法务顾问必须对此类内部调查进行监督。虽然与举报人和解、使他们放弃举报可能会更快地解决问题，但是企业法务必须立场明确，建议公司正当行事，进行更耗时的内部调查，反对所谓的快速补救方法。另外，他们必须检讨公司内部政策和制度，与合规和内部审计团队合作，确保政策行之有效，且能发现违规行为的苗头。

更严峻的全球环境。纵观全球市场，监管法规总体上日趋严格、复杂。以美国《外国账户税收合规法》(FATCA)、经合组织牵头的反避税/反税负最小化的税基侵蚀和利润转移项目(BEPS)为代表的法规对全球市场有重要、深远的影响。

FATCA 合规问题仍然让人头痛，特别是对那些认为自己不受美国法管辖的主体来说。FATCA 要求非美国金融机构报告其用户中美国主体的有关资产，并识别与之有关的信息，这使美国主体隐瞒海外金融资产变得更加困难。

为了合规，非美国金融机构在内部法务和合规团队的带领下，花费大量人力财力，修改客户协议条款，向企业账户持有人发送问卷以确认客户中是否有美国主体，并建立相应的报告制度。海外法规合规之困难、复杂、成本之高昂由此可见一斑。

除了 FATCA 合规，还要注意 BEPS。由经合组织实施的该项目旨在改革国际税务现状，堵塞漏洞，不给企业避税或税负最小化以可乘之机。利用税率套利以及将某些应税收入转移至税率较低法域的跨国企业必须重新审视其战略，包括其转让定价策略。

虽然主流会计师事务所已经向客户提供相关建议，企业法务仍需要了解各国日趋复杂的报告要求，并针对企业在世界各地的业务，就与税务合规的不确定性有关的法律风险做出提示。

对话总顾问。考虑到企业法务角色的转变，以及服务提供者和媒体对企业法务已经起到的作用，香港公司法律顾问协会(HKCCA)比以往更关注增强企业法务的软实力，例如主题为“对话总法律顾问”的系列工作坊。这一活动为不同行业、各个级别的公司法务提供了一个拓展关系的平台，让他们可以分享或学习资深法律总顾问的经验，促进其职业发展。

这些活动未必会传授他们专业技能，但让我们的成员有机会寻找到职业生涯的导师。参与者可以了解到总法律顾问在更宏观的背景下如何考虑及分析问题，以及他们在战略问题上如何应对公司内部的政治生态与办事体制。

initiated by whistleblowers. Companies are now facing disgruntled employees who use protections under the whistleblower policy as a sword rather than a shield and blackmail employers. Regardless of an allegation's merit, a company receiving a whistleblower complaint must investigate the allegation thoroughly and self-report to the authorities if any evidence of wrongdoing is uncovered.

In-house counsel for multinational companies have had to oversee these internal investigations. While it may be more expedient to settle matters with the whistleblower and make them go away, in-house counsel have had to advise to conduct time-consuming internal investigations and have taken positions against doing a quick fix in favour of doing the right thing. In addition, they must review internal policies and procedures and work with compliance and internal audit teams to make sure that these policies are effective and that any wrongdoing is detected at the outset.

Tougher global environment. Across the global market, there have been tighter and more complex regulations in general. The Foreign Account Tax Compliance Act (FATCA) and Base Erosion Profit Shifting (BEPS), a project to reform international taxation to close loopholes for tax avoidance or tax minimization headed by the Organization for Economic Cooperation and Development (OECD), are typical regulations with significant and overreaching influence on global operations.

FATCA remains a source of compliance headaches, especially for people who may think they are not under US jurisdiction. FATCA also makes it more difficult for US persons to avoid reporting offshore financial assets by requiring non-US financial institutions to report assets and identify information related to US persons using their financial institutions.

Foreign financial institutions, led by the in-house legal and compliance teams, have spent significant human and capital resources to comply by revising terms of customer agreements, sending questionnaires to its corporate account holders to find out whether there are any US persons among their customers and setting up reporting systems. This is an example of how complicated, costly and frustrating the compliance with overseas regulations can be.

In addition to FATCA compliance, they must watch out for BEPS. Multinational companies that arbitrage tax rates and allocate some of their taxable income to a jurisdiction with lower tax rates will have to re-examine their strategies, including their transfer pricing policies.

While the major accounting firms have been gearing up to advise clients, in-house counsel will be responsible for understanding the increased complexity surrounding country-by-country reporting requirements and advising on the legal risks surrounding the uncertainty relating to tax compliance for businesses around the world.

Meet the GC. Given the changes in the corporate counsel's role and landscape of service providers and media resources, Hong Kong Corporate Counsel Association (HKCCA) is now focusing more than ever on offering soft skills workshops, such as our Meet the GC series. These events provide networking opportunities to in-house counsel at all levels in different industries to share or learn from the experiences of senior general counsel in developing their career.

These conferences may not teach technical skills, but they inspire and provide mentoring opportunities to our members. Participants have access to how GCs think and analyse issues in a broader context, and how they navigate political climates as well as bureaucracy on strategic issues.

史琳是香港公司法律顾问协会的新任主席。她也是香港交易及结算所有限公司上市部上市审核科联席副总监
Lin Shi is the new president of Hong Kong Corporate Counsel Association. She is also the co-deputy head of the IPO transactions department in the listing division of Hong Kong Exchanges and Clearing Limited

走向新时代的中国企业法务

Corporate legal affairs making their way into a new era

十八届四中全会以来，随着依法治国的全面推进，中国企业法务工作面临新的环境，也呈现出新的特点，中国企业法务正走向一个新时代。

为全面反映目前企业法务工作的总体状况和发展趋势，中国政法大学企业法务管理研究中心进行了专题研究调查，共有 122 位企业法律顾问填写了问卷，其中，来自国有企业的有 62 位，来自民营企业及混合所有制企业的有 60 位。笔者现将有关结果分享如下。



叶小忠
Ye Xiaozhong

依法治企

首先，依法治企成为企业运营发展的战略性目标。在依法治国的大背景下，实现依法治企、建设法治企业，成为企业特别是国有企业一项重要的政治任务。同时，随着依法治国的推进，法治化的社会运行机制正在形成，一直困扰企业法治工作的外部法治生态环境问题明显改善。

反垄断常态化

一方面，法律实施的力度不断增强。比如 2012 年以来，国家对白酒、通信、汽车等多个行业开展了反垄断调查，加强了对反垄断法的执法力度，使反垄断常态化。2015 年 2 月 10 日，美国高通公司因垄断行为被国家发改委处以人民币 60.88 亿元的罚款，成为中国反垄断历史上金额最大的罚单。

法务地位上升

另一方面，根据四中全会确立的依法治国新 16 字方针，即“科学立法、严格执法、公正司法、全民守法”，国家出台了一系列具体规定，推动社会法治化进程。比如 2015 年 3 月中共中央办公厅、国务院办公厅印发了《领导干部干预司法活动、插手具体案件处理的记录、通报和责任追究规定》，改变了企业用行政手段解决纠纷案件的习惯性做法。实施依法治企，用法治思维和法治方式分析、处理、解决问题，开始成为企业运营发展的战略性目标。

从调查的结果看，有 38% 的企业认为四中全会以后企业明显

The Fourth Plenary Session of the 18th Central Committee of the Communist Party of China (CCPCC) in October 2014 placed considerable emphasis on ruling the country according to law in all areas. The environment for corporate legal affairs has since shifted as a new era for corporate law emerges.

The China Enterprise Legal Management Research Centre at China University of Political Science and Law surveyed corporate counsel on the recent developments and current issues they face in their work, to get an overall view of the situation in the corporate legal sphere. A total of 122 corporate counsel, 62 from state-owned enterprises (SOEs) and 60 from private or mixed ownership enterprises, participated in the survey. The results are as follows.

Corporate governance by law. The survey revealed that the strategic objective of corporate operations and development is now corporate governance according to law. Achieving this is an important political mission for enterprises, particularly SOEs given the national commitment to being a country ruled by law. Further, a rule by law-oriented social operating mechanism is beginning to take shape, giving rise to a marked improvement in the external governance environment that has constantly plagued corporate governance work.

Laws are being implemented with increasing intensity. Since 2012, the state has conducted monopoly investigations into a number of industries, including alcohol, telecommunications, and motor vehicles, while also intensifying the enforcement of the Antimonopoly Law. On 10 February, the National Development and Reform Commission fined Qualcomm RMB 6.088 billion (US\$977.6 million) for violating antimonopoly laws, becoming the highest antitrust citation China has issued to date.

At the same time, the state has issued a series of specific regulations to promote law and order per the new policy set out at the Fourth Plenary Session: “take a scientific approach to legislation, enforce the law strictly, administer justice impartially and everyone observe the law”. In March, the General Offices of the CCPCC and the State Council issued the Regulations on Recording, Reporting and Pursuing Liability Where Leading Cadres Interfere with Trial or Enforcement Activities or Meddle in the Handling of Specific Cases. The regulations address the typical way that enterprises use administrative means to resolve disputes. Corporate governance according to the law and using law and order rationale to analyse, handle and resolve issues are becoming strategic corporate operations and development objectives.

According to the survey, 38% of companies believe that enterprises have clearly placed emphasis on legal work since the Fourth Plenary Session. Many companies noted that they have held meetings to discuss corporate governance by law, gradually establishing the authoritative nature of corporate legal work. The survey also showed that 44% of companies indicated that they have increased their number of legal personnel in the past year.

Future direction. How the in-house counsel system will develop may pose a new challenge for legal work. In July 2014, the state

重视法律工作，多家企业召开以依法治企为主题的公司会议，企业法律工作的权威性逐步确立。有44%的企业反映去年以来增加了法律人员的数量。

未来方向

其次，企业法律顾问制度的未来发展方向和路径成为了法律工作的新挑战。2014年7月，国家取消了企业法律顾问职业资格考试，十八届四中全会又明确提出公司律师制度的建设问题。已经实施多年并在国有企业法律工作中占据明显优势的企业法律顾问制度，面临着重新确定发展方向和路径的新挑战。

过去10年国有企业法律顾问制度发展迅速。截至2014年9月底，中央企业全系统建立总法律顾问制度的户数达到2584家。集团和重要子企业总法律顾问专职率接近80%。中央企业全系统法律顾问队伍超过两万人，其中持证上岗率达到83%。而2002年开始试点的公司律师制度实际上处于停滞状况，实施的企业数量很少。据统计，目前全国公司律师数量不足2000人。调查表明，目前积极推进公司律师制度实施的企业比例只有35%，29%的企业表示暂不考虑。

疑问犹在

企业法律顾问制度和公司律师制度两种制度的设计，在主管部门、工作定位、职责权限、知识技能、职业发展等方面究竟有何差别？对于企业法律工作究竟有何影响？新形势下企业法律工作发展路径究竟如何设计？对于这些问题，目前都没有权威性的结论，企业法律顾问制度的发展方向和路径成为企业特别是国有企业法律工作的新挑战。如果企业法律顾问制度建设的不确定性问题不能尽快得到解决，将严重影响国有企业法律工作的成效。

工作范围和数量

最后，企业法律工作的领域不断扩展，工作数量不断增加。在2014年中央企业法制工作会上，国务院国资委明确提出：要将合规管理能力的提升作为当前推进依法治企的重中之重，尽快建机制、定规则、成体系。合规工作成为企业法律工作中的新领域，在122份调查问卷的回复中，48%的企业表示在积极推进，44%的企业表示在认真研究。

在企业法律工作领域不断扩展的同时，由于经济下行压力带来的经营风险加大，以及“一带一路”、“长江经济带”和“京津冀协同发展”等国家战略带来的新发展机遇，传统法律工作的数量明显增加，统计表明去年以来58%的企业案件数量增加，77%的企业合同数量增加，76%的企业重大项目的数量增加，33%的企业海外投资项目增加，企业法务在公司事务中的作用越来越凸显。

2015年是全面推进依法治国的开局之年，也是企业法务发展的新阶段，提高层次、把握机遇、增强能力、不断创新是新时期企业法律工作的主旋律，不断成长的企业法务将进入一个法治环境更加成熟、市场化机制更加明确的新阶段。

abolished examinations for professional certification as corporate counsel. How the corporate attorney system will develop in the future was also raised at the Fourth Plenary Session. The well-established corporate counsel system that has been to SOEs' clear advantage in terms of their legal work is now faced with a challenge.

SOEs have made considerable developments in their in-house counsel systems over the past decade. As of the end of September 2014, 2,584 SOEs directly controlled by the central government had in-house counsel. Further, nearly 80% of central-led groups and key subsidiaries have full-time general counsel on staff. The number of people employed in corporate counsel departments in central-led SOEs is more than 20,000, 83% of whom are certified. In contrast, the pilot company attorney system that began in 2002 is essentially at a standstill, with few enterprises participating. Statistics show that there are fewer than 2,000 company attorneys nationwide. The survey showed that only 35% of enterprises indicated that they are actively encouraging that company attorney systems be instituted, while 29% stated that they presently are not considering doing so.

Yet what is the difference, insofar as work, duties, knowledge, skills, professional development and competent authority, between in-house counsel and company attorneys? What impact does this difference have on corporate legal work? What is the vision for the development of corporate legal affairs under the new situation? These questions currently lack authoritative answers. Further, how the corporate counsel system should develop is posing a new challenge for enterprises' legal work, particularly in SOEs. If this uncertainty is not resolved quickly, it could seriously affect how efficiently SOEs are able to handle their legal affairs.

Scope of corporate legal work. Lastly, the areas of corporate legal work are consistently expanding and the quantity of work increasing. During a legal affairs working meeting of enterprises under the central government in 2014, the State Council State-Owned Assets Supervision and Administration Commission called for an increase in ability to conduct compliance management, which was at the heart of corporate governance by law, as well as the rapid institution of mechanisms, formulation of rules and creation of systems.

Compliance has since become a new field in corporate legal affairs. Of the 122 counsel surveyed, 48% indicated that they were actively promoting compliance work. An additional 44% indicated that they were carefully looking into compliance work for their enterprise.

Much like corporate legal affairs, traditional legal work has also experienced a marked increase. This increase is due to operating risks brought about by the pressures of a weakening economy as well as the new growth opportunities presented by initiatives such as One Belt, One Road, the Yangtze River Economic Zone and Jing-Jin-Ji, the collaborative development of a Beijing, Tianjin and Hebei Province megapolis.

Statistics from the survey reveal a noted increasing prominence in the role of an in-house counsel in a company's affairs in the last year. Of the surveyed companies, 58% reported an increase in the number of individual cases filed, 77% reported an increase in contracts, 76% reported an increase in material projects and 33% reported an increase in offshore investment projects.

This will be a new stage for the development of corporate counsel, as it marks the comprehensive promotion of a country ruled according to the law. During this new era, corporate legal affairs will be elevated, encountering new opportunities with greater capabilities as they continue to innovate overall. Corporate counsel will enter into a new stage of a more mature environment for governance and more defined market-oriented mechanisms.

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棋逢强手 背水而战

Forced moves

调查表明, 无论是国内律所还是国际律所, 激烈的竞争环境都是他们目前面对的新常态; 而下一步棋该怎么走, 他们并没有太多选择。作者: 黎爱莲

A survey of experts finds that the new normal for domestic and international law firms is a fiercely competitive environment that leaves them with few moves to make, writes Alainna Wrigley

法朗克律师事务所在一月宣布了一个令人震惊的消息, 他们将关闭上海代表处和香港办公室, 在进驻亚洲近十年后, 最终选择离开。七月初, 查德本·派克律师事务所也宣布他们将关闭北京代表处, 在进入亚洲近二十年后选择离开, 在此之前他们已经关闭了新加坡和香港办公室。

两家律所的退出规模有所不同。法朗克代表处的结业影响了超过30名合伙人、律师和员工, 而查德本代表处的关闭影响的人数不超过10名。据报道, 法朗克保留了在中国运营的许可证, 而查德本却

In January, Fried Frank Harris Shriver & Jacobson made the stunning announcement that they would be closing their Shanghai and Hong Kong offices, effectively leaving Asia entirely after nearly a decade. In early July, Chadbourne & Parke similarly announced that they would be closing their Beijing office as they have already done in Singapore and Hong Kong, and leaving Asia after nearly two decades.

The exit scale may differ. Fried Frank's closures affected more than 30 partners, lawyers and staff, while Chadbourne's affected fewer than ten. Fried Frank reportedly has retained their licence

没有。不过，选择完全关闭中国代表处的律师事务所并不多见。

根据最近发布的关于国际律师事务所在中国市场的报告，2002年至2012年只有25家国际律所因为合并或破产之外的原因退出了中国。在今夏出版的《法律与社会探究》(Law & Social Inquiry)上，加州大学伯克利分校的Rachel Stern和Su Li写道：“退出中国市场的情况少见，反映出在中国设立代表处是致力于全球事业的有力象征，以及这对律所未来发展的潜在价值。”

自从全球经济危机以来，中国市场上律师事务所之间的竞争越来越激烈。客户及其业务日益复杂，在各个领域对高质量法律服务提出了要求。同时，在习近平主席所指出的目前经济环境的“新常态”下，客户本身也难逃市场激烈竞争的影响，他们需要有吸引力、价格合理的律师事务所。国内和国际事务所面临着重要抉择：是针对特定领域还是全面提高服务质量？亦或是跟随大潮，与更大的律所结成联盟、进行合并或建立其他紧密的联系。

内外挑战

与其他大型律师事务所一样，去年也是翰宇律师事务所在上海发展最好的一年，翰宇上海代表处管理合伙人陆大安(Daniel Roules)表示。他知道市场上存在着诸多挑战：“去年对在中国的许多律所来说似乎是很困难的一年，但是面对这个重要的市场，除了收入外，还要考虑市场的战略价值和律所声誉。”

“有些律所愿意通过大幅降低费用来争取工作，”摩根路易斯律师事务所北京代表处合伙人叶小玮说。摩根路易斯最近与美国斌瀚律师事务所和新加坡腾福律师事务所进行了合并。“如果有些律所计划这么做，这会影响市场中的每一个人，因此我们面临着很大的竞争压力。”

“国际律所在不断降低费用，以求赢得工作和客户，”艾金·岗波律师事务所香港办公室和亚洲业务负责人Greg Puff说。“同时，国内律所更多地参与到有影响力的国际交易中，并从国际律所招揽律师或顾问以增强实力，从而与国际律所竞争与中国相关的业务。”

国际律所可能感受到了竞争带来的刺痛，但是他们并不孤单。金澜律师事务所管理合伙人孟霆指出，对于规模较小的国内律所

[面对中国市场]，除了收入外，还要考虑市场的战略价值和律所声誉

[In the China market], there will be strategic and reputational issues to consider as well as financial ones



陆大安
Daniel Roules
翰宇律师事务所
管理合伙人
上海
Squire Patton Boggs
Managing Partner
Shanghai

to operate in China, while Chadbourne has not. However, firms choosing to close their China office at all is itself an anomaly.

Recently published research into how international law firms approach the China market reveals that only 25 international law firms left China for reasons other than merger or bankruptcy between 2002-2012. In the article, which appeared in *Law & Social Inquiry* (Summer 2015), UC Berkeley's Rachel Stern and Su Li write, "The rarity of market exit reflects perceptions that a China presence is a valuable symbol of global commitment and a worthwhile bet on future growth".

In the years since the global financial crisis, law firms have operated in an increasingly competitive market in China. Clients and their legal work are more sophisticated, requiring high-quality legal services involving diverse areas. At the same time, they too are victims of fierce competition in what President Xi Jinping has confirmed as "the new [economic] normal", and look to firms with attractive, cost-efficient pricing. Domestic and international firms are faced with a choice of improving service quality in one specific area or comprehensively, or going with emerging trends and forging alliances, mergers or other close relations with larger firms.

Challenges from within and without

While Daniel Roules, managing partner of Squire Patton Boggs' Shanghai office, echoes a number of the larger international firms in saying that the last year was the best that Squire has ever had in Shanghai, he understands that the market presents a lot of challenges. "It sounds like it was a tough year for a lot of firms in China, but in such an important market, there will be strategic and reputational issues to consider as well as financial ones."

"There are some firms out there who are willing to reduce fees substantially to get work", says Ye Xiaowei, a partner of Morgan, Lewis & Bockius based in Beijing, which recently merged with Bingham McCutchen and Singapore-based Stamford Law. "If some firms plan to do that, it affects everybody working in the market, so we are under a lot of pressure to compete."

"International law firms continue to lower their prices in order to win both work and clients", says Greg Puff, head of Akin Gump's Hong Kong office and Asia practice. "At the same time local firms are increasingly getting involved in high-profile international transactions and hiring associates or counsel from international law firms, enhancing their capabilities and thus competing with foreign law firms in relation to work in China."

International firms may be feeling the sting, but they are not alone. Tim Meng, Golden Gate's managing partner and legal department head, points out that for smaller domestic firms, specialization or exceptionally good work is key. "Some new firms have been doing very well, but only if they are really capable in certain areas ... We have seen some new rising stars in this market," Meng states, noting the success of new firms such as AnJie Law Firm and Han Kun Law Offices.

Both domestic and international firms may face competition for legal services in other areas as well. Shanghai-based Simmons & Simmons partner Lesli Ligorner notes, "Accounting firms creating law firms will likely have some effect on the foreign and local firms, as they can provide cheaper and more efficient tax advice".

Convenient online services pose a greater rival for IP attorneys. "We have seen the appearance of some online IP registration platforms where one can register at an extremely low price – in some cases even free", says Guo Xiaojun, patent attorney of CCPIT Patent & Trademark Law Office in Beijing.

会计师事务所设立的律师事务所可能会对国内外律所产生一些影响

Accounting firms creating law firms will likely have some effect on the foreign and local firms



李蕾思
Lesli Ligorner
西盟斯律师事务所
合伙人
上海
Simmons & Simmons
Partner
Shanghai

来说,专业化或杰出的表现是关键。“部分新成立的律所表现非常好,但这是因为他们真的在某些领域非常有实力……我们看到了这个市场中的许多明日之星,”孟霆说。他提到了安杰律师事务所和汉坤律师事务所等新兴律所的成功。

国内、国际律所都可能在其他领域面临法律服务的竞争。西盟斯律师事务所驻上海合伙人李蕾思(Lesli Ligorner)指出,“由于可以提供更便宜、有效的税务建议,会计师事务所设立的律师事务所可能会对国内外律所产生一些影响。”

对于知识产权律师来说,互联网催生了更强劲的竞争对手。“我们看到一些在线知识产权注册平台的出现,客户能以非常低的价格进行注册,有时甚至是免费的,”中国国际贸易促进委员会专利商标事务所的专利律师郭小军说。

不过更重要的是,用户可以从低价或免费的服务中得到什么。万慧达知识产权代理有限公司驻北京高级合伙人朱志刚认为,这其中存在着巨大的潜在风险。他指出,用户不知道注册知识产权的律师身在何处,如果出现与注册相关的问题,用户无法保证他们的案件会由同一位律师跟进,或者获得的服务是高品质的服务。

客户日益成熟

“随着经济发展,客户对服务的需求越来越全面和深入,”大成律师事务所北京办公室高级合伙人马江涛表示,“律师独自打拼的传统模式会受到很大的挑战。”

Seyfarth Shaw 律师事务所驻上海合伙人万利也看到了客户需求的变化。“相比于只就特定问题寻求单一的法律意见,企业法务部门会向外部律师寻求成本效益更高的解决方案,因为企业法务的公司内部客户要求他们以更低的价格去解决越来越复杂的问题,”他说。

“以前客户可以接受单一律师的法律服务,但现在客户会根据其需求寻求该领域的专业律师,而不会依赖于某一个律师,”上海邦信阳中建中汇律师事务所合伙人和争议解决中心负责人赵亮波说,“这对于律所而言,成为综合大所或者成为单一业务的精品所是其

What the user gets for the cheap or free services is a greater issue. Here, Zhu Zhigang, a senior partner of Wan Hui Da Intellectual Property Agency in Beijing, sees potential for major risks. The user does not know where the lawyer registering the IP may be located, he notes, and if there is issue with the registration, the user cannot be guaranteed that the case will be handled by the same lawyer – or that the service provided will be quality.

Increasingly sophisticated clients

“In pace with economic development, there is an increasing client demand for services that are more thorough and in-depth”, says Ma Jiangtao, senior partner of Dacheng Law Firm, which announced its combination with international player Dentons earlier this year. “The old model where lawyers were in it on their own will be challenged in a big way.”

Wan Li, a partner of Seyfarth Shaw in Shanghai, also sees change in client demands. “Instead of a single advice on a particular problem, the corporate legal department looks for cost-effective and efficient solutions from their external legal counsels as they are facing demands from their internal clients to deliver value at a lower cost while the problems are more complicated and issues more sophisticated.”

“Before clients might have received [all] legal services from a single lawyer, but now they will seek specialist lawyers per their needs, rather than relying on a particular lawyer”, says Boss & Young partner Rambo Zhao, who heads the firm’s Dispute Resolution Centre in Shanghai. “For law firms, choosing to become a major, comprehensive firm or a high-quality boutique firm is the inevitable choice – those in the middle will not be competitive.”

Wei Shuangjuan, an international partner of Haiwen & Partners based in Beijing, points out that firms are having to make big choices in how to respond to this increased competition – do they merge, enter international alliances, specialize or become a comprehensive firm? “It isn’t just domestic Chinese firms that are considering what to do”, she says. “Firms from any country are unable to avoid making this choice.”

However, boutique firms specializing in one area are not immune from the pressures of competition. Says CCPIT’s Guo, “Firms we would call our rivals have expanded their business, and ordinary law firms are also making intellectual property a major part of their overall business. So we still need to put effort into our service quality and other areas in order to maintain a competitive advantage.”

Mergers, combinations and joint operations

When faced with the expanding market and tight competition between players, many point to banding together as a strong option. “I feel that a big wave is coming”, says Zhong Lun Law Firm managing partner Wu Peng. “The predominate pattern will remain the comprehensive law firm, and the appearance of more specialized boutique firms will also be evident – both will be able to have a foot in the market in the future.”

Many of the firms surveyed noted the combination of the mainland’s largest firm, Dacheng Law Firm, and Dentons as an important sign of the legal service market’s development. Mitch Dudek, partner in charge for Dentons Asia, indicates that, following their anticipated merger with McKenna Long & Aldridge in the US that was approved in April, the combined firm will have approximately 6,600 lawyers across more than 50 countries worldwide – the largest in the world.

现在客户会根据其需求寻求 该领域的专业律师

*Now [clients] will seek specialist
lawyers per their needs*



赵亮波
Rambo Zhao
邦信阳中建中汇
律师事务所
合伙人, 上海
Partner
Boss & Young
Shanghai

发展的必然选择, 中间状态将缺乏竞争力。”

海问律师事务所国际合伙人魏双娟指出, 律师事务所必须做出重要选择以回应日益加剧的竞争——是合并、建立国际联盟、专业化发展, 还是成为综合型律所? “不只是中国律所在考虑怎么做, 任何国家的律所都无法避免进行这个选择,” 她说。

不过, 专注于特定领域的精品律师事务所也难免不会受到竞争压力。“对于我们来说, 称得上竞争对手的律所在纷纷扩展业务, 普通的律师事务所也把知识产权业务作为其业务中的重要一环, 所以我们仍然需要在服务质量等方面下工夫, 保持竞争优势。”郭小军说。

合并和联营

面对市场的扩张和律所之间的激烈竞争, 许多人指出联合是不错的选择。中伦律师事务所管理合伙人吴鹏指出: “我个人觉得未来会是大浪淘沙, 大格局依然是综合性律所, 也会更明显地出现一些比较专业的精品所, 这两种在未来市场中是能立得住脚的。”

调查显示, 许多律所都认为大成律师事务所的合并是法律市场发展的重要标志。德同律师事务所亚洲区管理合伙人 Mitch Dudek 指出, 四月份他们与美国 McKenna Long & Aldridge 律所的合并方案获得通过, 合并后的律师事务所将会在全球超过 50 个国家拥有约 6600 名律师, 成为全球最大的律所。

许多人也指出四月宣布成立的奋迅律师事务所和贝克·麦坚时律师事务所(自贸试验区)联营办公室也是一项值得关注的重要发展。这是上海自贸区批准的第一家联营办公室, 并有传言说会有更多的律所效仿这种做法。

“联营办公室使贝克·麦坚时与奋迅可以携手为客户提供法律意见, 就境外法和中国法问题协助客户,” 贝克·麦坚时上海代表处合伙人和首席代表张大年表示, “得益于联营, 我们两家律师事务所能有机会共同开拓新的客户群。”

有人指出, 上海自贸区的联营办公室并不是新的模式。根据《内地与香港关于建立更紧密经贸关系的安排》, 广东某些地区已经对

Many also indicate the Baker & McKenzie FenXun (FTZ) Joint Operation Office announced in April as a major development worth watching. The office is the first joint operation approved in the Shanghai Free Trade Zone (FTZ), and rumours are that more shall follow. “The joint operation allows Baker & McKenzie and FenXun Partners to advise and assist clients jointly on international and PRC law”, explains Danian Zhang, partner and chief representative of Baker & McKenzie’s Shanghai office. “The joint operation will provide both firms with opportunities to develop new clients together.”

The joint operations model in the Shanghai FTZ is not new, some point out, having been open to Hong Kong law firms in certain areas of Guangdong under the Mainland and Hong Kong Closer Economic Partnership Arrangement. To date, five joint operations between Hong Kong and mainland firms have been approved, including China Commercial Lam Lee Lai of Qianhai, a joint operation between Shenzhen’s China Commercial Law and Hong Kong’s Lam, Lee & Lai Solicitors & Notaries.

Woon-Wah Siu, a partner of Pillsbury Winthrop Shaw Pittman based in Shanghai, sees these partnerships as a viable answer to current regulatory restrictions on international firms. “Unless the Chinese authorities ease restrictions on foreign firms practising Chinese law, [mergers such as these] may be the favoured means by which foreign firms will employ to access Chinese legal work.”

As for how these mega firms’ competitors can respond, Rita Assis Ferreira, PLMJ senior associate in Beijing and Macao, remains positive. She states, “[The Dacheng-Dentons combination] forces smaller firms already in the market to adapt and reinvent themselves as true value-added service providers, with accumulated know-how, well-defined strategies and good time to market, which clients will appreciate”.

Simon Luk, partner and Asian practice chairman of Winston & Strawn, is less sanguine, noting that mergers between domestic firms and international mega firms could signal a reduction of referrals to international firms if other domestic firms follow suit.

Joseph He Jun, a joint head of Wong Partnership’s China practice, also sees these conglomerates possibly resulting in loss of business. “It is also likely that potential clients may approach such alliances or associations more than other law firms, especially in the context of international deals involving multiple jurisdictions”, he says.

[综合性律所和精品所]在未来 市场中是能立得住脚的

*Both [comprehensive and boutique
firms] will be able to have a foot in
the market in the future*



吴鹏
Wu Peng
中伦律师事务所
管理合伙人
北京
Managing Partner
Zhong Lun Law Firm
Beijing

来自香港的律师事务所开放。至今，已有五家香港和大陆律所的联营办公室获得了批准，包括由深圳华商律师事务所和香港林李黎律师事务所联手成立的“华商林李黎（前海）联营律师事务所”。

普盈律师事务所驻上海合伙人萧焕华认为，这些合伙是化解目前对国际律所监管限制的可行途径。“除非中国政府放宽对外国律所从事中国法律执业的限制，否则 [这类合并] 可能会成为外国律所为了进入中国法律市场而倾向于采用的方式。”

面对这些大型律所，竞争者应该如何应对？对此，PLMJ 律师事务所驻北京和澳门高级律师 Rita Assis Ferreira 仍然表示乐观。“大成与 Dentons 的合并迫使市场中的小型律所去适应并调整自己，通过积累知识、明确战略以及工作时间配合市场，成为客户欣赏的真正的增值服务提供者，”她说。

温斯顿律师事务所合伙人和亚洲业务主席陆志明却没有那么乐观。陆律师指出，如果国内其他律所都跟着这样做，国内律所和大型国际律所的合并就可能意味着转交给其他国际律所的工作量减少。

王律师事务所合伙人及中国业务负责人之一的何军也认为，这些律所的联合可能会导致其他律所业务上的损失。“潜在的客户可能会找这些联盟或联合律所而不是其他律师事务所，在涉及多个法域的国际交易中尤其如此，”他说。

界限日益模糊

其他的中国律师事务所正在继续独自扩展其国际业务，而不是通过与国际律所合并。他们不仅继续聘用拥有海外执业资格的中国律师，也继续聘用外国执业律师。

“我们看到，境外所律师逐步向中资所转移，而且中资所的专业化程度越来越高，”通力律师事务所驻上海创始合伙人俞卫锋说。

安杰律师事务所驻北京管理合伙人詹昊认为，出现这种现象的部分原因在于中国的经济发展取得了积极成效。“中国经济和法律市场的发展创造了吸引更多拥有国际背景人才的有利环境，这使得中国律所可以保证他们的国际客户获得高质量的服务。”

其他律所更加关注开设新的办公室。今年早些时候，汉坤律师事务所和通力律师事务所宣布设立香港办公室，作为他们“走向世界”的第一步。长江律所在伦敦设立，成为在英国开业的首家中国独资律师事务所，以及在国际法域提供直接法律服务的先驱。继香港和东京分所的成功，世泽律师事务所计划在洛杉矶增设办公室，由新国际合伙人、加州执业律师 Peter Neumann 担任负责人。

这种趋势引申出一个不太容易回答的问题。在国内律所刚开始私营化和国际律所刚被允许在中国开展业务的时候，国内律所是明显擅长国内法律的律师事务所，并且经常被国际律师事务所咨询的原因是他们拥有香港律所或国际律所没有的中国法执业能力和专业知识。

不过，受访律师们指出，随着中国律所的专业知识和能力不断积累，逐渐能够与国际律所提供同等水准和质量的服务，并且随着他们不仅拥有国内执业律师，还吸纳来自香港、美国、英国等其他法域的执业律师，一个问题由此产生：国内律所和国际律所之间的分界线究竟在哪里？目前这个问题还没有答案。■

[中国的发展]创造了吸引更多拥有国际背景人才的有利环境

[China] creates a favourable atmosphere to attract more talents with an international background



詹昊
Zhan Hao
安杰律师事务所
管理合伙人
北京
Managing Partner
AnJie Law Firm
Beijing

Chinese and international distinction blurred

Other mainland firms are continuing to expand their international reach on their own, rather than via mergers with international firms. Firms are also continuing to hire not only Chinese lawyers who have qualifications to practice abroad, but also foreign qualified lawyers.

“We have been seeing an increasing number of lawyers from foreign firms move to domestic firms, and those firms are becoming more specialized as well”, says David Yu, founding partner of Llinks Law Offices based in Shanghai.

Zhan Hao, managing partner of AnJie Law Firm in Beijing, attributes this in part to China's positive economic development. “The expansion of China's economy and the legal market creates a favourable atmosphere to attract more talents with an international background, which allows Chinese law firms to ensure that their international clients can receive higher levels of service.”

Others look to physical presence. Earlier this year, Han Kun Law Office and Llinks Law Offices both announced Hong Kong offices in their first steps to go global. YangTze Law opened in London, the first wholly Chinese-owned law firm in the UK and a pioneer in providing direct legal services in an international jurisdiction. And Broad & Bright aim to build on the success of their Hong Kong and Tokyo ventures and open an office in Los Angeles – headed by its new international partner, the California-qualified Peter Neumann.

This trend opens a question that is not easily answered. When domestic Chinese law firms first were privatized and international law firms permitted to practice, domestic firms were clearly those who were good at Chinese law, and consulted frequently by international law firms because they had the expertise and ability to practice domestic law that a Hong Kong or international firm lacked.

Yet, lawyers surveyed point out, as domestic firm's expertise and ability to provide services at the same level and quality of an international firm increases, as they acquire not simply domestic-qualified lawyers but qualified lawyers from other jurisdictions including Hong Kong, the US, and the UK, and as they increasingly look abroad, the question is raised: Where does the regulated distinction lie between a domestic law firm and an international firm? Thus far, the law is silent. ■

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无论您正在筹划成立特殊信托、基金、合资公司、企业上市、安排发票工具或设立公司助力您的财富管理，英属维尔京群岛都能满足您的需求。面对不断变化的国际市场，英属维尔京群岛亦在与时俱进，不断完善自己。

英属维尔京群岛的用户包括上市公司、私募股权公司、跨国企业、中小型企业以及个人。

英属维尔京群岛现拥有成百上千个合格专业公司及人士於亚洲地区提供公司服务及法律咨询业务。过去近30年来，英属维尔京群岛一直是亚洲用户投资开办业务的不二选择。今天，随着亚洲经济金融市场的调整日趋深化复杂，英属维尔京群岛及时扩展自身职能，助力亚洲用户的跨境交易。



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英属维尔京群岛政府亚洲官方办事处

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中国律师事务所

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全球视野

为适应世界经济一体化和法律服务国际化的需求，锦天城同全球众多不同司法领域的律师事务所建立了稳定的合作关系，在争议解决、商业投资、跨境并购和贸易的交易和案件中开展广泛的合作。锦天城每年参与国际律师培训项目，这一培训项目为锦天城培养了很多具有国际视野的专业律师。

锦天城于2013年在香港设立分所，并与香港史蒂文生黄律师事务所联营，在香港为本地和国际客户复杂而高标准的商业、投资活动竭尽所能地提供周全的解决方案。

执业领域：

- 反垄断与竞争法
- 公司法与商法
- 外商直接投资
- 保险
- 知识产权
- 海商海事
- 私募基金与风险投资
- 证券与资本市场
- 银行与金融
- 争议解决
- 外汇
- 国际贸易
- 劳动法
- 公司并购
- 房地产与工程建设
- 税务

Global Reach

As one of the largest independent law firms in China, we also have longstanding relationships with leading law firms from many other jurisdictions that work with us on cross-border matters such as projects and transactions, international trade matters and dispute resolutions. These relationships enable us to provide legal services on a truly global scale that extends beyond PRC legal matters.

We have established a formal association with the leading Hong Kong law firm of Stevenson, Wong & Co. (which has operations in Hong Kong and Guangzhou) in order to provide better service coverage for this important international financial center.

Practice Areas:

- Anti-trust and Competition
- Corporate and Commercial
- Foreign Direct Investment
- Insurance
- Intellectual Property
- Maritime
- Private Equity and Venture Capital
- Securities and Capital Markets
- Banking and Finance
- Dispute Resolution
- Foreign Exchange
- International Trade
- Labor and Employment
- Mergers and Acquisitions
- Real Estate and Construction
- Taxation

优质高效 诚信敬业

Integrity, Quality, Dedication and Efficiency

AllBright Law Offices

锦天城律师事务所



Established in 1999 始创于1999年

- Managing Partner: Wu Mingde
- Number of partners: 311
- Number of associates: 1098

- 管理合伙人：吴明德
- 现有合伙人：311
- 现有律师：1098

Firm Overview: We are one of the leading full-service Chinese law firms in the People's Republic of China (PRC). As the only national law firm headquartered in Shanghai, we provide a comprehensive range of legal solutions and services to both domestic and international clients from our offices in Shanghai, and our additional offices in Beijing, Chengdu, Chongqing, Hangzhou, Hong Kong, Nanjing, Qingdao, Shenzhen, Suzhou, Taiyuan, Tianjin and Xiamen.

While size is only one of many indicators of the success and resourcefulness of a law firm, since the creation of our firm via a merger of three firms with a common vision we have been leading in this respect among our peers in China, and we are now one of the largest in Asia. Through cooperation, teamwork and a dedication to excellence, we are committed to providing practical solutions for our clients with respect to both litigation and transactional matters. We have currently 1,098 registered lawyers, including 311 partners and senior international consultants, many of whom hold advanced doctoral degrees. Many of our lawyers are admitted in international jurisdictions such as various states in the US, in England and Wales, Australia, in France and in Japan, and are fluent in English, Japanese, French, German, Korean and other major languages. Partners and counsel in our partner Hong Kong law firm are similarly highly qualified.

Awards

We are consistently recognised by various institutions and in major rankings as one of the top PRC law firms:

- Chambers and Partners has designated us as a leading Chinese law firm for three consecutive years, and has also rated both the firm as a whole and several partners of the firm as Band 1 or "leaders in the field" in many core practice areas including corporate and mergers and acquisitions (M&A), private equity and venture capital, capital markets, international trade, banking and finance, dispute resolutions, intellectual property and tax.
- The Legal 500: The Guide to Asia's Commercial Law Firms ranked us as one of the top firms in Shanghai for Foreign Direct Investment, Corporate and Commercial Law, and highlighting us as the "corporate and commercial firm other firms aspire to be".
- IFLR1000/Asialaw Profiles has for many years rated AllBright as 1st Tier in core practice areas such as corporate and M&A, private equity, capital markets, and banking and finance.
- Asian Legal Business has granted us many awards in its annual China Law Award events, where we are frequent finalists in all major award categories.

- Government and association awards: AllBright has won awards from the All China Lawyers Association on several occasions as a National Leading Law Firm and a Leading Law Firm in Shanghai, and has been recognized with a Leading Partnership Award from the Shanghai Municipal Bureau of Justice.

事务所简介: 锦天城律师事务所(锦天城)是一家提供全方位法律服务的、全国领先的中国律师事务所,是唯一一家总部设在上海的全国性律师事务所。锦天城在中国大陆十一个城市(北京、深圳、杭州、苏州、南京、成都、重庆、太原、青岛、厦门、天津)及香港开设分所,并在香港与史蒂文生黄律师事务所联营,史蒂文生黄律师事务所所在广州也设有办公室。锦天城致力于在瞬息万变的商业环境中为境内外客户制定法律解决方案并提供法律服务。锦天城坚持优质、高效的服务理念和团队合作的方式,对客户的每一个项目和案件提供细致的法律分析和切实可行的法律建议,积极进取地解决法律问题。锦天城有执业律师1098位,其中合伙人(含高级国际法律顾问)311位。除以中文(普通话、上海话、粤语、闽南语)为日常工作语言之外,我们的许多律师还精通英文、日文、德文、法文等主要语种,并拥有美国多州、英国、法国及日本等地的执业资格。

近年荣誉

- 锦天城多次被中国司法部、地方司法局、律师协会以及国际知名法律媒体和权威评级机构列为中国最顶尖的法律服务提供商之一,位居全国十大品牌律师事务所前列。
- 锦天城多次获得中华全国律师协会颁发的“全国优秀律师事务所”荣誉称号、上海市律师协会颁发的“上海市优秀律师事务所”、上海市司法局授予的“上海市司法行政系统先进集体”等荣誉。
- 钱伯斯法律评级机构(Chambers and Partners)近期连续三年授予锦天城“领先的中国律师事务所”证书,并在多个领域(公司商事、收购兼并、私募基金/风险投资、资本市场、银行与金融、国际贸易、争议解决、知识产权及税务等各主要领域)均给予本所各领域相关律师个人优良的评级。
- 《法律500强》(Legal 500)在《中国商业律师事务所指南》中评价锦天城是一家在外商直接投资、公司和商业法律领域顶尖的上海律师事务所,是“其他律师事务所希望成为的公司和商业律师事务所”。

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- 《国际金融法1000强杂志 / 亚洲领先律师年鉴》(IFLR1000 / Asialaw Profiles) 多年来多次在多个主要领域(收购兼并、私募基金 / 风险投资、资本市场、以及银行金融等) 给予锦天城“第一流”(1st Tier) 等优良评级。
- 《亚洲法律事务》(ALB) 在其每年举办的“中国法律年度大奖”中多次授予锦天城重大奖项和提名。

AnJie Law Firm

安杰律师事务所

Established in 2012 始创于 2012 年

- Managing Partner: Zhan Hao
- Number of partners: 25
- Number of associates: 86

- 管理合伙人：詹昊
- 现有合伙人：25
- 现有律师：86

Firm Overview: AnJie Law Firm is a comprehensive law firm providing full legal services on the international base. We have extensive experience and marked achievements in many professional areas. Since our establishment, AnJie has continued to grow rapidly and soundly with 200 staff currently.

As successful practitioners in their fields, AnJie partners have prominent experience and legal excellence. They are graduates of prestigious schools in the People's Republic of China and abroad, and are holders of JD, LL.M., PhD and other advanced professional degrees. Some of them have conducted post-doctoral researches in their specialized fields. Our partners have obtained professional qualifications from China, USA, UK, Germany, Australia, Japan and other jurisdictions. The majority have practised in leading international law firms and have accrued many years of experience before joining AnJie. Some have worked in national ministries and in international organizations, and have built their careers maintaining harmonious connections with government bodies and international organizations. Our professionals are capable of providing legal services directly in Chinese, English, Korean and Japanese.

We have accumulated a wide range of clients from various industries including real estate, finance, manufacture, communications, information technology, health care, tourism, food and energy. We provide end-to-end local services to numerous Fortune 500 companies and develop tailored solutions to large state-owned and private enterprises from China.

Adhering to the motto of "Dedicated to Excellence", AnJie lawyers deliver seamless services in different areas based on their outstanding practice skills and professionalism, and have won broad recognition. Our achievements and our lawyers are recommended in their respective markets by international ranking institutions and legal media such as Chambers and Partners, Who's Who Legal, The Legal 500, Asian Legal Business (ALB), China Business Law Journal and more.

Awards

- 2015 Top Ranked PRC Antitrust/Competition Firms from Chambers Asia-Pacific
- 2014 and 2015 Recommended Antitrust Lawyer of the Year from Chambers Asia-Pacific
- 2015 IP Law Leading Law Firm from Asian Legal Business (ALB)
- 2014 PRC Insurance and Antitrust Law Firm of the Year from Chambers Asia-Pacific

- 2013 Recommended Law Firm from Who's Who Legal
- 2013 Antitrust and Competition Law Firm of the Year awarded by ALB
- 2013 and 2014 Recommended PRC Law Firm from The Legal 500
- 2013 and 2014 Employer of Choice awarded by ALB
- 2013 Outbound M&A Deal of the Year awarded by China Business Law Journal
- 2013 Litigation Law Firm of the Year awarded by ALB

Key Practice Areas: Insurance and Reinsurance; Antitrust and Competition; Litigation; Arbitration; Energy; Capital Market; Intellectual Property; Dispute Resolution; FDI; M&A; Banking and Finance; Real Estate and Construction Project; TMT; Corporate Governance and Compliance.

事务所简介: 安杰律师事务所是一家提供商业法律服务的综合性律师事务所, 在多个专业领域拥有丰富的法律服务经验和卓越的业绩。自成立以来, 安杰一直保持健康、高速的增长, 现有员工二百人。

安杰拥有一批实践经验和理论基础并重的律师。安杰律师获得中国、美国、英国、德国、澳大利亚、日本等国著名法学院的法学学位, 具有硕士、博士学位及其他高级职称, 多名合伙人曾经从事过相关专业的博士后研究工作。安杰律师具有多国律师专业资格。加入安杰之前, 多位合伙人拥有长期在国内外知名律师事务所工作的经历, 部分合伙人曾在中华人民共和国相关部委、司法机构、国际组织任职, 与这些机构始终保持着良好的沟通渠道。我们的服务语言为中文、英文、韩文、日文等。

安杰拥有广泛的客户群体。我们为数十家世界五百强企业提供本地化综合法律服务, 并为上百家大型国企和民营企业量身定做符合企业需求的法律服务方案。我们的客户来自房地产、金融、制造业、通讯、信息技术、医疗、旅游、食品、能源等各个行业。

秉承“因为专业, 所以杰出”的理念, 安杰律师凭借高超的业务水平和出色的专业素养, 为客户提供多领域的无缝法律服务, 获得高度评价, 并得到同行和第三方机构的广泛好评。安杰及安杰律师连续多年被钱伯斯 (Chambers and Partners)、Who's Who legal、Legal500、《亚洲法律杂志》(ALB)、《商法》等相关国际法律评级机构与专业刊物评定为专业领域的优秀律所和重点推荐律师。

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安杰律师事务所

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近年荣誉

- 钱伯斯亚太 2015 年度保险及反垄断领域中国律所
- 钱伯斯亚太推荐的 2014 及 2015 年度反垄断律师
- 《亚洲法律杂志》2015 年度知识产权法领先律所
- 钱伯斯亚太 2014 年度保险领域中国律所
- 钱伯斯亚太 2014 年度反垄断领域中国律所
- Legal500 2013 年度推荐律所
- 《亚洲法律杂志》2013 年度反垄断和竞争法律所
- Who's Who Legal 2013、2014 年度推荐保险律所
- 《亚洲法律杂志》2013、2014 年度中国最佳雇主
- 《商法》2013 年度境外并购最佳交易奖
- 《亚洲法律杂志》2013 年度诉讼律所

主要业务领域: 保险与再保险、反垄断与竞争法、诉讼与仲裁、能源与矿产资源、证券与资本市场、知识产权、争议解决、外商投资、收购与兼并、银行与金融、房地产与建设工程、电信、公司日常事务。

Boss & Young

邦信阳中建中汇律师事务所

Established in 1995 始创于 1995 年

- Managing Partner: Xu Guojian
- Number of partners: 64
- Number of associates: 260

- 管理合伙人: 徐国建
- 现有合伙人: 64
- 现有律师: 260

Firm Overview: Boss & Young utilizes the operational philosophy and organizational structure of a large international law firm to achieve the best allocation of service resources, the highest efficiency and the most superior quality for our clients. Besides comprehensive domestic services network, we have built cordial cooperation relationships with large international law firms worldwide, allowing us to provide legal services involving different countries and regions.

Our partners and associates are mainly alumni of renowned domestic and overseas law schools. Our partners possess rich practice experience, some having worked in renowned international law firms and multinational companies. Our lawyers can provide legal services directly in English, French, German and other languages.

Key Practice Areas: Antitrust and Competition Law; Capital Market; Construction; Corporate Governance; Dispute Resolution; Insurance, Banking and Trust;

International Trade; Bankruptcy; Maritime Law; M&A; Inbound and Outbound Investment; PE and VC; Real Estate; Sports Law; White Collar Crime.

事务所简介: 邦信阳中建中汇采用国际大型律师事务所的运营理念和组织结构, 合理配置各业务部门, 科学建立了全所联动的管理和服 务机制, 从而实现了资源配置最佳、效率最高、质量最优的客户服务。我们除了完善的国内服务网络外, 还同世界各地的大型或专业律师事务所建立了良好合作关系, 可以及时地为客户提供涉及国内外不同国家和地区的法律服务。

我们的合伙人、律师大多毕业于国内外知名法学院, 具有丰富的执业经验。部分律师拥有在国际知名律师事务所和跨国公司工作的经历。许多律师掌握一门或多门外语, 具有直接以英语、法语、德语等外语为客户提供法律服务的能力。

主要业务领域: 海外投资; 建筑工程; 房地产; 资本



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CCPIT Patent and Trademark Law Office

中国国际贸易促进委员会专利商标事务所

Established in 1957 始创于 1957 年

- President: Ma Hao
- Number of attorneys: 276
- Number of attorneys-at-law: 68

- 所长: 马浩
- 代理人: 276
- 拥有律师资格者: 68

Firm Overview: CCPIT Patent and Trademark Law Office is the oldest and one of the largest full-service intellectual property law firms in China. Our mission is to render personalized services to clients with high quality, efficiency and reliability in a cost-effective manner. Our professionals are encouraged to be both proactive and creative, providing commentary and guidance and creating value-added solutions for our clients. Our reputation for professionalism is widely recognized among peer professionals and clients, both domestically and internationally. Since 1999, our firm has been ranked as the top Chinese intellectual property law firm in an annual survey conducted by publisher Managing Intellectual Property, and has been recommended time and again as a leading Chinese intellectual property firm by institutions such as Asia Law & Practice, Asian Legal Business, Intellectual Asset Management and Chambers and Partners.

Key Practice Areas: Prosecution; Litigation; Administrative Enforcement; Transactions and Consultation Services Relating to Patents; Trademarks; Copyright; Trade Secrets; Trade Dress; Domain Names; Unfair Competition; Licensing; and other Intellectual Property-related Matters.

事务所简介: 中国国际贸易促进委员会专利商标事务所是中国历史最悠久的知识产权事务所, 也是规模最大的知识产权事务所之一。贸促会专商所始终坚持“客户至上, 质量为本”的信念, 在为客户节省成本的同时向客户提供优质高效的个性化服务。贸促会专商所的服务质量和职业精神得到了国内外客户和同行的广泛认同, 享有极高的声誉。从 1999 年开始, 在《知识产权管理》(Managing Intellectual Property) 进行的年度全球知识产权事务所调查中, 贸促会专商所被连续评选为中国顶尖知识产权事务所。此外, 在 Asia Law & Practice、Asian Legal Business、Intellectual



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Asset Management 和 Chambers and Partners 等进行的评级活动中, 贸促会专商所多次被提名或推荐为中国领先的知识产权事务所。

主要业务领域: 中国国际贸易促进委员会专利商标事务所为国内外客户在专利、商标、著作权、商业秘密、域名以及不正当竞争等领域提供申请、诉讼、调解和咨询服务。

Chang Tsi & Partners

铸成律师事务所



Established in 2002 始创于 2002 年

- Managing Partner: Simon Tsi
- Number of partners: 12
- Number of associates: 75

- 管理合伙人：司义夏
- 现有合伙人：12
- 现有律师：75

Firm Overview: Chang Tsi & Partners is a leading full-service Chinese law firm with a strong reputation in intellectual property and litigation. Headquartered in Beijing with branches in Shanghai and Guangzhou, we now have 168 attorneys and other professionals. Our firm takes pride in providing the highest quality of legal services to clients from around the world in China, as well as serving Chinese clients internationally.

Chang Tsi & Partners specializes in intellectual property, litigation and dispute resolution, and general corporate law. Our team has the extensive and in-depth experience that our clients trust and rely upon for all their legal matters. Chang Tsi & Partners has won praise from clients both at home and abroad, and was also awarded Firm of the Year by Managing IP.

Over the years, Chang Tsi & Partners has been recognized many times as a leading IP law firm in China and one of the best law firms in China for legal matters relating to Dispute Resolution, Intellectual Property Rights and Mergers and Acquisitions by well-known legal organizations and magazines including Chambers Asia-Pacific, The Legal 500 Asia Pacific, China Business Law Journal and Asialaw Profiles.

Chang Tsi & Partners is also regularly recognized as one of Beijing's leading law firms by the Beijing Bar Association and as a Leading Trademark Agency of the Year from the Chinese Trademark Association.

Key Practice Areas: Intellectual Property; Corporate Law; Litigation and Arbitration; Foreign Investment; Construction and Real Estate; Financing and Banking; Securities and Capital Markets; Labour Law; Commercial Investigations.

事务所简介: 铸成律师事务所是一家以知识产权为核心业务的综合性律师事务所，总部设于北京，在上海、广州设有分所。现有合伙人 12 人，律师及商标、专利代理人及工作人员共计 168 人。

铸成律师事务所赢得了国内外客户的一致好评，并且在 2014 年被评为《知识产权管理》杂志评选为最佳律师事务所。

铸成律师事务所 2005 年被北京市律师协会评为北京市优秀律师事务所，2012-2014 年在中华商标协会举办的首届中国最佳商标代理组织的评选中被评为中国最佳商标代理机构。近年来，铸成连续被 China Business Law Journal (商法) 评选为中国地区最佳知识产权律所、The Legal 500 Asia Pacific (亚太法律服务 500 强)、Chambers Asia-Pacific (钱伯斯亚太)、Asialaw Profiles (亚洲法律) 等众多国际知名法律评级机构评选为“中国最佳知识产权律师事务所”、“争议解决、知识产权、并购业务在中国市场首选的律师事务所”等数十项奖项；在 2006 年“亚洲法律”举办的第三届亚洲知识产权大奖 (Asialaw IP Awards) 评选中，铸成当选中国区十佳知识产权律师事务所。

服务理念

铸成恪守客户利益至上的服务宗旨，以实现委托人合法权益的最大化作为工作目标，以对客户绝对负责的精神作为执业的准则。

作为法律服务的受托人，我们深知责任重大，始终把忠诚于委托人，以自己的专业服务实现委托人合法权益的最大化作为宗旨。在处理法律事务时，换位思考，准确把握客户的需求，为客户提供切实可行并能为其谋得最大利益的解决方案。在办理案件过程中，不仅利用自身的专业优势，而且调动各方面的社会资源，围绕委托人的需求形成合力，使委托人的最大权益得以实现，本所也因此获得客户的肯定和信赖，建立起长期稳定的合作关系，成为客户事业发展可信赖的伙伴。

服务优势

- 客户至上、以实现委托人合法权益最大化为宗旨的理念；
- 经验丰富、素质优良、恪尽职守、紧密合作的律师团队；
- 广泛的社会资源、坚实的外援系统、形成资源整合的优势；
- 与国际标准和规范接轨的服务质量和风险控制体系；

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- 与海内外紧密联系的众多合作伙伴。

主要业务领域: 知识产权、公司、诉讼与仲裁、外商投资、建设工程与房地产、金融与银行、证券与资本市场、劳动法、商事调查等，而以知识产权为核心业务。

City Development Law Firm

上海市建纬律师事务所



Established in 1992 始创于1992年

- Director: Zhu Shuying
- Number of partners: 22
- Number of associates: 305

- 事务所主任: 朱树英
- 现有合伙人: 22
- 现有律师: 305

Firm Overview: Established in December 1992, Shanghai City Development Law Firm is the first law firm to specialize in the areas of construction, real estate and infrastructure in mainland China. We have been established as a famous brand among Chinese law firms with predominant achievements in the field of professional legal services for the past 20 years. We have enjoyed many honors in the legal community, including an award for National Excellent Law Firm as well as a State Model Law Firm award from the Ministry of Justice.

We have been invited to comment on the drafts of laws, regulations, rules and judicial interpretations as a representative law firm on legislation such as the Construction Law, Property Law, Contract Law, Regulations on Administration of Construction Project Duality, Rules of Shanghai Municipality on Real Estate Mortgage, Understanding and Application of Judicial Interpretations of the Supreme People's Court on Project Construction Contracts, Measures for Identification and Punishment of Contracting and Illegal Subcontracting in Construction Projects (for Trial Implementation). We have also been invited to provide our professional advice on revisions of draft legislation.

We have been appointed by the Ministry of Construction, State Administration for Industry and Commerce and China Civil Engineering Society to assist in drafting example contracts for construction general contracting, project construction, construction project subcontracting and construction project labour subcontracting.

Since its establishment, City Development Law Firm has provided legal service for many national and local key projects including the CCTV Headquarters, National Museum, Shanghai Pudong International Airport, Shanghai International Financial Center, Disneyland of Shanghai, Shenzhen Stock Exchange Square and Tianjin Metro.

Key Practice Areas: City Development Law Firm divides its current legal service areas into five departments, involving the Construction Department, the Real Estate Department, the Infrastructure and Public Service Department (PPP Center), the Finance of Real Estate Department, and the Integrated Services Department, which provides the legal service of Urban Infrastructure of Metro, Highways and Bridges, Energy and Environmental Protection; Public Services, New Urbanization, Transformation of Village in City, New Rural Construction, Industrial Park; Real Estate of Industrial, Old-Age, Logistics and the Army; Development and Operation of Real Estate Projects; Community

and HOPSCA; National Equities Exchange and Quotations, Asset-Backed Securitization, Bank Affairs, Finance Lease, Private Equity, Trust, Bank Factoring, Internet Banking, Overseas Bonds, Assets Management, Disposition of Bad Assets; Public Private Partnership; Environmental and Resource Protection; Intellectual Property & Corporate Matters.

事务所简介: 上海市建纬律师事务所成立于1992年12月,是中国大陆首家以建筑、房地产、城市基础设施建设领域法律服务为专业特色的律师事务所。

20多年来,建纬以其在专业法律服务领域的卓越成绩,成为中国律师事务所中的知名品牌,并获得“全国优秀律师事务所”、“司法部部级文明律师事务所”等律师界的杰出荣誉。

建纬作为中国律师界的代表,先后参与《建筑法》、《物权法》、《合同法》、《建设工程质量管理条例》、《上海市房地产抵押办法》、《最高人民法院建设工程施工合同司法解释的理解与适用》、《建设工程施工转包违法分包等违法行为认定查处管理办法(试行)》等法律、法规、规章以及司法解释的讨论,提供专业修改意见。

建纬接受中国建设部、国家工商总局及中国土木工程学会委托,协助起草《建设工程总承包合同》、《建设工程施工合同》、《建设工程施工专业分包合同》和《建设工程劳务分包合同》的示范文本。成立至今,建纬先后为中央电视台总部大楼、国家博物馆、上海浦东国际机场、上海国际金融中心、上海迪斯尼乐园、深圳证券交易所运营中心、天津地铁等诸多国家及地方重点工程项目提供法律服务。

主要业务领域: 建纬将现有业务领域划分为建筑工程、房地产、不动产金融、基础设施与公共事业(PPP中心)、综合业务共五个部门,涵盖以下法律服务领域:地铁及轨道交通、公路及桥梁、能源及环保等城市基础设施及公共服务、新型城镇化、城中村改造、新农村建设、工业园区等领域法律服务;房地产项目开发及经营;住宅、商业综合体、高档酒店、商场、办公楼、工业地产、养老地产、物流地产、军队地产、地铁等轨道交通沿线房地产开发及经营;新三板、资产证券化、银行业务、融资租赁、私募基金、信托、保理、互联网金融、海外发债、资产管理、不良资产处置;政府与社会资本合作制(PPP);环境与资源保护;知识产权及公司法务等。

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DaHui Lawyers

达辉律师事务所



Established in 2013 始创于 2013 年

- Managing Partner: Richard Ma
- Number of partners: 10
- Number of associates: 65

- 管理合伙人：马勇
- 现有合伙人：10
- 现有律师：65

Firm Overview: DaHui Lawyers provides innovative and practical legal solutions to PRC and international clients across a broad range of industries and legal environments. We draw on the skill and work ethic of our dedicated attorneys to serve our clients at the highest international standards. From our two offices in Beijing and Shanghai, we represent our corporate clients throughout China and internationally. Our clients come to us because of our experience, knowledge, expertise, and our reputation for integrity and client satisfaction.

We are counselors, strategists, and advocates for China's leading companies and the world's leading companies in China. We are an international team of advisors focused on serving our clients' individual needs.

Philosophy: DaHui Lawyers is a dynamic law firm for a dynamic legal environment. We are seasoned and trusted advisors to global companies in China, and we are at the cutting edge of advising PRC companies as they head out around the world in search of new business opportunities. As our clients encounter unprecedented business challenges in their global expansion, we provide them with experienced legal counsel to meet those challenges head on. We are a "next generation" PRC law firm, and we are committed to excellence for our clients.

International: DaHui Lawyers focuses on providing international legal advice of the highest quality. We know the issues of importance and concern for PRC entities as they are looking abroad and we have the international know-how to address those issues. Each of our practice areas extends across national borders, and many of our clients are multinational businesses. Our attorneys have been advising on international legal issues for years. In this regard they are supported by our global network of consultants, advisors, and local counsel to enable us to better handle legal matters worldwide.

Key Practice Areas: Antitrust, Capital Markets, Compliance, Corporate, M&A, Human Resources, Inbound Investment, Intellectual Property, Litigation and Arbitration, Outbound Investment, Education, Energy & Natural Resources, Health Care & Life Sciences, IT & Telecoms, Media & Entertainment, Private

Equity & VC, Real Estate & Construction, Renewable Energy.

事务所简介: 达辉律师事务所是以提供商业法律服务为主的中国律师事务所。立足于北京及上海办公室，达辉为全球客户提供覆盖各法律领域的高品质服务和解决方案。达辉的团队由毕业于中外著名法学院的精英组成，均具有中国或其它国家的律师资格，并有在国内外顶级律师行工作的经验。

达辉用卓越的专业经验和坚实的法律功底满足客户的多样性需求。在多年的法律实践中，达辉的团队亦与中国政府机构建立了密切的专业联系，并积极帮助中国企业实现其海外扩张战略。

客户不仅选择达辉作为最值得信赖的法律顾问，而且将达辉视为拓展中国和全球业务的长期战略伙伴。

达辉宗旨: 为客户提供最高质量的法律服务是达辉一以贯之的宗旨。在日益变化的法律环境中，达辉守正出新，为客户在全球业务拓展中遇到的新问题提供行之有效的创造性解决方案。

达辉秉承戮力同心的团队精神，通过高效的经验交流和内部分工机制，确保客户可以从达辉获得全方位的权威法律意见。

商业效益及客户体验是达辉法律服务的最终目的。我们倾听并深入理解客户的商业诉求，凭借精湛的法律功底为客户提供最优解决方案。

信誉是达辉的立身之本。我们恪守最为严格的职业操守，在中国及国际法律市场树立楷模。我们恪尽职守并持之以恒，以卓越的信誉与客户保持高效的长期合作。

国际法律服务: 达辉致力于提供最高品质的国际法律顾问服务。达辉同时具备中国本土及国际化的丰富经验及宽广视野，是跨国公司开展中国业务以及中国企业步入国际舞台最值得信赖的合作伙伴及顾问。

我们的很多律师具有国外的律师资格，并曾经在国内外顶级律所工作，了解国外的法律体系、商业惯例和文化习惯。他们可以熟练的使用多种语言进行交流。我们的律师团队在很多专业领域中具有提供跨境服务的资深经验，我们的许多客户均在我们的协助下顺利开展了跨国业务。

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我们和很多国外的知名律所有着紧密的合作，我们遍布全球的顾问团队亦为我们的国际业务提供强有力的支持

主要业务领域: 反垄断，资本市场，监管与合规，公司与并购，人力资源，外商投资，知识产权，诉讼和仲裁，境外投资，教育，能源和自然资源，医疗健康和生命科学，信息技术和电信，传媒和娱乐，私募股权和风险投资，房地产和建筑，新能源。

DeHeng Law Offices

德恒律师事务所



Established in 1993 始创于 1993 年

- Director & Chief Global Partner: Wang Li
- Number of partners: 300
- Number of associates: 1004

- 主任、首席全球合伙人：王丽
- 现有合伙人：300
- 现有律师：1004

Firm Overview: DeHeng Law Offices, formerly known as China Law Office (CLO) until 1995, was founded in Beijing in January 1993 with the approval of the Ministry of Justice of the People's Republic of China. It has since grown into one of the largest full-service law firms in China. Ethics and integrity are important to DeHeng professionals, who aim to protect the legitimate rights and interests of their clients and achieve goals of social fairness and justice. With a broad client base and a global service network as well as branches and associates in China and over 150 major cities all over the world, DeHeng has provided legal services to a number of projects with far-reaching social impact, and has been highly recognized in all walks of life. With talented professionals, a multijurisdiction practice, ethical legal values, a wide social network, highly proficient language skills, effective communication, rich information resources and efficient modern offices, DeHeng has created a global network of closely collaborating branches connected to a central platform of service, which can provide comprehensive, high quality and efficient one-stop legal services.

Awards

- In 2015, Beijing Lawyers Association ranked DeHeng Law Offices as a Beijing Outstanding Law Firm.
- In 2014, Beijing Municipal Bureau of Justice and Beijing Municipal Human Resources and Social Security Bureau ranked DeHeng Law Offices as Excellent Law Firm among the Beijing Judicial Administrative Industry.
- In December 2014, Thomson Reuters ranked DeHeng Law Offices 2nd in providing legal services for New Third (OTC) Board.
- In November 2014, Asian Legal Business (Chinese Edition) ranked DeHeng Law Offices as 5th among the Top 25 Local Law Firms in China.
- In November 2014, Asian Legal Business (Chinese Edition) ranked DeHeng Law Offices as 6th among the Top 50 Law Firms in Asia.
- In April 2014, China Business Law Journal selected DeHeng Law Offices as the Best Law Firm for IPOs on the ChiNext Stock Market of the Shenzhen Stock Exchange.
- In February 2014, China Business Law Journal launched its annual China Business Law Awards, and DeHeng Law Offices won the Excellent Annual Firm Award for outstanding performance in the M&A market in 2013.
- In 2012, the Organizational Department of the CPC Central Committee ranked DeHeng Law Offices as a National Advanced Basic-level Party Organization.

- In 2012, Ministry of Justice ranked DeHeng Law Offices as an Excellent Party Organization among the National Judicial Administrative Industry.
- In 2012, the Party Branch of DeHeng Law Offices was awarded the National Advanced Basic-level Party Organization.
- In April 2011, DeHeng Law Offices was awarded the Equity Market Deal of the Year in the 2011 China Law Awards by Asian Legal Business (ALB).

Key Practice Areas: Corporate and Securities, Dispute Resolution, Banking and Insurance, Mergers and Acquisitions, Cross Border Investment, Construction and Real Estate, Competition Law, Intellectual Property, Labor and Social Security, Trade Remedy, International Engineering and Project Financing, Government and Public Service Agencies.

事务所简介: 北京德恒律师事务所是中国规模最大的综合性律师事务所之一, 1993年1月经中华人民共和国司法部批准创建于北京, 原名中国律师事务中心, 1995年更名为德恒律师事务所。德恒首创全球合伙制度, 总部位于北京, 在上海、广州、深圳等地设立了25个国内分支机构, 在纽约、海牙、巴黎等地设立了5个海外分支机构, 并与全球150多家律师事务所建立合作关系, 现已形成遍布中国和世界主要城市的全球服务网络。德恒拥有一流的法律服务队伍, 全球员工1600余人, 专业人士80%以上拥有硕士、博士学位和中国律师资格, 具有在国内外立法、司法、行政机关、大学、研究机构、跨国公司、大型国企及金融证券机构工作的经验。德恒凭借良好的信誉、优质的服务、丰富的全球资源和现代化办公系统, 形成了全球化、网络化、紧密型中心平台服务体系, 能够为国内外客户提供全方位、高质量的一站式综合法律服务。

德恒荣誉

- 德恒被北京市律师协会评为“北京市优秀律师事务所”。(2015)
- 德恒被北京市司法局、北京市人力资源和社会保障局评为“北京市司法行政系统2012-2014年度先进集体”。(2014)
- 德恒在汤森路透评定的“新三板法律服务律所排名”中位居第二。(2014)
- 《亚洲法律杂志》(ALB中国版)杂志公布中国内地前25所律师事务所2014年度最新排名, 北京德恒律师事务所名列中国内地律所第五位。
- 《亚洲法律杂志》(ALB中国版)杂志公布中亚洲前50所律师事务所2014年度最新排名, 北京德恒律师事务所名列亚洲律所第六位。
- 德恒荣获《商法》“深交所创业板IPO项目优秀律师事务所”称号。(2014)

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纽约 • 布鲁塞尔 • 迪拜

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- 德恒在《商法》年度“商法卓越律所大奖”中, 荣获“律所并购大奖”。(2014)
- 荣获中组部“全国创先争优先进基层党组织”。(2012)
- 司法部“司法行政系统创先争优先进党组织”。(2012)
- 德恒党支部被评为“全国创先争优先进基层党组织”。(2012)
- ALB中国法律大奖“年度最佳股票市场项目大奖”。(2011)

主要业务领域: 公司证券、争议解决、金融保险、并购重组、跨境投资、建筑工程与房地产、竞争法、知识产权、劳动与社会保障、贸易救济、国际工程与项目融资、政府与公共服务机构。



中国德和精品律所联盟 (ECLA)

Elite Chinese Legal Alliance (ECLA)

——顺应律师业规模化、品牌化、专业化发展趋势

--Adjustment to the Tendency of Large-scaled, Branded, and Specialized Development in Legal Profession

ECLA现有成员 (Members)

发起所: (以加盟时间为序) **Founding Firms:**

北京德和衡律师事务所 Beijing DHH Law Firm
四川恒和信律师事务所 Sichuan Henghexin Law Firm
福建拓维律师事务所 Fujian Topwe Law Firm

成员所: (以加盟时间为序) **Member firms:**

陕西博硕律师事务所 Shanxi Boshuo Law Firm
山东德衡律师事务所 Shandong Deheng Law Firm
云南天外天律师事务所 Yunnan Tianwaitian Law Firm
辽宁同格律师事务所 Liaoning Tongge Law Firm
北京德和衡(海口)律师事务所 Beijing DHH (Haikou) Law Firm
江西秦风律师事务所 Jiangxi Qinfeng Law Firm
广东同益律师事务所 Guangdong Tongyi Law Firm
江苏茂通律师事务所 Jiangsu Maotong Law Firm
新疆元正律师事务所 Xinjiang Yuanzheng Law Firm
贵州兴科律师事务所 Guizhou Xingke Law Firm
甘肃恒亚律师事务所 Gansu Hengya Law Firm
浙江近山律师事务所 Zhejiang Jinshan Law Firm
天津高地律师事务所 Tianjin Gaodi Law Firm
江西南芳律师事务所 Jiangxi Nanfang Law Firm
北京德和衡(上海)律师事务所 Beijing DHH (Shanghai) Law Firm
北京德和衡(南京)律师事务所 Beijing DHH (Nanjing) Law Firm
北京德和衡(郑州)律师事务所 Beijing DHH (Zhengzhou) Law Firm
北京德和衡(太原)律师事务所 Beijing DHH (Taiyuan) Law Firm
湖南君见律师事务所 Hunan Junjian Law Firm
广西万益律师事务所 Guangxi Wanyi Law Firm
浙江智仁律师事务所 Zhejiang Zhiren Law Firm
青海树人律师事务所 Qinghai Shuren Law Firm
韩国韩星律师事务所 HBL Law Firm
香港杜伟强律师事务所 W.K.TO&CO
湖北高驰律师事务所 Hubei Gaochi Law Firm
西藏珠穆朗玛律师事务所 Xizang Zhumulangma Law Firm
大沧海律师事务所 Dacanghai Law Firm
新疆鼎泽凯律师事务所 Xinjiang Dingzekai Law Firm
宁夏宁人律师事务所 Ningxia Ningren Law Firm

中国德和精品律所联盟(ECLA)最主要合作目的,旨在通过联盟联合业务团队深度交流融合,实现成员所共同业务提升和共同业务收益。我们将以联盟资源整合为起点,以成员间共同业务培训、共同业务标准、共同业务研发、共同业务拓展为主要方式,实现联盟专业法律服务的最大化融合,以为客户提供高质量、全面、专业的一站式法律服务。

The main purpose of the cooperation of ECLA member firms is that all member firms of ECLA promote business and the benefits together through deep communications and sharing of united practice teams in the alliance. With the beginning of integrating all resources of ECLA member firms, in order to offer high-quality, all-sided, professional and one-stop legal services to our clients, we maximize cooperating with each other and mixing all legal services of member firms through methods of the joint legal training, the joint service standard, the joint business research and the joint business development.



中国德和精品律所联盟秘书处 **The Secretariat of ECLA**

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DHH Law Firm

德和衡律师事务所



北京德和衡律师事务所
BEIJING DHH LAW FIRM
Since 1993

Established in 1993 始创于 1993 年

- Managing Partner: Luan Shaohu, Hu Ming, Jiang Qi, Zhang Wen, Li Xuxiu
- Number of partners: 55
- Number of associates: 521

- 管理合伙人：栾少湖、胡明、蒋琪、张文、李旭修
- 现有合伙人：55
- 现有律师：521

Firm Overview: Beijing DHH Law Firm is the head office of Deheng Law Group, one of the largest legal service providers in China.

DHH is dedicated to providing high-quality and client-oriented commercial legal services in China. DHH has eight practice teams, each of which plays a leading role in their respective practice area and has won high recognition from clients in various industries. The firm has been designated as a Legal Service Provider for International Investments by the Ministry of Justice. DHH highly values specialization and teamwork as well as case management and a risk control system. Moreover, it continuously innovates on client services and professional management, and has built up a mature and standardized management mechanism to ensure that clients receive comprehensive, efficient and high-quality legal services.

DHH has consistently adhered to the concepts of opening up, cooperation for mutual benefits and promoting the establishment of the most extensive cooperative mechanism among law firms. To this end, DHH has led the formation of Elite Chinese Legal Alliance (ECLA), one of the largest cross-region cooperation platforms for legal services in China. Currently ECLA has more than 30 member firms located in the major cities of mainland China, Hong Kong and Taiwan, with a total of more than 3,000 lawyers. ECLA is now in the process of globalisation, aiming to develop into a global legal service provider to provide professional cross-border legal services to clients.

Awards

- In 2012 and 2013, Asian Legal Business (ALB) recognized DHH as one of China's Fast 10
- In 2013, Fangyuan Magazine awarded DHH China Top 10 Prominent Law Firm 2013
- In 2013, ALB ranked DHH as one of Asia's Top 50 Largest Law Firms and ALB China 20
- In 2014, Chambers Asia-Pacific ranked DHH as first in Commercial, and first of Beijing's Band 1 Law Firms
- In 2014, ALB awarded DHH the Rising Law Firm of the Year and North China Law Firm of the Year
- In 2014 and 2015, The Lawyer ranked DHH as one of the Asia-Pacific's Top 100 Local Firms

Key Practice Areas: Securities and Capital Markets; Financing; General Corporate; International Trade; Real Estate; Intellectual Property; Government Legal Affairs; Maritime; Criminal Defence.

事务所简介: 北京德和衡律师事务所是中国最大的法律服务机构之一——德衡律师集团在北京创建的总部机构。

北京德和衡律师事务所始终致力于提供中国最优质的商事法律服务,秉持“专业专心、专才专注”的服务理念,以客户需求为核心。北京德和衡律师事务所所以专业化的精英团队为客户提供服务,组建了八大业务中心,是中国最具业务优势的律师服务机构之一,被中国商务部指定为“国际投资法律服务供应商”。北京德和衡律师事务所拥有强大的团队、强大的信息化管理和强大的发展平台,坚持专业分工和团队协作与质量第一,严格保障案件办理流程及风控监督机制,不断创新客户服务和律师管理,积累了成熟的规范管理机制,保障客户能够得到全面、优质、高效的法律服务。

北京德和衡律师事务所始终坚持开放合作共赢,推动建立最广泛的律师合作机制,主导发起组建了国内最大的跨地域法律服务协作平台之一——“中国德和精品律所联盟(ECLA)”,推动国内外律师紧密合作。目前 ECLA 成员律所已达到 30 多家,覆盖了中国两岸三地各省市区域重点城市,成员所律师人数 3000 多人。中国德和精品律所联盟(ECLA)国际化战略逐步展开,正向着以为客户提供一站式、专业化、标准化、国际化法律服务的“全球法律服务供应商”的目标不断迈进。

近年荣誉

- 2012 年至 2013 年,《亚洲法律事务》(ALB)“年度中国律所发展最快前十名”
- 2013 年,《方圆律政》“2013 年度内地最值得关注十大‘锐’律所”
- 2013 年,《亚洲法律事务》(ALB)“亚洲地区前 50 律所”
- 2014 年,《钱伯斯亚太法律指南》(Chambers Asia-Pacific 2014)“北京地区第一等律师事务所”首位
- 2014 年,《亚洲法律事务》(ALB)“最具潜力律师事务所”大奖、“北方律师事务所”“亚太地区律所 50 强”“中国律所 25 强”大奖
- 2014 年至 2015 年,《The Lawyer》杂志“亚太地区律所 100 强”。

主要业务领域: 证券与资本市场、金融、公司、国际贸易、房地产、知识产权、政府法律事务、刑事。

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www.deheng.com.cn

East & Concord Partners

天达共和律师事务所



天達共和律師事務所
East & Concord Partners

Established in 1993 始创于 1993 年

- Managing Partner: Li Dajin
- Number of partners: 70
- Number of associates: Almost 300

Firm Overview: The merger between the East Associates Law Firm and Concord & Partners in 2014 brought into being East & Concord Partners, one of the largest and the most comprehensive law firms in China. East Associates Law Firm and Concord & Partners were established in 1993 and 1995 respectively, and were among the earliest established law firms in China with nationwide influence and reputation. We are headquartered in Beijing and have branches in Shanghai, Shenzhen and Wuhan.

East & Concord currently employs nearly 300 legal professionals, including partners and consultants, all of whom have more than 30 years of experience in the field. Some partners also have experience in government ministries and commissions, courts, the procuratorate, arbitral institutions and foreign law firms.

The majority of our partners and attorneys have gained international qualifications and hands-on experience in law schools and firms in the US, Europe, Australia, Japan, Singapore, Hong Kong and Taiwan. Our working languages include Chinese, English, Japanese and French.

Our clients are worldwide and include multinational companies, state-owned enterprises, publicly listed companies, privately owned companies, foreign invested companies, government offices, public institutions and overseas companies.

Our clients are involved in full range of industries such as banking and finance, securities, insurance, manufacturing, culture, media, sports and entertainment, education and training, advertising, logistics, wholesale and retail, international trade, medicine and health, e-commerce, infrastructure and project financing, mining and natural resources and information technologies.

East & Concord values the relationships we have built with our clients, which are based on mutual trust, adopt an integrated management system and have global vision. We believe that success is rooted in helping others achieve and are committed to providing our clients professional legal assistance. With more than two decades of experience, we have gained a leading position and earned clients' trust and recognition in over 20 practice areas including mergers and acquisitions, securities, capital markets and dispute resolution.

Given our outstanding performance, East & Concord has been awarded and recognized by the Ministry of Justice, Beijing Municipal Bureau of Justice, Chinese Bar Association, arbitral institutions and well known global legal media and rating authorities such as Chambers, The Legal 500, IFLR1000, Asialaw Profiles, Asian Legal Business, China Law & Practice and China Business Law Journal. Our services are widely appreciated by our clients and peers.

While East & Concord are committed to providing high-quality professional legal services, we attach great importance to public welfare undertakings as well. In

- 主任: 李大进
- 现有合伙人: 70
- 现有律师: 近 300

recognition of our dedication to social responsibility, we have been awarded Outstanding Contribution by China Youth Development Foundation for our participation in Project Hope, Excellent Volunteer by the 2008 Beijing Olympic Organizing Committee, Community Public Legal Service Advanced Collective by Beijing Chaoyang District and an honor certificate from Beijing Municipal Bureau of Civil Affairs.

East & Concord has been the legal counsel for Chinese Volunteer Service Foundation and China Youth Development Foundation for the past 10 years. In addition, East & Concord has partnered with the Green and Shine Foundation to improve educational infrastructure in impoverished regions.

Key Practice Areas: Mergers and Acquisitions; Securities and Capital Markets; Dispute Resolution; Criminal Litigation; Banking and Finance; Financial Lease and Commercial Factoring; Antidumping and Countervailing; Antitrust; Intellectual Property; Foreign Direct Investment; Overseas Investment; Sports and Entertainment; Infrastructure and Project Financing; Real Estate and Construction; Energy and Natural Resources; Retail Business and Logistics; Information Technology; Labour Law; Maritime Affairs; Taxation.

事务所简介: 天达共和律师事务所是由原天达律师事务所与原共和律师事务所于 2014 年合并而成立的一家大型综合合伙制律师事务所。原天达律师事务所与原共和律师事务所分别成立于 1993 年及 1995 年, 均为国内最早成立的, 颇具实力和影响力的知名律师事务所。合并后的天达共和, 总部位于北京, 并在上海、深圳、武汉设有办公室。

天达共和现有法律专业人员近 300 名, 其中资深合伙人及顾问均有从业三十年以上的执业经验, 部分合伙人还拥有在国家部委、法院、检察院、国际仲裁机构、国际知名律师事务所工作多年的经历。

相当数量的合伙人及律师曾在欧美、澳洲、日本、新加坡和港台等国家和地区接受过法律教育或有当地法律工作经验。

我们的工作语言包括中文、英语、日语、法语等多种语言。

天达共和的客户遍及全球, 其中包括跨国公司、国有企业、上市公司、民营企业、外商投资企业、政府机关、事业单位以及外国企业等。

我们的客户涉及金融、证券、保险、制造、文化、体育、传媒、娱乐、教育、培训、广告、物流、批发零售、国际贸易、医药卫生、电子商务、基础设施、能源矿产、互联网科技等各个领域及行业和个人。

天达共和坚持信任至上, 实行一体化管理, 具有国际化视野, 拥有“成功, 始于助人成功”的共同愿景, 致力于为客户提供专业化法律服务, 经过二十多年的不断积累及锐意进取, 已经在收购与兼并、资本市场与证券、争议解决等二十多个业务领域取得行业领先地位, 并赢得了客户的高度信任与赞誉。

基于天达共和的优异业绩, 我们获得中华人民共和国

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司法部、北京市司法局、律师协会、仲裁机构以及国际知名法律媒体和权威评级机构的推荐及奖项, 如钱伯斯、亚太法律五百强、国际金融法律评论、亚洲法律评论、亚洲法律事务杂志、中国法律与实践、《商法》等。我们的法律服务也得到了客户及同行的广泛好评。

天达共和在致力于提供高质量专业化法律服务的同时, 始终重视并开展公益事业, 曾被中国青少年发展基金会(希望工程)授予“杰出贡献奖”, 被 2008 年北京奥林匹克组委会授予“优秀志愿者”称号, 连续被北京市朝阳区评为“社会公益法律服务工作先进集体”, 并获得北京市民政局颁发的荣誉证书。

多年来, 天达共和一直是中国志愿服务基金会常年法律顾问, 曾为中国青少年发展基金会(希望工程)担任 10 年法律顾问, 还是北京桂馨慈善基金会的合作伙伴, 并以各种形式支持和帮助改善贫困地区的基础教育环境。

主要业务领域: 收购与兼并、资本市场与证券、争议解决、刑事诉讼、银行与金融、融资租赁与商业保理、反倾销反补贴、反垄断、知识产权、外商投资、海外投资、文化体育传媒、基础设施项目、房地产与建筑工程、能源与自然资源、零售商业与物流产业、互联网科技、劳动法、海商海事、税务。

GoldenGate Lawyers 北京市金阙律师事务所

Established in 2007 始创于 2007 年

- Managing Partner: Tim Meng
- Number of partners: 4
- Number of associates: 16

- 执行合伙人: 孟霆
- 现有合伙人: 4
- 现有律师: 16

Firm Overview: GoldenGate Lawyers specializes in a range of legal services including foreign direct investment, international arbitration and litigation, intellectual property, employment law and family law, and is most noted for its international arbitration and intellectual property expertise. It represents foreign interests in China and has provided legal services to clients such as Columbia Sportswear, IFC, Macquarie, Ogilvy & Mather, Ritz-Carlton and Samsung.

The firm's lawyers combine technical knowledge and commercial awareness to provide the highest quality professional service to clients around the world. Tim Meng has represented around 50 arbitration cases before China International Economic and Trade Arbitration Commission, and quite a few other cases before ICC, DIS and HKIAC. Linda Zhao and Frank Chen specialize in trademark and patent prosecution and enforcement. The Starbucks trademark case and the Ritz vs Rits case were selected as one of the Top 10

IP Court Cases of 2006 and 2008 respectively. The very recent Domino trademark criminal case was recognized as one of the Top 10 IP Cases in Guangdong province in 2014.

Key Practice Areas: General Corporate; IP; Dispute Resolution; Employment; Family Law.

事务所简介: 金阙律所专注于外商直接投资、国际仲裁和诉讼、知识产权、劳动法和家庭法领域,其中以国际仲裁和知识产权领域最为著名。金阙律所主要代表外国在华权益,一直合作的客户有 Columbia Sportswear, IFC, Macquarie, Ogilvy & Mather, Ritz-Carlton and Samsung 等等。

金阙律所的律师凭借其综合专业技术和商业意识为世界各地的客户提供高品质专业服务。孟霆律师已经代理了大约 50 例 CIETAC 仲裁案件,以及一些 ICC, DIS 和 HKIAC 仲裁案件。赵天娟律师和陈建春律师擅长商标和专利诉讼与执行领域。Starbucks 商标侵权案件和 Ritz vs. Rits 案件分别

GoldenGate 金阙

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被评为 2006 年和 2008 年十大知识产权案件。最近的 Domino 商标刑事案件在广东省被评为 2014 年十大知识产权案件。

主要业务领域: 公司法, 知识产权, 争议解决, 劳动法, 家庭法。

Grandall Law Firm 国浩律师事务所

Established in 1998 始创于 1998 年

- Managing Partner: Wang Weidong
- Number of partners: 220+
- Number of associates: 800+

- 执行合伙人: 王卫东
- 现有合伙人: 220+
- 现有律师: 800+

Firm Overview: Grandall Law Firm is a leading full-service corporate and commercial law firm in China. Grandall has a total combined workforce of more than 1,600 people, including PRC licensed attorneys, foreign counsel, paralegals, secretaries and administrative and support staff. Many of its legal experts and professionals are recognized as top practitioners in their fields of specialization, and there are a number of foreign counsel who bridge the gap between East and West. Grandall is the only member firm of Interlex Group in China.

Key Practice Areas: Aviation; Antitrust and Competition; Banking and Finance; Capital Markets and Securities; Corporate, M&A and Restructuring; Dispute Resolution; Employment and Labour; Foreign Direct Investment; Intellectual Property; International Trade; Insurance; Maritime and Maritime Commerce; Outbound Investment; Power, Energy, Natural Resources and Infrastructure; Real Estate and Construction; Tax and Trusts.

事务所简介: 国浩律师事务所是中国最大的跨地域顶尖律师事务所之一。国浩律师事务所拥有外籍法律顾问、执业律师、律师助理、律师秘书及支持人员近 1600 人,现有 220 余名合伙人,90% 以上的合伙人具有硕士、博士学位和高级职称,其中多名合伙人为我国某一法律领域及相关专业之著名专家和学者,开创了我国律师规模化、专业化、团队化之先河。同时,国浩律师事务所是 Interlex Group 在中国唯一的成员所。

主要业务领域: 航空; 反垄断; 银行和金融; 资本市场和证券; 公司业务、并购和重组; 争议解决; 劳动法; 外商投资; 知识产权; 国际贸易; 保险; 海商海事; 境外投资; 电力、能源、自然资源、基础设施; 房地产和建筑; 税务和信托。



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GRANDALL LAW FIRM

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成都 • 宁波 • 福州 • 西安 • 南京 • 南宁
香港 • 巴黎 • 马德里

www.grandall.com.cn

Grandway Law Offices

国枫律师事务所

Established in 1994 始创于 1994 年

- Chief Partner: Zhang Liguo
- Number of partners: 34
- Number of associates: 145

- 首席合伙人：张利国
- 现有合伙人：34
- 现有律师：145

Firm Overview: Grandway possesses a high degree of professionalism and is positioned as leader in many practice areas such as issuance and listing of securities, M&A, restructure, bank and non-bank financing, investment and financing, infrastructure, engineering and real estate and dispute resolution.

With professional, pragmatic, efficient and quality service in mind, we continue to strengthen our existing practices and meanwhile proactively expand by means of customized support to fulfill the ever-developing needs of our clients. Grandway has won praise from clients and community for its rigorous internal control procedures and client centered approach.

Grandway has always being committed to our clients' success and responding to their needs. It provides domestic and international clients with full-scale legal solutions at different levels. Grandway's clients include well-known foreign and domestic enterprises and global corporations ranked among the top 500, state-owned companies and foreign funded enterprises, as well as government facilities and departments at different levels, diverse associations, social organizations and NGOs. Our practice areas cover a wide range of industries.

Key Practice Areas: Securities and Capital Markets; Mergers, Acquisitions and Restructuring; Banking and Finance; Investment and Financing; Corporation; Infrastructure, Real Estate and Construction; Environment, Energy and Resources; Dispute Resolution.

事务所简介: 国枫具有高度的专业特色, 在证券与资本市场、兼并与收购、银行与金融、投融资、工程、地产、基础设施、争议解决等诸多专业领域居于业内领先地位。国枫注重专业的服务品质, 业务能力不仅体现在专业化分工下诸多业务领域全过程的深度法律服务经验, 更体现在综合法律服务为客户所提供的全方位量体裁衣式法律支持上。国枫从不松懈的严格内控机制在业内有口皆碑, 多年来厚积薄发, 深得客户和社会各界的赞誉。

国枫始终以客户需求为第一位, 致力于客户的成功, 热诚为中外客户提供全方位、多层次的法律解决方案。国枫广泛的客户群体既包括世界 500 强的中外知名企业和跨国公司, 也包括众多的大中型国企、外资企业和民营企业, 以及各级政府机构和部门、各类协会、学会和非政府组织。所涉业务领域涵盖了电信、航空、航天、钢铁、矿业、铁路、公路、石油、军工、化工、汽车、电力、公用事业、工程、地产、基础设施、港口、码头、桥梁、隧道、银行、保险、投资、环境、资源、能源、软件、高科技、文化、传媒、体育、医疗、食品、服装、餐饮、娱乐、商业零售、贸易等各个行业。

国枫汇聚了一大批高素质、经验丰富、有理想并勇于实践的专业法律人才。国枫大多数律师毕业于国内外著名法律学府, 诸多律师具有国际知名律师事务所工作经历, 以及证券、金融、保险、房地产、建筑、环境、资源、知识产权等专业背景。国枫强调团队合作, 注重资源共享, 确保客户享受高品质法律服务。

主要业务领域: 证券与资本市场、兼并与收购重组、银行与非银行金融、投融资、基础设施、工程、地产、争议解决。



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Guantao Law Firm

观韬律师事务所



Established in 1994 始创于 1994 年

- Number of partners: 88
- Number of associates: 300

- 现有合伙人: 88
- 现有律师: 300

Firm Overview: Guantao Law Firm, founded in 1994, is one of the pioneer law firms in China. Headquartered in Beijing, Guantao now has branch offices in Shanghai, Shenzhen, Xi'an, Dalian, Chengdu, Jinan, Xiamen, Hong Kong, Tianjin, Guangzhou, Hangzhou and Suzhou, and has good working relationships with law firms in Hong Kong, Macao and other jurisdictions and regions. Guantao has established a strategic alliance with the UK-based international law firm Ashurst. Through the close relationship with Ashurst, Guantao endeavours to continue providing valuable and comprehensive legal services to domestic and international clients on a global platform.

Key Practice Areas: Antitrust; Capital Markets; Corporate/M&A; Real Estate and Construction; Banking and Finance; Dispute Resolution; Restructuring and Insolvency; Energy and Natural Resources; Projects and Infrastructure; Intellectual Property and TMT; International Investment and Trade; Administrative Law; Tax; Life Sciences.

事务所简介: 观韬律师事务所成立于 1994 年,是中国领先的优秀律师事务所之一。除总部北京外,观韬在上海、深圳、大连、西安、成都、济南、厦门、香港、天津、广州、杭州、苏州设有分所。

观韬律师事务所相关专业方面还与境外和港、澳地区的律师行具有良好的业务合作关系。同时与亚司特 (Ashurst) 国际律师行建立了联盟关系。亚司特是一间总部位于英国的国际律师行。通过与亚司特律师行的紧密合作,使我们可以在全球的平台、持之以恒地为我们的国内及国际客户提供有价值的、全方位的法律服务。

主要业务领域: 反垄断、资本市场、公司业务 / 并购、房地产与建设、银行与金融、争议解决、破产重组、能源与自然资源、工程与大型基建、知识产权、电信、媒体和高科技、国际投资与贸易、行政法、税务和生命科学。

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www.guantao.com

Han Kun Law Offices

汉坤律师事务所



Established in 2004 始创于 2004 年

- Number of partners: 26
- Number of associates: 100

- 现有合伙人: 26
- 现有律师: 100

Firm Profile: Han Kun Law Offices is a leading full-service Chinese law firm specializing in crossborder and domestic transactions. Han Kun has been recognized as one of the top tier Chinese law firms in handling private and public financing projects as well as merger and acquisition projects relating to fast growing Chinese private companies. The firm provides its clients with first-class legal services that incorporate the best of both Chinese and Western practices. With the firm's understanding of China's culture and business environment, it is able to deliver practical, cost-effective solutions as well as provide innovative professional advice to assist its clients in achieving their business goals. The firm's working languages include Chinese, English, Japanese, Korean and German.

Areas of Practice: Private Equity and Venture Capital Financings; Mergers and Acquisitions; Capital Markets and Securities; Private Funds; Banking and Finance; Antitrust and Competition;

Foreign Direct Investment; Corporate Restructuring; Energy and Natural Resources; Infrastructure Project Financing and Real Estate; Dispute Resolution; Intellectual Property.

律所简介: 汉坤律师事务所是一家专长于投融资领域法律服务的综合性律师事务所。汉坤以为高速增长企业的私募融资、跨境并购以及公开资本市场交易提供高质量的法律服务而闻名于业界。基于对中国文化和商业环境的充分理解以及对中外法律实务的良好把握,汉坤时刻关注并深刻理解客户的需求,务实妥善地为客户提供实际的解决方案,同时为客户提供具有前瞻性和开拓性的专业建议。多年以来,基于对专业、高质量法律服务的坚持,并通过参与大量交易结构具有独创性、涉及交易金额巨大以及其他具有重大影响力的交易项目,汉坤赢得了客户和业界的广泛认可和褒奖。汉坤的工作语言包括中文、英文、日文、韩文和德文等。

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执业领域: 创业投资和私募融资、兼并和收购、境内外资本市场、基金设立、银行金融、反垄断及竞争法、外商直接投资、企业重组改制、能源与自然资源、基础设施项目融资和房地产项目、争议解决、知识产权。

HaoLiWen Partners

昊理文律师事务所

Established in 2003 始创于 2003 年

- Managing Partner: Parry Zhou
- Number of partners: 10
- Number of associates: 30

- 执行合伙人: 周和敏
- 现有合伙人: 10
- 现有律师: 30

Firm Overview:

- Corporate, commercial, customs, compliance, tax, IP and litigation lawyers
- Integrated resources accessible to every client
- Rich experience in both litigation and consulting services
- Practical legal solutions for commercial concerns

Key Practice Areas: Corporate and M&A; Antitrust and Antibribery; Customs Duties and Investigations; FTA Advice; Intellectual Property; Compliance and Crisis Handling; While Collar Crime; Dispute Resolution; International Trade; Tax; Labour and Employment; Shipping and Logistics; Banking and Project Finance; Energy; Natural Resources and Environment.

事务所简介:

- 公司、商事、海关、合规、税务、知识产权及诉讼律师团队
- 以整体资源优势为每一客户提供服务
- 诉讼与非诉讼兼具的实战经验
- 以法律工具切实解决商业问题

主要业务领域: 公司与并购、反垄断、反商业贿赂、海关及关税、自由贸易区法律服务、知识产权、合规与危机处理、单位刑事犯罪风险咨询与辩护、争议解决、国际贸易、税务、劳动法律服务、航运与物流、金融与项目融资、能源、自然资源及环境。



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www.haoliwen.com

Haiwen & Partners

海问律师事务所

Established in 1992 始创于 1992 年

- Managing Partner: Zhang Jiping
- Number of partners: 32
- Number of associates: 94

- 执行合伙人: 张继平
- 现有合伙人: 32
- 现有律师: 94

Firm Overview: Founded in May 1992, Haiwen & Partners is one of the leading law firms in China. Haiwen is the most sought after PRC law firm in the areas of securities, M&A, private equity, foreign direct investment, antitrust and dispute resolution due to its creativity and experience in large-scale, complicated and crossborder transactions.

Haiwen has around 120 lawyers working at its Beijing and Shanghai offices, many of whom have studied and worked abroad. The depth of its expertise, the breadth of its experience and the excellent team spirit enable the firm to provide a broad range of high-quality services to its clients. The firm's professional services have been widely recognized by its clients and the international legal and financial community. The firm has received numerous awards.

Key Practice Areas: Securities; Mergers and Acquisitions; Private Equity; Foreign Direct Investment; Antitrust; General Corporate; Compli-

ance; Dispute Resolution; Intellectual Property; Banking; Real Estate.

事务所简介: 海问律师事务所创立于 1992 年 5 月, 是一家领先的合伙制的中国律师事务所。海问在广泛的法律服务领域积累了为人称道的经验与专长。基于其在诸多规模巨大、结构复杂和涉及跨境的交易中所体现出的创造性和专业经验, 海问已成为一家在证券发行、兼并与收购、私募股权、外商直接投资、反垄断及商事争议解决等领域最受欢迎的中国律师事务所。

海问目前共有 120 余名律师在北京和上海办公室工作。海问律师毕业于中国和海外优秀的法学院, 许多律师拥有在著名国际律师事务所工作的经历。深厚的专业知识、丰富的实践经验以及出色的团队精神使得海问能为客户提供高质量、全方位的服务。

海问的专业服务得到了境内外客户以及国际法律和金融业内人士的广泛认可。海问曾获得诸多嘉奖。



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Contact 联系人: Wang Jianyong 王建勇

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www.haiwen-law.com

主要业务领域: 证券、并购、私募、外商直接投资、反垄断、一般公司业务、合规、商事争议解决、知识产权、银行、房地产。

Hengdu Law Offices

北京恒都律师事务所



Established in 2009 始创于 2009 年

- Managing Partner: Jiang Fengtao
- Number of partners: 3
- Number of associates: 68

- 管理合伙人：江锋涛
- 现有合伙人：3
- 现有律师：68

Firm Overview: Hengdu Law Offices focuses on high-end IP litigation, and has made great achievements in trademark and patent litigation. Hengdu's years of efforts have been recognized with awards as Fast 10 Firm by Asian Legal Business (ALB) in 2013, Respected Chinese IP Law Firm by the 2nd China IP Focus in 2013, Firm to Watch by ALB in 2015 and Leading Individual by Chambers and Partners in 2015.

Hengdu's clients include governments, associations, SOEs and private companies spread across the energy, petroleum, mining, construction, chemical, electronics, biomedical, transportation, railway, trading, FMCG, bank, real estate, internet, telecommunications and software industries.

Hengdu's team of qualified lawyers have unrivalled litigation experience. The majority have excellent credentials and hold advanced master or PhD degrees. Some have previously served in government, as judges or legal specialists, or have worked in top-tier law firms, research centres and accounting firms. Our working languages include English, Japanese, France, Germany, Korean and Russian, enabling Hengdu to cater to the needs of our international clients.

Hengdu has handled over 1,500 litigation cases over the past six years. Some complex and difficult cases were selected as China's Top 10 IP Litigation Cases in 2010, 2011 and 2014. Some have also been listed as guiding cases or hard cases by the Beijing Municipal Higher People's Court and the Supreme People's Court.

IP is the foundation of Hengdu, and we have cultivated extensive experience through the cases we have handled. A special team will be elected pertaining to every single case so that we can provide better legal services. Led by professional specialists and supported by teamwork, Hengdu's work has been recognized by clients as well as the legal market.

Key Practice Areas: Trademarks; Patents; Copyright; Trade Secret Protection; Unfair Competition; IP Strategic Planning. Our ability in trademark and patent litigation is particularly strong, with a win rate of more than 90% in our core cases.

事务所简介: 北京恒都律师事务所成立于 2009 年, 是一家专注于中国高端知识产权诉讼的律师事务所, 业务领域涵盖商标、专利、著作权, 尤其在商标、专利行政诉讼中取得了卓越成就。多年来, 恒都凭借在知识产权诉讼领域的突出表现, 获得 Asian Legal Business (ALB) 2013 年度“中国十大发展最快的律师事务所”奖项并连续获得 ALB “中国最佳知识产权律师事务所”提名, 获得 2014 年度 MYSIPO “中国十佳专利事务所”, 2015 年度钱伯斯“行业领导者”以及中国知识产权经理人年会的“2014 年度中国杰出知识产权诉讼团队”。

恒都客户包括政府、国际机构、行业组织、世界 500 强、中国 500 强、国际大中型公司、大中型国企、民企等, 涉及市政、能源、石油、矿产、冶金、建材、化工、电力、造纸、农业、生物医药、交通、航空、铁路、汽车、贸易、快消、银行、保险、证券、投行、房地产、互联网、电信、通讯、软件和高新技术等四十多个行业和领域。

恒都拥有一支高素质的律师团队, 现有律师及工作人员 200 余人, 均毕业于国内外知名法学院、商学院及工程学院, 大部分律师拥有博士、硕士学位, 部分律师拥有注册会计师、注册税务师、专利代理人及其他司法区域的执业资格和执业经验。他们当中相当一部分曾经是政府官员、资深法官、专家顾问或曾就职于世界一流的律师事务所、会计师事务所、研究机构、投资银行等。恒都的工作语言包括英语、日语、法语、德语、韩语和俄语, 能为全球不同需求的客户提供法律、财务、政府关系和经营战略的优质服务。

恒都在成立的六年间累计代理的诉讼案件超过 1500 件, 且恒都代理的案件由于案件难度大、案件典型意义强, 入选 2010 年度、2011 年度以及 2014 年度中国十大知识产权案件之一, 代理的多个案件曾被北京高院、最高院列为重点疑难案件、指导性案例。在广受业界美誉下, 代理“2012 年中国专利第一案”。

知识产权是恒都的基石业务, 恒都的经验与能力是独一无二的, 针对每件知识产权案件成立专案小组, 整体负责案件的承办工作, 以“专家领衔、团队作业”服务客户的模式著称。恒都高质量、高效率的法律服务得到了客户的高度认可, 也为恒都今后的发展奠定了坚实的基础。

主要业务领域: 商标、专利、版权、商业秘密、反不正当竞争以及知识产权战略规划等领域。经过恒都人不断的努力, 在商标及专利的诉讼领域取得了卓越的成绩, 恒都核心案件的胜诉率高达 90%。

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浩天信和律师事务所
HYLANDS LAW FIRM

Always back you up

•2015 | Asian Legal Business | Fastest 10 Growing Law Firms in China

•2015 | The Lawyer | Asia-Pacific's Top 100 Local Firms

•2015 | Chambers & Partners | Asia-Pacific Leading PRC Firm in International Trade/ Technology, Media & Telecom/ Intellectual Property

•2015 | Asialaw | Highly-recommended PRC Firm in Competition & Antitrust/ Dispute Resolution/ Intellectual Property/ IT, Telco & Media

- Antitrust •Corporate & Investment •Dispute Resolution •Entertainment & Media
- Energy, Mining & Infrastructure •Finance & Capital Markets •Intellectual Property
- International Trade •Labor & Employment •Real Estate •Wealth Inheritance

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Hylands Law Firm

浩天信和律师事务所



Established in 2007 始创于 2007 年

- Managing Partner: Liu Hong
- Number of partners: 70
- Number of associates: 280

- 管理合伙人：刘鸿
- 现有合伙人：70
- 现有律师：280

Firm Overview: Hylands Law Firm was founded in 2007 through the consolidation of two prestigious law firms, Hao Tian Law Office and Li Wen & Partners, both of which were founded in the mid-1990s.

Headquartered in Beijing, Hylands is capable of advising its clients worldwide with domestic branch offices in Shanghai, Nanjing, Guangzhou, Hangzhou, Wenzhou, Shenyang and Hong Kong, as well as its cooperation with over 150 law firms in more than 100 countries through TerraLex.

A leading full-service law firm in China, Hylands has nearly 70 partners, more than 300 lawyers, paralegals and other professionals. All are graduates of prestigious law schools, and many can work in Cantonese, English, French, German, Italian or Japanese as well as Mandarin.

Recent Awards

- 2015 | Asian Legal Business | Fastest 10 Growing Law Firms in China
- 2015 | The Lawyer | Asia-Pacific's Top 100 Local Firms
- 2012-2015 | Chambers and Partners | Asia-Pacific Leading PRC Firm in International Trade/Technology, Media and Telecom/Intellectual Property
- 2014/2015 | Asialaw | Highly-recommended PRC Firm in Competition and Antitrust/Dispute Resolution/Intellectual Property/IT, Telco & Media/Corporate/M&A
- 2014 | Asian Legal Business | Top 50 Largest Law Firms in Asia
- 2014 | The Legal 500 | Leading PRC Firm in Intellectual Property
- 2014 | Asian-MENA Counsel | Firm of the Year in Telecommunications, Media and Technology in China
- 2014 | Corporate INTL | Cross Border Investment Law Firm of the Year in China
- 2013/2014 | China Business Law Journal | Firm of the Year in Technology, Media & Telecommunications

Key Practice Areas: Dispute Resolution; Intellectual Property; International Trade; Antitrust; Entertainment and Media; Finance and Capital Markets; Corporate and Investment; Real Estate; Energy, Mining and Infrastructure; Labour and Employment; Wealth Inheritance.

事务所简介: 浩天信和律师事务所由北京市浩天律师事务所和北京李文律师事务所, 于 2007 年新设合并组建而成。两家前身事务所均创立于上世纪 90 年代, 并在各自执业领域成绩斐然。

浩天信和总部位于北京, 同时在上海、南京、广州、杭州、温州、沈阳及香港设有分所, 并通过加入 TerraLex 联盟在全球 100 多个国家和地区拥有 150 多家合作律师事务所, 能够为遍布全球的客户提供全方位的专业服务。

作为中国居领先地位的综合性律师事务所, 浩天信和现有近 70 名合伙人和 300 余名执业律师、律师助理及其他专业法务人员, 全部毕业于著名法学院, 并能用普通话、广东话、英语、法语、德语、意大利语或日语进行工作。

近年荣誉

- 2015 | 亚洲法律杂志 | 中国十佳成长律所
- 2015 | 英国《The Lawyer》杂志 | 亚太区 100 强律师事务所 - 第 36 名
- 2012-2015 | 钱伯斯 | 国际贸易 / 传媒通讯 / 知识产权领域 “优秀中国律师事务所”
- 2014/2015 | 亚洲法律 | 反垄断 / 争议解决 / 知识产权 / 技术、通讯与传媒 / 公司并购领域推荐中国律师事务所
- 2014 | 亚洲法律杂志 | 亚洲规模最大的律师事务所前 50 强
- 2014 | 法律 500 强 | 亚太区优秀知识产权律师事务所
- 2014 | 《亚洲法律顾问》| 通讯、媒体及科技领域 “年度最佳中国律师事务所”
- 2014 | 《国际公司事务》| 跨境投资领域 “优秀中国律师事务所”
- 2013/2014 | 《商法》| 科技、媒体及电信领域 “年度卓越律所”

主要业务领域: 争议解决, 知识产权, 国际贸易, 反垄断, 娱乐传媒, 资本市场和金融业务, 公司与投资, 房地产, 能源、矿业和基础设施, 劳动法律事务和财富传承。

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www.hylandslaw.com

Jia Yuan Law Offices

嘉源律师事务所

Established in 2000 始创于 2000 年

- Managing Partner: Yan Yu
- Number of partners: Approximately 20
- Number of associates: Approximately 100

Firm Overview: Jia Yuan, founded in 2000, is a boutique law firm specializing in capital and financial market matters as well as cross-border transactions. It is also well known for its impressive track record in advising thousands of enterprises (including more than 10 Global Fortune 500 companies) in IPO, debt offering, asset restructuring, M&A and investment. Jia Yuan has nearly 20 partners and 100 associates, and has built up a cooperative partnership with a dozen well known firms around the world. Jia Yuan lawyers are well equipped with rich legal knowledge and professional skills. They have profound understanding and extensive practical experience in the field of capital markets, both domestic and abroad. Jia Yuan enjoys a remarkable reputation for its outstanding quality of services and skilled legal solutions. Its services are highly appreciated by clients.

- 管理合伙人：颜羽
- 现有合伙人：约 20
- 现有律师：约 100

事务所简介：嘉源成立于 2000 年，是一家致力于资本市场、金融市场和跨境交易法律服务的精品所，服务涵盖股票、债券、借贷、创新金融、信托、公 / 私募基金、投资、理财、购并、资产管理、企业重组改制、跨境交易、工程承包等众多领域，为上千家机构（包括 10 多家世界 500 强企业）的股票上市、债券发行、重组改制、收购兼并、投资理财、工程承包提供过法律服务。嘉源现拥有合伙人近 20 名、执业律师近百名，与全球十多家优秀律所建立了良好的合作关系。嘉源律师熟悉中国及境外法律，既洞察中国资本市场发展变化，又谙悉国际资本市场运作规则，拥有丰富的执业经验。嘉源因其卓越的服务质量、精湛的专业技能和深厚的职业素养而在业界享有很高的声誉，并成为客户最值得信赖的合作伙伴。



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Jingtian & Gongcheng

竞天公诚律师事务所

Established in 1992 始创于 1992 年

- Managing Partner: Wang Weiguo
- Number of partners: Approximately 80
- Number of fee earners: Approximately 310

Firm Overview: Jingtian & Gongcheng ranks among the oldest and largest private and independent partnership law firms in China, providing all-round commercial legal services. Our lawyers have had experience in leading domestic or international law firms, government departments and leading enterprises. In our extensive law practice, our lawyers have established and maintained close and active working relationships with domestic and foreign lawyers, corporate leaders, government departments, the judiciary, as well as bar associations. Such relationships have proven to be essential for us to provide legal services to our clients.

Key Practice Areas: Securities and Capital Market; Foreign Direct Investment; Banking and Financing; Mergers and Acquisitions; Private Equity and Venture Capital; Outbound Investment; Real Estate; Telecommunications; Media and Technology; Energy and Natural Resources; Infrastructure; Antitrust; Intellectual Property; Labour

- 主任合伙人：王卫国
- 现有合伙人：约 80
- 现有合伙人、律师及律师助理：约 310

Law; Restructuring and Insolvency; Dispute Resolution; Taiwan-related Law Practice.

事务所简介：竞天公诚是中国创办最早、最具规模的合伙制律师事务所之一。自成立以来，竞天公诚一直致力于高效地为客户提供富有深度的、全方位的法律服务。竞天公诚的律师均拥有良好的专业知识背景，很多律师曾在有关政府部门、国内外律师事务所和企业从事法律服务，在相关专业领域积累了丰富的执业经验。在长期的专业工作中，竞天公诚律师与国内外同行和实业界、政府部门、商界、司法界及法律教育界建立并保持着良好的关系，为客户创造了更多的便利。

主要业务领域：证券与资本市场、外商直接投资、银行和融资、兼并与收购、私募投资和风险资本、海外投资、房地产、电信、媒体和科技、能源和自然资源、基础设施、反垄断、知识产权、劳动法、破产、重整与清算、争议解决、台湾法律事务。

競天公誠律師事務所

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JunZeJun Law Offices

君泽君律师事务所

Established in 1995 始创于 1995 年

- Number of partners: 53
- Number of associates: 426

Firm Overview: Over the years, JunZeJun has always focused on system innovation, business innovation and product innovation of China's financial and capital markets. JunZeJun's elite legal team has a market-leading position in China in terms of the establishment, restructuring and reorganisation of financial institutions, structured finance and financial product innovation, particularly regarding the research, development and design of trust products, financial derivatives and other innovative financial products. JunZeJun is also a leading legal service provider in China in areas such as the issuance and listing of securities, private equity investments, industry consolidation, mergers and acquisitions, foreign direct investment, infrastructure and utilities, integration of the healthcare industry, insurance asset management and operation, as well as handling of underperforming assets and real estate.

Key Practice Areas: Financial Markets; Securities and Public Capital Markets; Private Capital Markets, Investment and M&A (including Crossborder

- 现有合伙人: 53
- 现有律师: 426

Investment and M&A); Legal Affairs of Corporate and Commercial Organizations; Tax Law; Real Estate, Infrastructure and Public Utilities (including environmental protection and the circular economy); Dispute Resolution; Intellectual Property Rights.

事务所简介: 君泽君多年来始终专注于中国金融及资本市场的制度创新、业务创新、产品创新。君泽君的精英律师团队在金融机构设立、改组和重组, 结构性融资, 金融产品创新特别是信托产品、金融衍生品及其他创新金融产品的研发设计方面处于中国市场的领先地位; 君泽君律师在证券发行和上市、私募股权投资、产业整合及并购、外商直接投资和并购、基础设施及公用事业、医疗健康产业整合、保险资产管理及运营、不良资产处理、房地产等领域的法律服务中居于国内领先地位。

主要业务领域: 金融市场; 证券和公开资本市场; 私人资本市场及投资并购(含跨境投资及并购); 商业组织法律事务; 税法; 房地产、基础设施及公共事业(含环保及循环经济); 争议解决; 知识产权。

君泽君律师事务所
JunZeJun Law Offices

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www.junzejun.com

Kejie Law Office

柯杰律师事务所

Established in 2009 始创于 2009 年

- Managing Partner: He Jie
- Number of partners: 6
- Number of associates: 20

Firm Overview: Kejie Law Office is one of China's leading boutique law firms. We are a dynamic PRC commercial law firm which specializes in advising domestic and international leading companies, financial institutions and governments on their most challenging transactions.

Our experience in the fields of mergers and acquisitions, corporate and securities law, strategic investments and corporate governance have us regularly handling some of the most complex, demanding and challenging transactions in China. We counsel both public and private acquirers and targets. We also have extensive experience in counselling boards of directors and senior management in the most sensitive situations.

We approach our clients' legal issues always within the larger framework of their strategic, commercial and financial goals. We focus on matters that require the attention, extensive experience, expertise and the reputation of our partners. In order to provide this partner-intensive service, we generally do not

handle routine matters, and we limit the number and type of matters we do undertake.

Key Practice Areas: Mergers and Acquisitions; Private Equity and Venture Capital; Investment Funds; Securities Issuance and Capital Markets; Corporate and Foreign Direct Investment; Financial Regulations; Dispute Resolution.

事务所简介: 柯杰律师事务所是中国领先的精品律师事务所之一。我们专注于为领先的国内和国际公司、金融机构以及政府部门就其最具挑战性的交易提供中国法律服务。

我们在兼并和收购、战略投资、公司法和证券法以及公司治理方面的丰富经验表明我们通常处理中国最复杂、最艰难或最具挑战性的交易。我们提供咨询的收购方和目标公司既有上市公司也有非上市公司。我们在向处于敏感或危机时刻的公司董事会和高级管理层提供咨询方面也具有丰富的经验。

柯杰律师事务所

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我们总是在战略、商业和财务目标的框架下思考和处理客户的法律问题。我们主要处理那些需要合伙人高度关注并依赖合伙人的丰富经验、专业技能以及声誉方能妥善处理的事务。为此, 我们原则上不处理日常法律事务, 并对受托事务的数量和类型均有限制和要求。

主要业务领域: 兼并和收购、私募股权投资与风险投资、投资基金、证券发行和资本市场、公司和外国直接投资、金融规管以及争议解决。

King & Wood Mallesons

金杜律师事务所

KING & WOOD
MALLESONS
金杜律师事务所

King & Wood Mallesons (PRC) was established in 1993
金杜律师事务所 (中国) 成立于 1993 年

- Managing Partner: Wang Ling
- No. of partners: 230+ (PRC) 570+ (Global)
- No. of associates: 1200+ (PRC) 2700+ (Global)
- 管理合伙人: 王玲
- 现有合伙人: 230+ (中国) 570+ (全球)
- 现有律师: 1200+ (中国) 2700+ (全球)

Firm Overview: King & Wood Mallesons (KWM) is a leading law firm rooted in China, with exceptional legal expertise and depth of knowledge in this key market. The firm provides legal solutions to multinational and Chinese clients across a broad range of crossborder and domestic transactions. KWM is also a global law firm, uniquely headquartered in Asia, and with significant scale and strength of legal resources in the world's most dynamic economies. Our global mission is to connect Asia to the world and the world to Asia.

In China, the firm has over 230 partners and 1,200 lawyers with offices in Beijing, Shanghai and Hong Kong as well as in another 10 key commercial centres. Globally the firm has 2,700 lawyers in 30 international offices spanning China, Hong Kong, Japan, Australia, Europe and the US. The King & Wood Mallesons platform combines unique market insights about doing business in and through Asia with scale. We aim to leverage our local and global resources to ensure that wherever our clients are doing business, we deliver the same high quality, commercial and innovative legal service.

We provide comprehensive, one-stop-shop legal services to meet the diverse needs of our clients in China, as well as in Asia and internationally. In China we offer leading practices in Banking and Finance, Corporate M&A and Commercial, Capital Markets and Securities, Dispute Resolution and Litigation, Competition, Trade and Regulatory and Intellectual Property. We also have extensive experience in a number of key sectors and areas of practice including in Financial Services, International Funds, Private Equity, Tax, Energy, Resources and Projects, Real Estate, Healthcare and Arbitration.

Key Practice Areas:

- Banking and Finance
- Corporate, Private Equity, M&A and Commercial
- Dispute Resolution and Litigation
- Projects, Energy and Resources
- Securities
- Competition, Trade and Regulatory
- Intellectual Property
- International Funds
- Real Estate
- Tax

事务所简介: 金杜律师事务所 (简称“金杜”) 是根植于中国市场的领先律师事务所。凭借卓越的法律执业能力和对中国文化的透彻理解, 我们为中外客户就各类境内及跨境交易提供全方位的法律服务。金杜也是唯一一家总部位于亚洲的全球性律师事务所, 在全球最具活力的所有经济区域中都拥有相当的规模和法律资源优势。我们的愿景是让亚洲走向世界, 让世界联通亚洲。

在中国, 金杜拥有 230 名合伙人和 1200 名律师, 办公室分布于北京、上海、香港及其他十个重要的商业中心城市; 在全球, 金杜拥有 30 个办公室和 2700 多名律师, 遍布中国、香港、日本、澳大利亚、欧洲和美国。因此, 金杜平台能够为客户提供在亚洲以及更大范围的开展业务的独到视角及市场洞察力。我们致力于运用我们在本地和全球市场的资源, 来确保我们的客户在他们开展业务的任何地域均能获得同样高品质且具商业化和创新性的法律服务。

我们为客户提供在中国及至全球的全方位、一站式的法律服务来满足他们的多样化需求。在中国, 我们能够在银行与融资、公司并购与商业、资本市场与证券、争议解决与诉讼、竞争法、贸易与合规、知识产权等各个领域都提供领先的法律服务。此外, 在很多行业领域我们同样拥有丰富的经验, 如金融服务、国际基金、私募股权投资、税务、能源、资源与项目、房地产、医疗健康和仲裁等。

主要业务领域:

- 银行与融资
- 公司、私募股权、并购与商业事务
- 争议解决与诉讼
- 工程、能源与资源
- 证券
- 竞争、贸易与监管
- 知识产权
- 国际基金
- 房地产
- 税务

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青岛 • 三亚 • 深圳 • 苏州 • 香港

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纽约 • 硅谷 • 迪拜 • 利雅得 • 东京

www.kwm.com

Lee and Li – Leaven

律盟知识产权代理



Established in 2003 始创于 2003 年

- Executive Director: Wang Yunfang
- General Manger: Edward Liu
- Vice President: Julia Zhong
- Number of patent attorneys: 35
- Number of lawyers: 12

- 执行董事: 王允方
- 总经理: 刘祥和
- 副总经理: 钟红波
- 现有专利代理人: 35
- 现有律师: 12

Firm Overview: Lee and Li – Leaven IPR Agency (Leaven) was established in 2003, with its goal to provide complete, efficient and high-quality IP services throughout the greater China region. Leaven has around 90 patent attorneys, trademark attorneys, lawyers, patent engineers and legal associates.

In light of the same service concept and foresight regarding economic development in the Greater China area, Leaven has formed an alliance with Lee and Li, Attorneys at Law, the biggest law firm in Taiwan, to jointly serve clients' IP needs in the greater China region. Leaven and Lee and Li cowork in the same platform with seamless interfaces to save clients' effort and costs.

Key Practice Areas: Trademark Search and Prosecutions; Copyright Recordation; Domain Names Registration; Patent Prosecutions; Patent Drafting;

Patent Search; IP Assignment and Licensing; IP Customs Recordation; IP Dispute Mediation; IP Infringement Administrative Actions and Litigation; IP Legal Counselling.

事务所简介: 北京律盟知识产权代理有限责任公司成立于 2003 年, 公司的宗旨是因应大中华经济圈的形成和发展, 为客户提供全方位、高效率与高质量的知识产权代理服务。律盟现有约 90 位专利代理人、商标代理人、律师、专利工程师及法务人员等。

基于相同服务理念及对于大中华区域经济发展的预见, 律盟与台湾最具历史规模的理律法律事务所建立了策略联盟关系, 以便共同处理客户在大中华区域内有关知识产权方面的法律服务需求。律盟与理律法律事务所双方在同一工作平台上进行业务处理, 资源共享, 可以有效地节省客户的时间及费用。

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主要业务领域: 商标检索及申请、著作权备案登记、域名登记、专利申请、专利撰写、专利检索、知识产权转让及许可使用、知识产权海关备案、知识产权纠纷调处、知识产权侵权行政查处及诉讼、知识产权相关法律咨询。

Lantai Partners

兰台律师事务所



Established in 2002 始创于 2002 年

- Number of lawyers: 141
- Number of staff: 261

- 现有律师: 141
- 总人数: 261

Firm Overview: Lantai Partners was founded in May 2002. It is a leading comprehensive law firm with profound practice experience in many legal areas.

Lantai Partners has 261 professionals on staff. Lantai Partners attorneys are all outstanding graduates from the most prestigious law schools in China or abroad. The majority have advanced LL.M or Ph.D degree, and some are admitted to practice in New York state, California or Washington DC in the US.

Key Practice Areas: Banking; Bankruptcy and Reorganization; Capital Markets; Crossborder Investment; Dispute Resolution; Finance; Financial Derivatives; Financial Lease; High Tech and Venture Capital; Insurance; International Commerce and Antidumping; Investment; IP Protection; Labour Law; Legal Consulting; Project Finance; Real Estate and Infrastructure; Trusts.

事务所简介: 兰台律师事务所成立于 2002 年 5 月, 是一家大型的、在多个业务领域有丰富实践经验并居于领先地位的综合性律师事务所。

兰台所拥有专业人员 261 人, 兰台所律师均毕业于国内外著名大学的法学院, 且一部分律师具有硕士学位, 部分律师还拥有美国纽约州、加州或华盛顿特区的律师执业资格。

主要业务领域: 资本及负债项下业务、国际贸易及反倾销、跨境投资、高科技与风险投资、知识产权保护、房地产及基础设施、劳动关系、破产及破产重整、信托业务、银行业务、项目融资、融资租赁、金融衍生产品、保险、争议解决、各类法律意见及咨询顾问。

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www.lantai.cn

Llinks Law Offices

通力律师事务所



Established in 1998 始创于1998年

- Managing Partner: David Yu
- Number of partners: 21
- Number of associates: 82

- 执行合伙人：俞卫锋
- 现有合伙人：21
- 现有律师：82

Firm Overview: Llinks Law Offices is a leading PRC law firm with a nationwide and international practice. With offices in Shanghai, Beijing and Hong Kong, we aim to help our clients achieve their business goals and provide professional services of the highest calibre, combining technical excellence with commercial awareness and a practical, constructive approach to legal issues.

Since its founding in 1998, Llinks has consistently been at the forefront of developments in China's legal service market. Llinks has guided many international institutions and multinational corporations through the Chinese legal system, and helped them obtain protection under Chinese law. Llinks' technical skills, imagination and creativity have made it China's leading law firm in asset management, banking and finance, capital markets and corporate finance, corporate and commercial, dispute resolution, financial institutions, intellectual property, mergers and acquisitions, private equity and venture capital, real estate, restructuring, insolvency and bankruptcy, taxation and customs.

Some of the reasons why clients choose Llinks:

- Recognized as a leading PRC law firm by the Asian In-House Handbook, Asian Legal Business, The Legal 500 Asia Pacific, Asialaw Profiles, Chambers Global, Chinalaw Profiles, IFLR 1000 and PLC Which Lawyer?
- Regularly handle crossborder transactions, including "first-in-class" and "best-in-class" transactions
- Experienced in working cooperatively with clients and their consultants
- Provide clients with information on the latest legal and regulatory developments
- Cooperative and collegial work environment
- Creative and business-oriented approach to problem solving

We focus on our core practice areas, and that allows us to provide a greater level of technical skill. Llinks specializes in developing innovative strategies for multinational corporations, financial institutions, investment institutions and leading companies in relevant sectors to achieve their business goals in the Chinese legal environment.

Llinks is also distinguished by its attorneys' international experience. The majority of our partners and many of our associates have overseas educational backgrounds and training or practice experience abroad. Our partners and associates are all fluent in English, and some are fluent in French and Japanese. Such international back-

ground gives us a better understanding of foreign jurisdictions and the international business environment, enabling us to provide our clients with the international-calibre service to which they are accustomed.

Our creativity, skill, international orientation and dedication to service set us apart.

Key Practice Areas: Asset Management; Banking and Finance; Capital Markets and Corporate Finance; Corporate and Commercial; Dispute Resolution; Financial Institutions; Intellectual Property; Mergers and Acquisitions; Private Equity and Venture Capital; Real Estate; Restructuring, Insolvency and Bankruptcy; Taxation and Customs.

事务所简介：通力律师事务所是一家定位于商业领域法律服务的中国领先律师事务所，分别在上海、北京和香港设有办公地点。通力致力于为客户提供最高质量的专业法律服务，以专业上的精湛水准，结合对客户商业需要的充分理解，同时坚持务实但又富有建设性的法律问题处理方法，以帮助客户实现其商业目标。

通力自1998年设立至今，就始终走在金融法律和公司法律发展的最前沿。一直以来，通力为众多国际金融机构和跨国公司客户在复杂多变的法律体系下提供法律指导与服务，协助其在华业务的本土化进程，并为其寻求中国本地法律环境下的保护。通力的专业力、想象力和创造力，使其在短的时间内便迅速成为了在资产管理、银行与金融、资本市场 / 公司融资、公司和商业、争议解决、金融机构、知识产权、收购兼并、私募股权投资 / 风险投资、房地产、破产重整与清算、税务 / 海关等领域的中国法律服务市场领先者。客户选择通力是因为通力：

- 多年来一直被《亚洲公司律师指南》、《亚洲法律杂志》、《亚太法律500强》、《亚洲领先律师事务所指南》、《钱伯斯全球领先律师事务所名录》、《大中华律师事务所与法律市场双语指南》、《国际金融法律评论1000》、《PLC国际领先律师事务所名录》等国际权威法律出版物评为最优秀的中国律师事务所之一；
- 经常处理跨国交易，包括多起市场“首例”及“最佳”交易；
- 在与客户及其顾问的沟通合作方面具备丰富经验；
- 与政府机构紧密合作，为客户提供法律和监管方面的最新动态；
- 友好合作和相互学习的工作氛围；
- 以富于创造性的方式帮助客户实现商业追求，为客户解决问题。

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由于始终坚持在高度专业化业务领域的精益求精，因此我们具备提供更高水准法律服务的专业技能。我们擅长为跨国公司、金融机构、投资机构及行业领先企业制定富有创造性的战略，以专业的眼光帮助客户在中国复杂的法律环境中实现其商业目标。

律师团队丰富的海外经历亦使通力有别于其他中国律师事务所。通力的大部分合伙人及许多业务律师均具有在境外接受教育、培训及执业的经历，能熟练运用英语、法语或日语。这些背景有助于我们更好地理解境外的法律环境及国际商业环境，并使得我们能够为客户提供国际水准的法律服务。

我们的创新能力、专业水准、国际化视野及竭诚奉献的服务态度使我们独树一帜。

主要业务领域：资产管理、银行与金融、资本市场 / 公司融资、公司和商业、争议解决、金融机构、知识产权、收购兼并、私募股权投资 / 风险投资、房地产、破产重整与清算、税务 / 海关。

Longan Law Firm 隆安律师事务所



隆安律师事务所
LONGAN LAW FIRM

Established in 1992 始创于 1992 年

- Managing Partner: Liu Xiaoming
- Number of partners: 150+
- Number of associates: 600+

- 执行合伙人: 刘晓明
- 现有合伙人: 150+
- 现有律师: 600+

Firm Overview: Established in 1992, Longan Law Firm is one of the earliest privately owned law firms in China. Now, Longan, with over 150 partners and almost 700 attorneys working in 17 offices, has been successfully serving clients (many of them are Fortune Global 500 Companies) for over a decade in various industries, including mergers and acquisitions, finance, foreign direct investment and IP. Longan has been recognized as one of the best law firms by China's lawyers associations, The Asian Lawyers and The Legal 500 Asia Pacific. Named one of the national fast development of China top ten law firms by The Lawyer in 2014, Longan also has been ranked in the top 10 largest law firms in China by Asian Legal Business for two years.

Key Practice Areas: Intellectual Property; Capital Markets and Securities; Private Equity and Investment Funds; Banking and Finance; Real Estate and Construction and Infrastructure; Corporate and Business; Mergers and Ac-

quisitions; International Trade; Bankruptcy and Reorganization; Dispute Resolution; Labour and Employment Law; Energy and Natural Resources.

事务所简介: 隆安律师事务所成立于 1992 年, 是中国创立最早的合伙制律师事务所之一。隆安秉承勤勉尽责、竭诚服务的理念, 致力于为客户提供优质、高效的法律服务, 经过二十多年的发展, 已经成为一家在全国 17 个城市设有办公室, 拥有合伙人 150 余人、执业律师近 700 人的综合性律师事务所。隆安为众多大中型包括世界 500 强企业在并购、金融、外商直接投资、知识产权、大型项目等领域提供专业优质法律服务, 多次被全国律师管理机构评为中国最优秀的律师事务所之一、被亚洲法律杂志列入中国最优秀的律师队伍, 被《亚洲律师》认定为中国最好的律师事务所之一, 在《亚太法律 500 强》亦榜上有名。凭借近年来的整体实力, 隆安连续多年位列亚洲法律杂志 ALB 评选的中国律师规模榜单前十强, 并被《The Lawyer》评为 2014 中国十大发展迅猛的律师事务所之一。

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苏州 • 济南 • 南通 • 株洲 • 大连 • 香港
太原 • 杭州 • 武汉 • 贵阳

www.longanlaw.com

主要业务领域: 知识产权、资本市场 / 证券、私募股权与投资基金、银行与金融、房地产 / 建设工程与基础设施、公司 / 商事、并购与重组、国际贸易、破产重整与清算、争议解决、家事 / 财富规划、劳动和雇佣关系、能源与自然资源。

Martin Hu & Partners 胡光律师事务所



Established in 1999 胡光律师团队创建于 1999 年

- Senior Partner: Martin Hu
- Number of partners: 5
- Number of associates: 22

- 首席合伙人: 胡光
- 现有合伙人: 5
- 现有律师: 22

Firm Overview: Martin Hu & Partners (MHP) is a fully licensed Chinese law firm that is adept in high-profile crossborder transactions and international dispute resolutions. With a professional legal team, a collaborative approach, a vast network of colleagues across the globe and a strategy of Sino-foreign collaboration, MHP has been providing comprehensive legal services for a wide range of clients across the world, which includes Fortune 500 companies, publicly-listed companies, dynamic small and medium-sized enterprises as well as prestigious foreign and domestic universities, many of whom are active leaders in their sectors. Since 2010, MHP has been ranked as one of the Leading Law Firms in Chambers and Partners and has been highly recommended as a Leading PRC Law Firm in Corporate and M&A. In recent years, while maintaining a stable growth in the area of foreign legal services, MHP's litigation team has expanded quickly and acquired strong expertise in handling matters concerning transfer

of equity, shareholders disputes, venture capital, long-term supply agreements, investment contracts and other complex commercial disputes.

Key Practice Areas: General Corporate and Business; Dispute Resolution; M&A; Employment and Labour; Education; Capital Market; Antitrust and Competition; Tax Law; Banking and Finance; Intellectual Property.

事务所简介: 胡光律师事务所是一家以擅长处理复杂跨境交易及争议解决案件的中国精品涉外律师事务所, 凭借其优秀的律师团队、广阔的国际合作网络以及两岸、中外律所联盟战略, 胡光所在全球范围内为客户提供高效优质的法律服务。其客户包括诸多世界五百强公司、国内及海外上市公司、高新成长型企业以及海内外闻名遐迩的高等学府等。这些客户遍及金融、新能源、制造加工、网络电信、高科技产业、教育、贸易零售、房地产、食品、医疗、农业等各个领域, 且多为全球范围内的行业

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佼佼者。胡光所自 2010 年起被著名国际权威法律评级机构《钱伯斯》评为中国优秀律所, 同时被誉为“并购及公司法领域中国领先律师事务所”。近年, 胡光所在继续保持涉外法律服务领域专业优势的同时, 其诉讼团队成长迅速, 尤其擅长处理以股权转让、股东争议、风险投资等涉及公司的诉讼争议, 以及企业长期供应合同、投资合同等重大商事争议的疑难案例。

主要业务领域: 公司及商业法律事务、争议解决、企业重组和兼并收购、人事和劳动、教育、资本市场、反垄断及反不正当竞争、税法、银行及金融、知识产权。



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PacGate Law Group

百宸律师事务所

PacGate Law Group

百宸律師事務所

Established in 2005 始创于2005年

- Managing Partner: Justin Chen
- Number of partners: 4
- Number of associates: 20

- 管理合伙人：陈亦工
- 现有合伙人：4
- 现有律师：20

Firm Overview: PacGate Law Group is a law firm focusing on corporate transactions, corporate financing and securities, mergers and acquisitions, technology licensing, intellectual property protection and other legal matters related to business and technology.

We advise corporations and financial institutions on investments and other transactions connected to growing opportunities in China, with a primary focus on capital markets and mergers and acquisitions.

Our team of attorneys qualified in China and the US provide the experience and expertise necessary to support our clients' business growth in the Chinese market.

We take pride in providing clients high quality, customized, value-added and cost effective legal services.

Our focus on each client's specific needs in every single transaction has helped build long-term trusted relationships.

The combination of our local China knowledge and international practice enables us to best serve our clients' goal to succeed in China, whether through foreign direct investment, venture-backed growth or M&A transactions.

Our clients range from large public companies to small-to-mid stage companies.

We have taken part in the growth of our clients from small ventured-backed companies to public companies, supporting their dynamic daily growth as a close advisor and helping to complete multiple rounds of financing and other transactions before the successful listing on US and Chinese stock exchanges.

Our commitment and our experiences continue to provide our clients solid legal support so our they can build successful business ventures in China and beyond.

Key Practice Areas:

- Venture Capital and Private Equity
- IPO and Restructuring
- Mergers and Acquisitions
- Foreign Investment
- Corporate Transactions
- Fund Formation

事务所简介：百宸律师事务所专注于公司交易、融资及证券、并购、技术许可、知识产权保护及其他与商业和技术相关的法律业务。

以资本市场和并购重组为核心，我们帮助客户在中国寻找广阔的成长空间，为公司和金融机构提供的法律服务涵盖投资及其他公司交易等业务。

我们的律师团队由中、美两国律师组成。我们以出色的经验与专长，帮助我们的客户不断拓展中国业务。

我们提供优质、切合客户需要、性价比高的法律服务，这让我们深感自豪。

我们在每一次交易中都用心关注客户的具体需求，这为我们赢得了客户的长期信任与支持。

我们将中国的本土经验与国际经验相结合，为客户提供最切合他们需要的服务，帮助他们通过外商直接投资、风险投资或并购交易等多种途径，在中国取得成功。

我们的客户中既有大型的上市企业，也有中小型企业。

在我们的客户从接受风险投资起步，到成长为上市公司的过程中，我们作为法律顾问为他们护航，见证了他们日新月异的成长。

在我们专业服务的帮助下，我们的客户经过多轮融资等各类交易，由小公司逐步壮大为大公司，直至在美国或中国的证交所成功上市。

我们将以我们的经验以及对客户的忠诚，一如既往地为他们提供坚实的法律服务支持，为他们在海内外的成功助一臂之力。

主要业务领域：

- 风险投资和私募
- 首次公开募股和重组
- 并购
- 外商投资
- 公司交易
- 基金设立

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Run Ming Law Office

润明律师事务所

Established in 2007 始创于 2007 年

- Managing Partners: Wang Yadong, Liu Yi
- Number of partners: 7
- Number of associates: 25

Firm Overview: The Run Ming Law Office ("Run Ming") was established in April 2007 with WANG Yadong and LIU Yi as its key partners.

Our team of lawyers has many years of experience in providing foreign-related, high-quality legal services to our clients, which include major Fortune 500 companies or their Chinese subsidiaries. This breadth of experience is reflected in the scope of our main practice areas, including foreign direct investment, mergers & acquisitions, corporate restructuring and listing, foreign-related dispute resolution, intellectual property, banking and finance, equipment leasing, energy and infrastructure, employment, tax law, etc. We represent a diverse range of clients in areas such as retail, logistics, high technology and software, telecommunications and other new industries, manufacturing, energy, infrastructure and transportation. Our working languages are Chinese and English.

- 执行合伙人：王亚东、刘屹
- 现有合伙人：7
- 现有律师：25

Key Practice Areas: Foreign Direct Investment and M&A; Litigation, Arbitration & Dispute Resolution; Intellectual Property; Banking and Finance; Capital Market; Aircraft and Equipment Leasing; Real Estate and Infrastructure; Labour.

事务所简介：润明律师事务所以王亚东、刘屹律师为核心于 2007 年 4 月成立。

我们的业务以涉外业务为主，长期客户中拥有多家世界排名 500 强的大型跨国公司及其在华下属企业，主要业务领域包括：外商直接投资、兼并收购、企业改制重组；涉外诉讼、仲裁、争议解决；知识产权；银行和融资；资本运营；飞机租赁与设备租赁；基础设施；劳动雇佣；税务法律等。我们具有为零售、物流业、高新技术及软件、电信等新兴产业、传统制造业、能源、交通基础设施等行业提供多元化法律服务的丰富经验。我们可以用中文、英文为客户提供法律服务。



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主要业务领域：外商直接投资与兼并收购业务；诉讼、仲裁、争议解决业务；知识产权业务；银行及融资项目；资本运营业务；飞机租赁业务；房地产与基础设施业务；劳动法律业务。

Sinofaith IP Group

上海新诤信知识产权服务股份有限公司

Established in 2009 始创于 2009 年

- CEO: Sun Kai

Firm Overview: Sinofaith IP Group was established in 2009. We introduced a model combining consultancy and execution with technology and services into the IP service industry, providing one-stop services to diverse clients. Our services include IP management consulting services, protection services, and other related services for the three major IP rights of trademarks, patents and copyrights. We have provided our one-stop IP solutions to more than 200 domestic and international clients, safeguarding all aspects of their IP rights and promoting the value of their intangible assets.

Sinofaith IP Group have established a technical service brand focusing on the IP protection. We independently developed the on-demand software IPR Security Eagle Eye (IPRSEE) and IPRTXT to bring integrated IPR protection solutions by combining online technical solutions with an offline professional service team.

Key Practice Areas: Anticounterfeiting; Intellectual Property Customs Protection; Online Intellectual Property Protection; Litigation Management; Mediation; Creative Content Protection; Trade Secrets Protection; Trademark Legal Services; Intellectual

- CEO: 孙凯

Property Consultancy; Market Research; Intellectual Property Trust; Patent and Copyright.

事务所简介：上海新诤信知识产权服务股份有限公司成立于 2009 年，公司将“咨询与执行”、“技术与服务”相结合的商业模式引入知识产权服务行业，为客户提供“一站式”、服务范围覆盖商标权、专利权和著作权等三大主要知识产权权利类型的知识产权保护管理咨询服务、知识产权保护维权服务以及与知识产权保护相关的其他服务，已累计为二百多家国内外知名品牌提供“一站式”知识产权保护解决方案。新诤信应用 SaaS 模式自主研发了“商标在线监测和维权服务平台 (IPRSEE)”及“文化产业知识产权保护服务平台 (IPRTXT)”，通过“线上技术解决方案”和“线下专业服务团队”相结合的服务体系，为客户提供整体知识产权保护解决方案，形成以知识产权保护为业务核心的科技服务品牌。

主要业务领域：反假冒、海关知识产权保护、互联网知识产权保护、诉讼管理、索赔调解、创意内容保护、商业秘密保护、商标法律服务、知识产权咨询服务、市场研究、知识产权托管、专利 / 版权运营等。



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Tian Yuan Law Firm

天元律师事务所



Established in 1992 始创于1992年

- Managing Partner: Zhu Xiaohui
- Number of partners: 79
- Number of associates: 300+

- 执行合伙人：朱小辉
- 现有合伙人：79
- 现有律师：300+

Firm Overview: Beijing Tian Yuan Law Firm (Tian Yuan) is a general-service Chinese law firm. Founded in 1992, it is one of the earliest partnership law firms in China. The majority of our lawyers have obtained LL.M or Ph.D degrees from top domestic and international law schools. We help clients to bridge cultural and linguistic gaps in their international transactions, using Chinese, English, French, Japanese and Korean as our working languages.

Our commitment to our clients' needs and understanding of their business have been the key factors in our growth and development. Tian Yuan's recent antitrust investigations and antitrust declarations have led the sector and created a number of industry firsts.

Awards

- In 1998, Tian Yuan ranked second among the first group of 20 law firms awarded Outstanding Law Firm at Ministry Level
- In 2003, shortlisted as one of the leading PRC law firms by The Legal 500 Asia Pacific
- In 1998-2004, awarded Beijing Outstanding Law Firm, Satisfactory Law Firm and Outstanding Law Firm of the Year
- In 2005, Tian Yuan was given with the most honours from the All China Lawyers Association (ACLA), awarded as National Outstanding Law Firm and having multiple lawyers recognized: one lawyer as a PRC Outstanding Lawyer, one as a Beijing Outstanding Lawyer and one praised directly by ACLA
- In 2008, awarded National Outstanding Law Firm of the Year 2005-2007 by ACLA
- In 2011, shortlisted for Top 20 Rising PRC Law Firms by Asian Legal Business
- In 2011, recognized as National Outstanding Law Firm of the Year 2008-2010 by ACLA, the third consecutive time that Tian Yuan received this highest honour for a Chinese law firm
- In 2014, named one of the Outstanding Law Firms in Beijing for 2013-2014 by Beijing Municipal Bureau of Justice and Beijing Lawyers Association
- In 2012-2015, recognized as a Pioneering Law Firm in the China Capital Market, M&A, Dispute Resolution and Insurance sectors by Chambers and Partners
- In December 2014, awarded the "Best Legal Adviser of VC/PE RMB Fund Investment" by Zero 2 IPO Group
- In 2015, awarded the Top 5 Excellent Legal Adviser of Private Investment and Risk Investment in China in 2014 by China Venture

Key Practice Areas: Corporate Mergers & Acquisitions; Restructuring and Reorganization; Securities Law and Capital Markets; Foreign Direct Investment; Overseas Investment and Reverse Mergers; Private Equity Financing; Banking Law; Education-related Investment; Intellectual Property; Real Estate Development; Infrastructure Projects; Power Projects and Project Financing; Government Procurement and Project Bidding; Information Technology and Media Services; Entertainment Law and Mass Communications; Natural Resources and Mining; International Trade and Law Compliance; Maritime Law; Sports Law; Dispute Resolution (Commercial Litigation and Arbitration); Insurance; Asset Securitization.

事务所简介：北京市天元律师事务所创立于1992年，是中国成立时间最早和规模最大的合伙制律师事务所之一。天元的绝大多数律师获有国内外著名法学院校的硕士、博士学位，其中，很多律师拥有在国际知名律师事务所或公司法律部门多年的工作或学习经历。天元律师能够以普通话、英语、法语、日语、韩语提供法律服务。

天元一直秉持专业、敬业、勤业的理念，致力于为客户提供高质量、高效率、全方位的法律服务。近年来天元在反垄断调查和反垄断申报领域处于领先地位，并创造了多个业内第一。

近年荣誉

- 1998年，天元被中华人民共和国司法部评为首批20家“部级文明律师事务所”之一，总分名列第二。
- 2003年入选国际权威的律师事务所评价杂志The Legal 500 (Asia Pacific) 评选的在中国领先的若干家律师事务所之一。
- 1998年至2004年，天元均被评为“北京市优秀律师事务所”或“人民满意的律师事务所”或“文明律师事务所”等荣誉称号。
- 2005年，天元被中华全国律师协会评为“全国优秀律师事务所”。同时，还有一名律师被评为“全国优秀律师”、一名律师受到全国律协的嘉奖、一名律师被评为“北京市优秀律师”；天元成为当年获奖最多的律师事务所。
- 2008年，天元被中华全国律师协会评为2005-2007年度“全国优秀律师事务所”。
- 2011年，天元入选《亚洲法律事务》(ALB) 统计评选出的全国律师事务所发展二十强；同年，天元被中华全国律师协会评为“2008-2010年度全国优秀律师事务所”；天元再次被中华全国律师协会评为2008-2010年度“全国优秀律师事务所”，这是天元连续四次获得中国律师界的最高荣誉。
- 2014年，天元被北京市司法局、北京市律师协会评为“2013-2014年度北京市优秀律师事务所”。

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- 2014年12月，天元被清科评为“2014年中国VC/PE人民币基金投资最佳法律顾问机构”。
- 2012-2015年，天元连续被国际权威法律服务排名机构钱伯斯 (Chambers and Partners) 评选为中国资本市场、并购、争议解决和保险领域领先的律师事务所。
- 2015年，天元被投中集团 (China Venture) 评为“2014年中国私募投资和风险投资最佳法律顾问 Top5”

主要业务领域：公司并购与重组、证券与资本市场、外商直接投资、境外投资与反向收购、金融和银行、知识产权、房地产、基础设施建设、项目融资、政府采购与招投标、信息产业、资讯与媒体服务、娱乐与传媒、矿产和自然资源、国际贸易、海商与海事、诉讼与仲裁、保险、资产证券化。

Zhong Lun Law Firm

中伦律师事务所

Established in 1993 始创于 1993 年

- Managing Partner: Wu Peng
- Number of partners: 200+
- Number of associates: 900+

- 管理合伙人：吴鹏
- 现有合伙人：200+
- 现有律师：900+

Firm Overview: Founded in 1993, Zhong Lun is one of the largest law firms providing a complete spectrum of legal services in China. Zhong Lun, with over 200 partners and over 900 professionals working in 12 offices in Beijing, Shanghai, Shenzhen, Guangzhou, Wuhan, Chengdu, Chongqing, Qingdao, Tokyo, Hong Kong, London and New York, is capable of providing our clients with high-quality legal services across a wide range of fields, by virtue of appropriate specialization and close teamwork.

Zhong Lun's outstanding work has achieved broad recognition and its practice groups and lawyers are frequently cited and recommended in their respective markets by distinguished legal media groups such as Chambers and Partners, Asia Law & Practice, Asian Legal Business, International Financial Law Review and others.

Awards:

- Corporate & Financial China PRC Law Firm of the Year (Chambers, 2015)
- National Law Firm of the Year (IFLR Asia Awards, 2015)
- PRC Law Firm of the Year (Chambers, 2011 & 2014)
- Law Firm of the Year (China Business Law Journal, 2014)
- Real Estate Law Firm of the Year-China (Asian Legal Business, 2008-2015)
- Beijing Law Firm of the Year (Asian Legal Business, 2014)
- Domestic Firm of the Year – Real Estate & Construction (China Law & Practice, 2011-2013)
- Leading PRC Restructuring and Insolvency Law Firm (Asian-MENA Counsel, 2014)
- The Most Responsive Domestic Law Firm in China (Asian-MENA Counsel, 2014)
- M&A Deal of the Year (Asian Legal Business, 2014 & 2015)
- Project Finance Deal of the Year (Asian Legal Business, 2015)
- Leading PRC Corporate M&A Law Firm (Asian-MENA Counsel, 2013 & 2014)
- Leading PRC Dispute Resolution Law Firm (Asian-MENA Counsel, 2013 & 2014)
- Private Equity Law Firm of the Year (Corporate Intl Magazine, 2014)
- GAR 100 (Global Arbitration Review)
- Recommended Band 1 PRC M&A Law Firm (Asian Legal Business, 2014)
- Employer of Choice (Asian Legal Business, 2012-2014)

Key Practice Areas: Real Estate; Capital Markets/Securities; Private Equity and Investment Funds;

Corporate and Foreign Direct Investment; Mergers and Acquisitions; Banking and Finance; Dispute Resolution; Intellectual Property; Construction and Infrastructure; Antitrust and Competition; WTO and International Trade; Outbound Investment; Labour and Employment; Taxation and Wealth Planning; Securitization and Financial Products; Bankruptcy and Reorganization; Regulatory and Anti-bribery; Hospitality; TMT; Environmental, Energy and Natural Resources; Shipping.

事务所简介: 中伦律师事务所创立于 1993 年, 是中国规模最大的综合性律师事务所之一。中伦拥有 200 多名合伙人和 900 多名专业人员, 在北京、上海、深圳、广州、武汉、成都、重庆、青岛、东京、香港、伦敦和纽约 12 个城市设有办公室。通过合理的专业分工和紧密的团队合作, 中伦有能力在各个领域为客户提供高质量的法律服务。中伦的服务不断得到客户及同业的广泛好评, 中伦及中伦律师经常得到钱伯斯 (Chambers & Partners)、亚洲法律与实务 (Asia Law & Practice)、亚洲法律杂志 (Asian Legal Business)、国际金融法律评论 (International Financial Law Review) 等著名法律媒体的推荐。

近年荣誉

- 年度中国律师事务所 (公司与金融) (钱伯斯, 2015)
- 年度中国律师事务所 (IFLR 国际金融法律评论, 2015)
- 最佳中国律师事务所 (钱伯斯, 2011 和 2014)
- 卓越律师事务所 (商法, 2014)
- 年度中国房地产律师事务所 (ALB 亚洲法律杂志, 2008-2015)
- 年度北京律师事务所 (ALB 亚洲法律杂志, 2014)
- 最佳房地产与建设工程律师事务所 (中国法律与实务, 2011-2013)
- 最佳破产重组与清算中国律师事务所 (亚洲法律顾问, 2014)
- 年度客户及时反馈最佳国内律师事务所 (亚洲法律顾问, 2014)
- 年度最佳并购项目 (ALB 亚洲法律杂志, 2014 和 2015)
- 年度最佳项目融资 (ALB 亚洲法律杂志, 2015)
- 最佳公司并购中国律师事务所 (亚洲法律顾问, 2013 和 2014)
- 最佳争议解决中国律师事务所 (亚洲法律顾问, 2013 和 2014)
- 年度最佳私募股权律师事务所 (Corporate Intl Magazine, 2014)
- 全球国际仲裁业务领先律师事务所 100 强 (环球仲裁评论, 2014)



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- 中国并购业务第一级别推荐 (ALB 亚洲法律杂志, 2014)
- 中国最佳雇主 (ALB 亚洲法律杂志, 2012-2014)

主要业务领域: 房地产、资本市场 / 证券、私募股权与投资基金、公司 / 外商直接投资、收购兼并、银行与金融、争议解决、知识产权、建设工程与基础设施、反垄断与竞争法、WTO/ 国际贸易、海外投资、劳动法、税法与财富规划、资产证券化与金融产品、破产重整与清算、合规 / 反腐败、酒店 / 旅游开发与运营、信息技术、电信、传媒与娱乐、环境保护、能源与自然资源、海事海商。

Zhonglun W&D Law Firm

中伦文德律师事务所



Established in 1992 始创于1992年

- Managing Partners: Fang Dengfa, Li Gang, Zhen Qinggui, Xia Yuqin, Li Zheng
- Number of partners: 221
- Number of associates: 312

- 管理合伙人：方登发，李刚，甄庆贵，夏欲钦，李铮
- 现有合伙人：221
- 现有执业律师：312

Firm Overview: Founded in 1992, Zhonglun W&D Law Firm has established itself as one of the earliest Chinese law firms approved by the Ministry of Justice. Zhonglun W&D embraces substantial international aspects and is primarily a large-scale law firm keen on providing full services. In addition, we are the first Chinese law firm to set up dual-jurisdictional offices abroad.

The multinational and multilingual nature of our team, consisting of over 533 lawyers and employees, enables us to provide streamlined first-class legal services exclusively to our diverse Chinese and international client base from our strategically placed branch offices around the world. Our working languages include Chinese, English, French, Korean, Japanese and Arabic. Our team is licensed to provide legal advice under Chinese, Anglo-American and Islamic law.

Our ability to quickly get to grips with new developments in businesses and regulation is a key strength to our success. Being a leading Chinese law firm in traditional areas of law does not limit our vision; we also strive to be a frontrunner in advising clients on their most important and challenging assignments in emerging areas such as private equity, structured finance and securitization, crossborder corporate transactions, real estate development and investment trusts.

We only recruit the brightest graduates with outstanding academic records from celebrated universities around the world, and we routinely provide structured, targeted and crossborder training for our team members.

Zhonglun W&D is committed to providing legal advice of the highest quality to our clients. Our firm motto – “diligence and excellence” – underpins our approach and is integral to our success. Combined with our continual investment in innovative ideas, our wealth of experience and expertise in responsibly providing solutions of the best productive efficiency to fit our clients is greatly enhanced.

Key Practice Areas: Corporate and Securities; Finance; Real Estate and Construction; Intellectual Property and Information Technology; International Services; Tax; Foreign Investment in China and Mergers and Acquisitions; Insurance Fund Investments; Trusts and Assets Securitiza-

tion; Domestic and Overseas Listings; Private Equity; Maritime Law; Energy and Environmental Protection; Labour and Employment; Healthcare; Arbitration and Litigation.

事务所简介: 中伦文德律师事务所始创于1992年，是司法部最早批准设立的第一批合伙制律师事务所，经过多年的发展，现已成为一家扎根于中国并面向国际化发展的大型综合性律师事务所，也是中国第一家在英国伦敦和沙特利雅得设立分所的律师事务所。

中伦文德现有执业律师及专业人员533余名，优秀的律师团队和国际化的地域分布使中伦文德能在全中国范围内为客户提供一流的法律解决方案。我们能使用中文、英文、法文、韩文、日文和阿拉伯文等多种语言为客户提供法律服务。服务法系涵盖了大陆法系、英美法系、伊斯兰法系等，在国内处于领先地位。

中伦文德秉承“中大至正，伦理求是，文以载道，诚信为本”的理念，崇尚团队精神，坚持专业化的发展特色，其专业领域除在传统领域能够保持优势外，在新型及热点领域，如私募股权基金（PE）投资和不动产证券化（REITs）等法律业务的研究实践中也一直处于业内的前沿。中伦文德多年以来的出色业绩不仅赢得了境内外客户的认可，同时也得到有关政府管理当局的高度肯定：参与多部法律的起草工作，在“南水北调”、“2008奥运工程”、“川气东送”、“中亚管道工程”等国家级重点项目和国家六十周年庆典重大活动中都相继被委以重任。

中伦文德长期以来秉承“人品、性格、专业和敬业”的用人原则，我们长年吸纳高等学府法学院优秀毕业生，并为律师及律师助理准备了各项专业培训，在事务所内部不同国界的办公室之间施行定期的跨国执业交流。

“严谨专业、高效尽责”始终是中伦文德为客户服务的基本要求，以满足客户各种需求为己任。“团结合作、勤勉创新”不仅是中伦文德人的执业理念，更是我们在不断加强创造力的基础上，对客户负责的表现。

主要业务领域： 公司与证券、金融、房地产与建设工程、知识产权和信息技术、国际业务、税务、外商投资与并购、保险资金运用、信托与资产证券化、海外上市、私募、海事海商、能源环保、劳动人事、医药、诉讼与仲裁等法律业务。

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武汉 • 太原 • 济南 • 广州
深圳 • 西安

Zhonglun W&D Law Firm also has European and Middle Eastern offices in London, Riyadh, Paris, Lyon, Berlin and Hamburg. 此外，中伦文德还在伦敦、利雅得、巴黎、里昂、柏林、汉堡等欧洲和中东地区的主要城市设有办公室。

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LOCAL ROOTS GLOBAL IMPACT

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"Professionalism, competence and transparency" - Global Arbitration Review



BIAC

Beijing Arbitration Commission
Beijing International Arbitration Center

Tel: +86 10 6566 9856

Fax: +86 10 6566 8078

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Address: 16/F, China Merchants Tower,

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Chaoyang District, Beijing 100022, China



Hearing Room

BAC/BIAC Profile

The Beijing Arbitration Commission (BAC), also known as the Beijing International Arbitration Center (BIAC), was established in 1995 as a non-governmental arbitration institution, and became the first self-funded Chinese arbitration institution in 1999. It provides institutional support as an independent and neutral venue for the conduct of domestic and international arbitration and ADR proceedings. It is operated by a Secretariat headed by its Secretary General under the supervision of its Committee. The BAC Arbitration Rules 2015 were unveiled on December 4, 2014, and came into force on April 1, 2015. The 2015 rules widely adopt UNCITRAL Arbitration Rules and further accept up-to-date international practice.

BAC/BIAC Growth

- * From 7 cases filings in 1995 to over 24,000 cases in total by 2014
- * 1500+ new filings on average per year since 2005
- * 600+ international cases in total
- * Parties from various jurisdictions including USA, UK, Germany, Australia, Japan, South Korea, Singapore, Hong Kong and Taiwan, etc.
- * The sum in dispute of around 11.1 billion RMB (approx. 1.8 billion USD or 1.7 billion EUR) per year on average since 2010 with a highest claim amount of 5 billion RMB (Approx. 0.81 billion USD or 0.77 billion EUR) in 2015

Recommended BAC/BIAC Model Clause:

All disputes arising from or in connection with this contract shall be submitted to Beijing Arbitration Commission / Beijing International Arbitration Center for arbitration in accordance with its rules of arbitration in effect at the time of applying for arbitration. The arbitral award is final and binding upon both parties.

Afridi & Angell

Established in 1975 始创于 1975 年

- Managing Partner: Amjad Ali Khan
- Number of partners: 10
- Number of fee earners: 24

Firm Overview: Afridi & Angell is a leading full-service law firm in the United Arab Emirates (UAE). Our history and reputation for quality legal work has made the firm an integral part of the country's legal landscape. Our clients range in size and sophistication from start-ups to some of the region's largest public and private companies, and government institutions. We work extensively with entrepreneurs and investors from the region and beyond, and have attracted numerous international clients looking for the right counsel to protect and expand their interests in the UAE. Afridi & Angell is a member of a number of the top legal networks and associations, most notably Lex Mundi, the world's leading network of independent law firms.

Key Practice Areas: Banking and Financial Services; Corporate and Commercial; Dispute Resolution; Doing Business in the UAE; Employment; Financial Services Regulation; Infrastructure and Project Finance; Insurance; International

- 执行合伙人: Amjad Ali Khan
- 现有合伙人: 10
- 现有律师: 24

Trade Controls and Sanctions; Maritime, Shipping and Transport; Military Procurement and Offsets; Private Equity, Acquisitions; Real Estate and Construction; Venture Capital.

事务所简介: Afridi & Angell 律师事务所是阿联酋一家领先的全方位律师事务所。我们拥有提供高质量法律服务的历史和因此获得的声誉,使我们成为了阿联酋法律环境的重要部分。我们为本地和地区内不同规模和复杂程度的客户提供服务,从新兴公司到许多地区大型上市公司和私有企业以及政府机构。我们与来自本地区 and 世界的企业和投资者进行广泛合作,并吸引了许多希望聘请合适律师保护和扩展其在阿联酋利益的国际客户。Afridi & Angell 律师事务所是许多顶尖法律网络和协会的成员,其中最著名的是 Lex Mundi, 该协会是全球领先的独立律师事务所网络。

主要业务领域: 银行和金融服务、公司法和商法、争议解决、在阿联酋经商、劳动法、金融服务规定、



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A LexMundi Member

基础设施和项目融资、保险法、国际贸易管制和制裁、海商法、航运和运输、军火采购和军品贸易补偿、私募基金、并购、房地产和建筑业、风险投资。

Allen & Overy 安理国际律师事务所

Established in 1930 始创于 1930 年

- Managing Partner: Richard Kim (Beijing & Shanghai)
- Number of partners: 527 (Global)
- Number of lawyers: 2,680 (Global)

Firm Overview: Allen & Overy has been in China since 1987. We have offices in Beijing, Shanghai and Hong Kong. We assist clients in fulfilling their commercial strategies in China, as well as Chinese clients in their outbound investments. Our lawyers in the firm's China offices have a thorough understanding and extensive experience of the practical and legal issues that our clients face in China and outside China.

Allen & Overy is one of the world's leading international law firms, with around 5,000 staff and 527 partners worldwide, spanning 45 major centres in 32 countries across the Asia-Pacific, Europe, the Americas, the Middle East and Africa.

Key Practice Areas: Banking and Finance; Corporate and M&A; Foreign Direct Investment; Private Equity; Real Estate; Energy and Infrastructure; Projects; Restructuring; Regulatory; Dispute Resolution; Antitrust; Telecommunications; Media and Technology; IP and Investment Funds.

- 管理合伙人: 金载焯 (北京和上海)
- 现有合伙人: 527 (全球)
- 现有律师: 2,680 (全球)

事务所简介: 安理国际律师事务所在中国拥有逾 25 年的法务经验,在中国设有北京、上海及香港三个代表处,安理国际律师事务所协助客户针对中国市场进行战略规划与实施,同时也就中国客户的对外投资项目提供法律协助。安理国际律师事务所的律师们对客户在中国及中国之外面临的实际问题 and 法律事项具有透彻的了解和丰富的经验。

安理国际律师事务所是一家国际性律师事务所,全球员工近 5,000 名,527 名合伙人,在 32 个国家、45 个主要中心城市设有代表处,分布于亚太地区、欧洲、美洲、中东地区及非洲。

主要业务领域: 银行和金融; 公司业务 / 并购; 外商直接投资; 私募股权; 房地产; 能源和基础建设; 项目; 重组; 监管业务; 争议解决; 反垄断; 电信、媒体和科技; 知识产权及投资基金领域法律事项。

ALLEN & OVERY

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Doing Business in the Middle East? So are we...

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As the largest law firm in the Middle East, Al Tamimi & Company knows more than just the law. We pride ourselves on understanding the business environment in which we operate, benefiting the clients we work with.

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处办公室

9 Countries
个国家

330 Lawyers
名律师

www.tamimi.com



Al Tamimi & Company

التميمي وشركاه
AL TAMIMI & CO.

Established in 1989 始创于 1989 年

- **Managing Partner: Husam Hourani**
- **Number of partners: 56**
- **Number of associates: 330**

- **管理合伙人: Husam Hourani**
- **现有合伙人: 56**
- **现有律师: 330**

Firm Overview: Al Tamimi & Company is the largest law firm in the Middle East with 16 offices across nine countries.

The firm has unrivalled experience, having operated in the region for over 25 years. Our lawyers combine international experience and qualifications with expert regional knowledge and understanding. Our lawyers speak many languages covering the 46 nationalities that they represent. We have a dedicated China desk led by a Chinese national lawyer.

We are a full-service firm, specialising in advising and supporting major international corporations, banks and financial institutions, government organisations and local, regional and international companies. Our main areas of expertise include arbitration, litigation, banking and finance, corporate and commercial advisory, intellectual property, real estate, construction and infrastructure, and technology, media and telecommunications.

Our lawyers provide quality legal advice and support to clients across all of our practice areas. Our business and regional footprint continue to grow, and we seek to expand further in line with our commitment to meet the needs of clients doing business across the Middle East.

Key Practice Areas:

- Arbitration
- Litigation
- Banking and Finance
- Corporate Commercial Advisory
- Intellectual Property
- Real Estate
- Construction and Infrastructure
- Technology, Media and Telecommunications

事务所简介: Al Tamimi & Company 在 9 个国家设有 16 处办公室, 是中东地区规模最大的律师事务所。

本所深耕中东地区逾 25 年, 积累了无与伦比的执业经验。我们的律师既拥有国际执业经验和资质, 也具有专业的本地执业技能。我们的律师来自 46 个国家, 熟练掌握多种语言。我们专门成立了由中国执业律师领衔的中国业务团队。

本所提供全方位的法律服务, 致力于为大型跨国企业、银行和金融机构、政府组织以及国际性、地区性和本地的公司客户提供专业法律服务。我们的主要业务领域包括仲裁和诉讼、银行和金融、公司和商务咨询、知识产权、不动产、建筑和基础设施以及科技、媒体和电信。

我们的律师能在所有业务领域为客户提供优质的法律服务和支

持。我们致力于满足在中东地区开展业务的客户的法律需求, 且不断扩大自身的业务规模和地区性办公网络以兑现该承诺。

主要业务领域:

- 仲裁
- 诉讼
- 银行和金融
- 公司和商务咨询
- 知识产权
- 不动产
- 建筑和基础设施
- 科技、媒体和电信

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Albuquerque & Associados



ALBUQUERQUE & ASSOCIADOS
LL. LAW FIRM

Established in 1922 始创于 1922 年

- Partner: Alexandre de Albuquerque
- Number of partners: 8
- Number of associates: 27

- 合伙人: Alexandre de Albuquerque
- 现有合伙人: 8
- 现有律师: 27

Firm Overview: Albuquerque & Associados Law Firm has a busy Angolan practice, with a team of lawyers divided between Lisbon and Angola. The team members based in Portugal have special ties with Angola and significant experience in issues and cases relating to Angolan law. The legal staff based in Angola belong to an affiliated firm in Luanda with whom Albuquerque & Associados have a partnership agreement.

These arrangements allow Albuquerque & Associados to advise its national and international clientele investing or based in Angola, covering all of the relevant economic sectors and providing services in most of the common legal areas, notably Corporate Law, Tax and Exchange Law, Foreign Investment, Finance and Banking, Projects, Arbitration, Labour and Human Resources, Oil and Gas and Construction and Real Estate.

事务所简介: Albuquerque & Associados 律师事务所是一家拥有悠久历史的葡萄牙律师事务所, 专门从事安哥拉商事业务。律所之专业律师团队分别位于葡萄牙首都里斯本及非洲国家安哥拉。该所位于里斯本的团队律师拥有资深的安哥拉法律业务经验及网络, 并与安哥拉卢旺达有合作协议之律所紧密合作, 为客户提供优质服务。

正由于 Albuquerque & Associados 的以上安排, 使得该所可以为其本土及国际客户提供有关投资安哥拉之外商投资法律建议。服务范围覆盖所有经济相关行业之公司法、税务及外汇法、外商投资、金融及银行业、项目融资、仲裁、劳动法及人力资源、石油及天然气, 以及建筑和房地产。

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www.albuquerque-associados.com

Anderson Mori and Tomotsune 安德森·毛利·友常律师事务所

Established in 1952 始创于 1952 年

- Number of partners: 122 (Global)
- Number of associates: 266 (Global)

- 现有合伙人: 122 (全球)
- 现有律师: 266 (全球)

Firm Overview: Anderson Mori and Tomotsune is one of big four law firms in Japan, and provides a full range of legal services to corporations, financial institutions and governmental entities. We have attorneys qualified in various jurisdictions around the world – including Japan, the United States, the United Kingdom, Australia and the People's Republic of China, among other countries. Japanese attorneys at our firm are fluent in English, and many of our partners and senior associates have obtained accreditation or training in the US, the UK, France, Australia or the People's Republic of China. We have overseas offices in Beijing, Shanghai and Singapore.

Key Practice Areas: Corporate; M&A; Capital Markets; Finance and Financial Institutions; Real Estate; Labour and Employment; Intellectual Property, Life Sciences and TMT; Competition and Antitrust; Tax; Energy and Natural Resources; Litigation, Arbitration and Dispute Resolution; Bankruptcy and Insolvency and Restructuring; International Trade.

事务所简介: 日本的安德森·毛利·友常律师事务所为 1952 年设立的日本的大规模综合律师事务所。本事务所有约 360 多名日本律师 (辩护士), 10 多名外国注册律师, 10 多名专利商标代理。

安德森·毛利·友常律师事务所主要办公地点在东京都港区元赤坂 1-2-7 Akasaka K-Tower, 并且自 1998 年在中华人民共和国北京市设立代表处, 于 2013 年在上海设立代表处, 向中国、日本及其他国家的跨国企业提供以商法领域为中心的复杂且要求高度专业水平的各种法律业务领域的各种法律服务。

主要业务领域: 公司法务、企业收购和合并、诉讼和仲裁、资本市场、金融规制及其他金融法务、知识产权、劳动法、反垄断法、税务、破产及事业重组等广泛业务。

安德森·毛利·友常律师事务所
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Appleby

毅柏律师事务所

Established in the 1890s, Hong Kong in 1990, Shanghai in 2012
始创于 1890 年代, 香港于 1990 年, 上海于 2012 年

- Group Chair: Frances Woo (Managing Partner, HK)
- Number of partners: 59 (Global)
- Number of associates: 125 (Global)

- 集团主席：胡麟斯（管理合伙人，香港）
- 现有合伙人：59（全球）
- 现有律师：125（全球）

Firm Overview: Appleby is one of the world's largest providers of offshore legal services. With an unparalleled presence in the key offshore jurisdictions of Bermuda, the British Virgin Islands, the Cayman Islands, Guernsey, Isle of Man, Jersey, Mauritius and the Seychelles, as well as a presence in several key international financial centres, including Hong Kong and Shanghai.

With around 280 lawyers and professional specialists, we deliver sophisticated, specialised services, primarily in the areas of Corporate; Dispute Resolution; Private Client and Trusts; and Property. We advise global public and private companies, financial institutions, and high net worth individuals, working with them and their advisers to achieve practical solutions, whether in a single location or across multiple jurisdictions.

Our Greater China Team

Appleby has been covering Asia for over 60 years, with a physical presence for over 25 years in Hong Kong. Our Greater China team comprises 19 lawyers and legal professionals including four partners who act for a broad range of private and institutional clients, including PRC-based and international fund managers, financial institutions, private banks, Asia-based listed companies, Hong Kong and China-based incorporation agents, and high net worth individuals. We understand the needs of clients in this market and our services in China directly complement those provided by international and Chinese law firms with whom we work in parallel for mutual clients.

As the only offshore firm licensed to practise in China, Appleby's Shanghai office offers a fully integrated offshore legal, fiduciary and administration service. China-based clients are able to have a close relationship with us and access the skills of a team with a deep understanding of the regulatory regime in China.

Key Practice Areas: Corporate; Dispute Resolution; Private Client and Trusts; Property.

事务所简介：Appleby 是首屈一指的离岸法律服务提供者。Appleby 凭借在百慕达、英属维尔京群岛、开曼群岛、根西岛、马恩岛、泽西岛、毛里求斯和塞舌尔等主要离岸司法管辖区内拥有得天独厚的网络优势。与此同时，我们在主要国际金融中心，包括香港和上海均设有办事处，为客户提供离岸法律意见。

Appleby 集团于 The Lawyer's 2015 离岸调查报告中获评为全球领先离岸律师事务所之一。本所拥有约 280 名律师和专业人士，专门为客户提供熟练及专业的服务。Appleby 为全球上市公司、私人公司、金融机构及高资产净值人士提供专业意见，不论是单一地区或跨越多个司法管辖区，我们均能全方位协助客户，并与客户及其顾问携手合作制定切实可行的解决方案。

Appleby 的大中华团队

Appleby 在亚洲市场驻足超过 60 年，其香港办事处成立亦已超过 25 载。我们的大中华团队由 19 名执业律师及专业人士所组成，其中包括四位合伙人。大中华团队代表不同领域的私人机构和客户，为他们提供法律服务，其中包括中国和基金的基金经理、金融机构和私人银行，也包括以亚洲为基地的上市企业、香港和中国地区的公司注册代理人，以及高资产净值人士。我们对大中华市场客户的法律需求有着深刻的认知，并且一直与国际和中国的律师事务所并肩合作，直接为共同客户提供法律服务，补足客户在不同法域中的法律需求。

Appleby 是中国唯一成功获授离岸法律咨询服务执照的离岸律师事务所。因此，Appleby 上海代表处有能力向客户提供离岸法律、信托和行政管理的一体化服务。凭着这个优势，对中国监管环境有着深刻了解的 Appleby 专业团队，将会与中国境内的客户建立更加密切的关系。

主要业务领域：企业、争议解决、私人客户与信托以及地产。

APPLEBY

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ARBITRATION CHAMBERS

HONG KONG



Arbitration Chambers Hong Kong brings together arbitration counsel and arbitrators from around the world to form China's first set of chambers dedicated to international arbitration.

香港仲裁事務所汇集了来自世界各地的律师和仲裁员、是中国第一家专攻国际仲裁业务的事务所

www.arbitrationchambershk.com

Tenants of Arbitration Chambers Hong Kong include:



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Arbitration Chambers Hong Kong

香港仲裁事务所

Established in 2012 始创于 2012 年

Firm Overview: Arbitration Chambers Hong Kong brings together experienced arbitration counsel and arbitrators to form China's first set of chambers dedicated to international arbitration.

Tenants of Arbitration Chambers Hong Kong are able to act as arbitration counsel or as arbitrators in ad hoc arbitrations as well as arbitrations held under the rules of institutions such as the ICC's International Court of Arbitration (ICC), Hong Kong International Arbitration Centre (HKIAC), Singapore International Arbitration Center (SIAC), China International Economic and Trade Arbitration Commission (CIETAC), London Court of International Arbitration (LCIA) and the Stockholm Chamber of Commerce (SCC).

The establishment of Arbitration Chambers Hong Kong recognizes the importance of arbitration across Asia and the increasing demand for specialist arbitration services. Arbitration Chambers Hong Kong brings together experienced counsel and arbitrators with a broad array of skills to assist companies and law firms in resolving the increasingly complex and varied commercial disputes in Hong Kong, across the Asia-Pacific and around the world. Tenants of Arbitration Chambers are regularly instructed by law firms, corporate clients and government entities.

Hong Kong is one of the world's leading arbitration centres, and as such, Arbitration Chambers is perfectly placed to deliver arbitration services to businesses and law firms in China, and those doing business with China. Hong Kong's importance is reflected in the fact that it is home to the HKIAC, the first regional Secretariat of the ICC, and the first CIETAC subcommission outside mainland China.

Arbitration Chambers Hong Kong's tenants are independent professionals that operate entirely separately from one another. Tenants are not under any obligation to share or refer work to one another and take all necessary steps to ensure that confidentiality is maintained at all times.

Our offices are located in Central, Hong Kong, within easy walking distance of the HKIAC, the ICC Secretariat (Hong Kong) and CIETAC (Hong Kong).

事务所简介: 香港仲裁事务所将仲裁领域中经验丰富的律师与仲裁员集聚一堂, 形成了中国第一间致力於国际仲裁的事务所。香港仲裁事务所的承租方可以在临时仲裁案件或国际商会、香港国际仲裁中心、新加坡国际仲裁中心、中国国际经济贸易仲裁委员会、伦敦国际仲裁院以及斯德哥尔摩商会仲裁院等仲裁机构受理的仲裁案件中担任仲裁律师或仲裁员职务。

香港仲裁事务所深知亚洲仲裁业务的重要性, 同时也感受到了对专业领域仲裁服务日益增长的需求。香港仲裁事务所集结了世界各地的资深律师与仲裁员, 他们广泛的专业知识与技能可以协助公司和律所解决在香港, 亚太地区及世界各地进行的日渐复杂且多样化的商业争议案件。香港仲裁事务所的承租方常常受聘於律师事务所, 国际公司及政府机构。

香港是全球最重要的仲裁中心之一。因此香港事务所为国内的企业和律所提供仲裁服务有着得天独厚的优势。香港国际仲裁中心的建立, 国际商会第一地区性秘书处香港落成, 以及中国国际经济贸易仲裁委员会在大陆以外的第一处分会在香港落成, 都证明了香港在仲裁领域的重要地位。

香港仲裁事务所的承租方皆为独立专业人士, 均独立执业。承租方没有任何向他人分享或转介业务的义务, 同时会采取一切必要方式来确保其工作的保密性不受侵犯。

我们的办公室位於香港中环, 步行便可抵达香港仲裁中心、国际商会秘书处香港分会及中国国际经济贸易仲裁委员会香港分会。



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 ARBITRATION ASIA



 C/M/S/ Hasche Sigle

Baker & McKenzie

贝克·麦坚时国际律师事务所

Established in 1949 始创于 1949 年

- **Managing Partner: Milton Cheng**
- **Number of partners: 71 (China/Hong Kong) 1,400 (Global)**
- **Number of associates: 165+ (China/Hong Kong) 2,700 (Global)**
- **执行合伙人: 郑维明**
- **现有合伙人: 71(中国及香港地区)/1,400 (全球)**
- **现有律师: 165+(中国及香港地区)/2,700 (全球)**

Firm Overview: Baker & McKenzie defined the global law firm in the 20th century, and we are redefining it to meet the challenges of the global economy in the 21st. We bring to matters the instinctively global perspective and deep market knowledge and insights of more than 11,000 people in 77 offices worldwide.

Baker & McKenzie's China offices have been assisting foreign and domestic companies succeed in Hong Kong, China and globally for over 40 years. The firm is one of the leading and the largest international law firms in Hong Kong and China, providing dedicated legal services to multinational companies and domestic corporations doing business in China, as well as to Chinese state-owned enterprises and regional corporations doing business in the region and internationally.

With our diverse capabilities and experience, we serve clients across all major industry sectors. We are regularly involved in high-profile and first-to-market transactions with blue-chip multinationals and financial institutions, and regularly coordinate significant crossborder assignments emanating from Hong Kong and China for market-leading companies.

In April 2015, Baker & McKenzie became the first and, to date, the only international law firm to be granted a Joint Operation (JO) licence in the China (Shanghai) Free Trade Zone with a local law firm – FenXun Partners. The JO provides responsive and on-the-ground service to multinational and Chinese companies in China as well as local companies investing in other countries.

Awards

- World No. 1 Law Firm Brand in Acritas' Sharplegal® Global Elite Brand Index, 2009-2014
- Ranked No. 1 in Acritas' Sharplegal Asia Pacific Law Firm Brand Index, 2014 & 2015
- International Law Firm of the Year – China Law & Practice Awards 2014
- Best Overall International Law Firm for China Work – China Business Law Journal, China Business Law Awards 2013 & 2014

Key Practice Areas: Antitrust and Competition; Banking and Finance; Dispute Resolution; Employment; Energy, Mining and Infrastructure; Environment and Climate Change; Intellectual Property;

IT and Communications; Mergers and Acquisitions; Pharmaceuticals and Healthcare; Private Equity; Real Estate; Regulatory and Compliance; Securities; Tax; Trade and Commerce; Wealth Management.

事务所简介: 贝克·麦坚时国际律师事务所是 20 世纪律师业务全球化的倡导者, 而今, 本所为应对 21 世纪全球经济的挑战正对其进行重新定义。本所通过全球化的视野、精湛的市场知识以及遍布全球 77 个办事处的 11,000 多名员工, 为客户提供优质的法律服务。

贝克·麦坚时累积了四十多年成功协助国外及本地公司在香港、中国和全球范围内进行投资和开发业务的丰富经验。本所在香港和中国一直是处于领先和规模最大的外资律师事务所之一, 为国外的跨国企业或国内企业在中国的投资以及中国或地区性企业在本地或国际上的业务发展提供专业的法律咨询服务。

正是由于全面而广泛的执业领域和经验, 我们可以为行业领域的客户们提供竭诚的服务。贝克·麦坚时频繁地参与到全球跨国企业或金融机构的重要投资交易项目中, 并且为市场上领先的企业进行涉及香港和中国的重大跨境项目提供有效的协调服务。

2015 年 4 月, 贝克·麦坚时和北京市奋迅律师事务所在中国(上海)自由贸易试验区设立联营办公室并实行联营。这是上海市司法局核准的首家中外律师事务所联营办公室。联营为双方客户搭建了更为完善的处理国际和中国法律事务的平台。

近年荣誉

- 全球排名第一的律所知名品牌 – Acritas Sharplegal® 全球精英品牌索引, 2009 年至 2014 年
- 亚太地区首选律师事务所品牌 – Acritas Sharplegal 亚太律所品牌指南, 2015 年及 2014 年
- 年度国际律师事务所 – 《中国法律与实践》, 2014 年
- 卓越综合实力律所(国际所) – 《商法》卓越律所大奖, 2014 年、2013 年

主要业务领域: 反垄断和竞争法律、银行业务及金融、争议解决、雇用、能源、矿产及基础设施、知识产权、信息技术及通讯、并购、医药及健康、私募股权、房地产、法规及合规、证券、税务、贸易与商务、财富管理。

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Bonn & Schmitt

Established in 1988 始创于 1988 年

- Senior Partner: Alex Schmitt
- Number of partners: 9
- Number of lawyers: 40
- Languages: Dutch, English, French, German, Italian, Spanish, Russian

Firm Overview: Bonn & Schmitt is a leading Luxembourg law firm with an extensive international practice. The firm's attorneys are experienced practitioners in the Luxembourg legal environment and represent a broad spectrum of expertise that allows them to deliver unrivalled legal solutions in one of Europe's leading financial centres.

Awards

- IFLR Europe Awards 2014: Luxembourg Law Firm of the Year 2014
- IFLR Europe Awards 2013: Luxembourg Law Firm of the Year 2013 – Restructuring Deal of the Year Award 2013

Key Practice Areas: Banking, Capital Markets and Regulation (Alex Schmitt, Philipp Moessner, Andreas Heinzmann); Dispute Resolution (Guy Arendt, Alain Grosjean); Corporate (Alex Schmitt, Chantal Keereman, Frédéric Lemoine, Candice Wiser, Marcus Peter); Real Estate (Guy Arendt, Marcus Peter);

- 高级合伙人: Alex Schmitt
- 现有合伙人: 9
- 现有律师: 40
- 工作语言: 荷兰语、英语、法语、德语、意大利语、西班牙语、俄语

Tax (Lionel Noguera); IP and IT (Guy Arendt, Alain Grosjean); Investment Management and Private Equity (Alex Schmitt, Corinne Philippe, Marcus Peter, Frédéric Lemoine); Insolvency and Restructuring (Alex Schmitt, Armel Waisse); Insurance and Reinsurance (Chantal Keereman, Armel Waisse); Employment and Benefits (Guy Arendt, Alain Grosjean).

事务所简介: Bonn & Schmitt 律师事务所是一家处于领先地位并拥有广泛国际业务的卢森堡律师事务所。Bonn & Schmitt 的律师在卢森堡拥有丰富的执业经验，以其广博的专业知识在欧洲著名的金融中心之一为客户提供优质的法律解决方案。

近年荣誉

- IFLR Europe Awards 2014 : 2014 年度卢森堡最佳律所
- IFLR Europe Awards 2013 : 2013 年度卢森堡最佳律所 - 2013 年度最佳重组交易

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主要业务领域: 银行、资本市场及监管 (Alex Schmitt, Philipp Moessner, Andreas Heinzmann); 争议解决 (Guy Arendt, Alain Grosjean); 公司事务 (Alex Schmitt, Chantal Keereman, Frédéric Lemoine, Candice Wiser, Marcus Peter); 房地产 (Guy Arendt, Marcus Peter); 税务 (Lionel Noguera); 知识产权及信息技术 (Guy Arendt, Alain Grosjean); 投资管理及私募股权 (Alex Schmitt, Corinne Philippe, Marcus Peter, Frédéric Lemoine); 破产及重组 (Alex Schmitt, Armel Waisse); 保险及再保险 (Chantal Keereman, Armel Waisse); 雇佣法及员工福利 (Guy Arendt, Alain Grosjean)。

C&A Law

Established in 2009 始创于 2009 年

- Number of partners: 2
- Number of associates: 5

Firm Overview: C&A Law is among the fastest growing law firms in Mauritius, focusing mainly on corporate and commercial work.

C&A Law is recognized as a Leading Law Firm by Chambers Global and IFRL 1000. The firm has also won the Law Firm of the Year from Finance Monthly Global Awards for 2014, the Lawyer Monthly Law Firm of the Year 2013 Award, the IFLR Asia Deal of the Year Award 2012 and the Finance Monthly Deal Maker Award 2012.

Global clients of the firm use Mauritius for their Africa and Asia-bound investments, benefiting from the extensive network of double taxation agreements and other investment agreements that Mauritius has with other countries.

Key Practice Areas: Corporate Law; Commercial Litigation; Crossborder Financing; Insolvency; M&A; Insurance Law; IPO; Employment Law; Derivatives; Financial Services; Regulatory and Compliance; Intellectual Property; Taxation; Trust and Foundation Laws.

- 现有合伙人: 2
- 现有律师: 5

事务所简介: C&A 律师事务所是毛里求斯发展最快的律师事务所之一，我们主要专注于公司法和商业法领域的法律服务。

C&A 律师事务所被 Chambers Global 和 IFRL 1000 评为领先律师事务所，还荣获了 Finance Monthly 的 2014 年度全球大奖，Lawyer Monthly 的 2013 年度最佳律师事务所，IFLR 亚洲 2012 年度律所杰出交易奖以及 Finance Monthly 的 2012 年度杰出交易奖。

C&A 律师事务所遍布于全球的客户利用毛里求斯作为投资非洲和亚洲的平台，从而享受毛里求斯与其他国家已广泛签署的《避免双重征税协定》和《投资协定》。

主要业务领域: 公司法、商事诉讼、跨境融资、破产法、兼并收购、保险法、首次公开发行、劳动法、衍生品交易、金融服务及监管合规、知识产权、税法、信托基金法。



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Cleary Gottlieb Steen & Hamilton 佳利律师事务所

Established in 1946 始创于 1946 年

- Number of partners: 193 worldwide
- Number of lawyers: More than 1,200 worldwide

Firm Overview: A leading international law firm with 16 offices located in major financial centres around the world, Cleary Gottlieb Steen & Hamilton has helped shape the globalization of the legal profession for more than 65 years.

One of the first US-based law firms to establish an office in Asia, we have had an active presence in the region for over 30 years. The Beijing and Hong Kong offices have over 45 lawyers authorized to practise US, Hong Kong or English law. Our clients benefit from the intimate knowledge of local law and business customs that our lawyers bring to every transaction.

Key Practice Areas: The Beijing and Hong Kong offices provide a full range of legal services in the following areas: Capital Markets; Competition and Antitrust; Compliance and Regulatory; Energy and Natural Resources; Fund Formation; Leveraged and Acquisition Finance; Mergers,

- 现有合伙人：全球范围 193 位
- 现有律师：全球范围 1,200 多名

Acquisitions and Joint Ventures, Private Equity; Restructuring; Sovereign Governments.

事务所简介：佳利律师事务所是一家处于领先地位的国际性律师事务所，在全世界主要的金融中心共有 16 处办公室。本所提供全球性法律服务的历史已超过 65 年。

本所是第一批在亚洲设立办公室的美国律所之一，30 多年来在亚洲积极开展业务。约有 45 名律师常驻北京和香港办公室，他们具有美国法、香港法或英国法的执业资格。本所律师精通当地法律和经商惯例，使每项交易的客户受益良多。

主要业务领域：佳利律师事务所的北京和香港办公室在下列领域提供全方位的法律服务：资本市场、反垄断 / 竞争法、合规 / 监管、能源及自然资源、基金设立、兼并、收购及合营、私募股权、重组，以及主权政府。

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www.clearygottlieb.com

CMS, China CMS, 中国

- Managing Partners: Ulrike Glueck (Shanghai), Nick Beckett (Beijing)
- Number of partners: 4
- Number of associates: 20

Firm Overview: CMS has been active in China on behalf of its clients for several decades, and has had an office in China since the mid-90s. We serve clients with our legal and tax expertise in China through our respective representative offices in Shanghai and Beijing. CMS, China provides a complete range of legal advice and services to foreign companies and their subsidiaries doing business in China. We advise in the areas of, *inter alia*, M&A, corporate restructuring, FDI, distribution and commercial, employment, banking and finance, insurance, real estate and construction, technology licenses, IP registration and enforcement, dispute resolution as well as tax and customs. Further, CMS, China assists domestic Chinese companies on their outbound investment projects, including crossborder M&A, listing on foreign stock exchanges, business establishment and commercial issues as well as dispute resolution. Chinese-speaking lawyers are also available in many of our CMS offices around the world. CMS, China has been granted a considerable number of awards since 2013, including Firm of the Year 2013 by China Business Law Awards and Deal of the Year

- 管理合伙人：邬丽福博士（上海代表处），Nick Beckett（北京代表处）
- 现有合伙人：4
- 现有律师：20

2013 by China Business Law Journal.

Key Practice Areas: Banking and Finance; Commercial; Competition; Corporate; Dispute Resolution; Employment and Pensions; Energy; Intellectual Property; Life Sciences; Real Estate and Construction; Tax; Technology, Media and Communications.

事务所简介：CMS 在中国为客户代理业务已有几十年的历史，早在上个世纪 90 年代中期，我们已在中国开展业务。目前 CMS 通过设在上海与北京两地的代表处向客户提供服务。

CMS, 中国为外国公司及其子公司在中国开展业务提供全方位的法律咨询和服务。我们的服务领域包括：兼并收购、企业重组、外商直接投资、分销及商法、劳动法、银行与金融法、保险法、房地产及建筑法、技术许可、知识产权注册及执行、争议解决以及税务和海关法。

此外，CMS, 中国也向致力于赴海外投资的中国公司提供帮助，包括跨境兼并收购、海外上市、在当地设立企业及各类商务事项和协助争议解决等。我们在全球各地的 CMS 办公室有使用中文的律师

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www.cmslegal.cn

为客户提供咨询服务。

CMS, 中国从 2013 年起荣获众多奖项，其中包括中国商法卓越律所大奖颁发的 2013 年度最佳律所及《商法》颁发的 2013 年度最佳交易等。

主要业务领域：银行与金融、商法、竞争法与欧盟、公司法务、争议解决、劳动与养老金、能源、知识产权、生命科学、房地产与建筑、税务、技术、媒体与电讯等。

Cooley

科律律师事务所

Established in 1920 始创于 1920 年

- Partner-in-charge, Shanghai: Christina Zhang
- Number of partners: 5
- Number of associates: 9

- 上海管理合伙人：张扬
- 现有合伙人：5
- 现有律师：9

Firm Overview: Cooley has 850 lawyers across 12 offices in the United States, China and Europe. We are a full-service law firm and represent multi-national high-growth and established companies, as well as investors and investment banks with focus on VC/PE fund formation, technology and life sciences on transformative deals and high-stakes matters, where innovation meets the law. Cooley is widely regarded as the leading law firm in the technology and life sciences sectors internationally, advising clients on corporate, transactional, securities, regulatory and litigation matters. We represent 5,000+ high-growth private companies, 500+ publicly-traded companies, 325+ investment organizations, and our clients comprise over 35% of the companies listed on the Wall Street Journal Billion Dollar Startup Club. The Cooley team has advised on more US venture capital-backed IPOs than any other law firm in the last three years, is recognized as No.1 in the US for number of venture capital funds formed and is consistently recognized as No.1 in the BioPharm Insight Global Licensing League tables for biotechnology and pharmaceutical licensing transactions.

Cooley's lawyers serve Greater China-based and multinational clients with operations in China, and also assist US-based companies and investors with their entry into the Chinese markets in a variety of sectors. Cooley's full-service platform, unmatched by any other law firm, gives us a unique ability to assist our clients in understanding the market, meeting and exceeding their business objectives and obtaining the very best outcome.

Key Practice Areas: Key practice areas in Cooley's Shanghai office include:

- Emerging Companies
- Venture Capital
- Private Equity
- Life Sciences Regulatory
- Life Sciences Corporate Partnering and Licensing
- Capital Markets
- Mergers and Acquisitions
- Public Companies
- FCPA
- Antitrust and Competition
- Employment and Compensation and Benefits
- Trade Compliance
- Government Investigations
- Joint Ventures
- Environmental
- Commercial Litigation
- Intellectual Property

事务所简介：科律在美国、中国和欧洲设有 12 个办事处，共 850 位律师。本所是一家提供全方位服务的国际律师事务所，代表聚焦于风险投资 / 私募股权基金设立、技术和生命科学领域的跨国的高成长型公司、知名企业以及投资人和投资银行，处理各类变革性交易和高风险法律事宜。

科律被广泛公认为国际上技术和生命科学行业领先的律所，就公司、交易、证券、监管和诉讼事宜为客户提供法律建议。本所目前担任 5,000 多家高成长型非上市公司、500 多家上市公司和超过 325 家投资机构的法律顾问，并且本所的客户里面包括“华尔街日报十亿美元初创公司俱乐部”中 35% 以上的公司。科律团队在过去三年内参与的美国风险资本支持的 IPO 数量多于任何其他律所，帮助设立的风险投资基金数量全美排名第一，并一直在“生物医药风云全球许可交易排行榜”的生物技术和医药行业许可交易排名中持续占据榜首。

科律的律师服务于大中华区客户以及在中国经营业务的跨国公司客户，并在各行各业协助美国公司和投资人进入中国市场。科律无与伦比的全方位服务平台赋予我们以独特的能力，来帮助客户理解市场，满足和超越客户的商业目标，并收获最佳成果。

早在 1989 年，科律就开始为大中华区相关事宜提供法律建议，当时我们的团队曾就首只对华投资的机构风险投资基金的设立提供法律建议。从那时起，科律始终积极地为美国、大中华区和全球客户提供跨境基金设立、融资、证券、并购和合资交易方面的法律咨询。此外，本所也为一批大中华区公司和个人提供诉讼事务方面的法律咨询，内容涉及商业合同争议、产品责任集体诉讼、反垄断事宜、内部调查、商标和域名争议等。

本所的大中华区团队深刻了解中国的法律制度、实务和文化，团队中有多名中国本土出生、以普通话为母语的律师。

主要业务领域：科律上海代表处的主要执业领域包括

- 新兴公司
- 风险投资
- 私募股权
- 生命科学行业监管
- 生命科学行业公司合作与许可
- 资本市场
- 并购
- 上市公司
- 美国《反海外腐败法》
- 反垄断与竞争
- 劳动事宜及薪酬和福利
- 贸易合规
- 政府调查

Cooley 科律

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Covington & Burling

科文顿·柏灵律师事务所

Established in 1919 始创于1919年

- Chair of the firm's Management and Executive Committees: Timothy Hester
- Number of partners: 270
- Number of associates: 421

- 管理和执行委员会主席：何思德
- 现有合伙人：270
- 现有律师：421

Firm Overview: In an increasingly regulated world, Covington & Burling has an exceptional ability to help clients navigate their most complex business problems, deals and disputes. The firm's distinctively collaborative culture allows for truly one team globally, drawing on the diverse experience of lawyers and advisors across the firm by seamlessly sharing insight and expertise. This enables Covington to create novel solutions to its clients' toughest problems.

Key Practice Areas: Our American and international clients look to us for advice and judgment on a broad array of legal issues. For Chinese and other Asian clients seeking to do business in the United States, our lawyers can provide expert and specialized assistance in many areas, including:

- The Committee on Foreign Investment in the US (CFIUS) in connection with investments and acquisitions in the United States
- Regulatory and policy matters in such key areas as pharmaceuticals, energy, telecommunications, banking and finance, transportation, intellectual property, product safety and liability, trade and antitrust matters
- Legislative and executive branch matters in Washington DC and state capitals
- Media and communications issues
- Corporate governance, securities disclosure and other US and international securities and financial compliance issues
- Foreign corrupt practices matters
- Export control issues
- Transactions, including mergers and acquisitions
- Litigation
- Tax matters
- Patent litigation and the acquisition and licensing of intellectual property rights
- Environmental policy and mitigation
- Carbon markets and climate change issues
- Bankruptcy and insolvency
- Life sciences transactions and licensing

Through our Brussels and London offices, Covington also assists Asian and US clients with their needs in Europe in a wide variety of areas, including:

- EU regulatory and policy matters
- Expertise in trade, state aid, customs, competition and data protection

- Expertise in key regulated areas such as chemicals, IP and pharmaceuticals
- Transactional and tax capabilities

事务所简介：在全球监管愈来愈严格的环境下，科文顿·柏灵律师事务所拥有超群的能力帮助客户处理最复杂的跨境商业问题、交易和争议。本所特有的团队协同文化使得我们能够在全球真正地以一体化运作，通过紧密的合作分享其真知灼见和专业知识，使全所律师和顾问的多样化经验优势得以实现。这也使得科文顿能够为其客户不断创设出新的解决方案。

主要业务领域：我们的美国客户和国际客户向我们寻求各种法律问题的建议和判断。对试图进入美国市场的中国客户和其他亚洲客户而言，我们的律师能够在众多领域提供专业和专门的服务，其中包括：

- 涉及美国外国投资委员会 (CFIUS) 审查的投资和收购
- 制药、能源、电信、银行及金融服务、交通、知识产权、产品安全和责任、贸易和反垄断等重要领域的监管和政策问题
- 华盛顿特区和各州首府的立法和行政事宜
- 传媒和通信事宜
- 公司治理、证券披露及其他美国和国际证券和金融合规事宜
- 反海外腐败法事宜
- 出口管制事宜
- 交易，包括并购
- 诉讼
- 税收事宜
- 专利诉讼以及知识产权获得和许可
- 环境政策和影响减轻
- 碳市场和气候变化事宜
- 破产和资不抵债
- 生命科学交易和许可

我们还通过我们的布鲁塞尔和伦敦办公室协助亚洲和美国客户处理其在欧洲的各个领域的需求，包括：

- 欧盟监管和政策事务
- 贸易、国家援助、海关、竞争和数据保护事务
- 化工、知识产权和医药等受管制的领域关键事务
- 交易和税收能力

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www.cov.com

Dorsey & Whitney

德汇律师事务所

Established in 1912 始创于 1912 年

- Asia Pacific Practice Co-head: Peter Corne
- Number of partners: approximately 270
- Number of associates: approximately 280

Firm Overview: For over 100 years, clients have relied on Dorsey & Whitney as an insightful and creative business partner. Dorsey has consistently been ranked among the best for client service in numerous independent surveys. The firm is active in over 60 practice areas, including a top-ranked cross-border M&A practice: since 1994 Dorsey has ranked in the top ten global law firms for the number of US M&A deals completed annually. Dorsey's China practice serves clients across a range of industries, including cleantech and renewable energy, food and agribusiness, health-care and medical devices, financial services, chemicals and mining and resources. Mainland China offices (Shanghai and a new office in Beijing due to open this year) are staffed by Western-trained lawyers who have practiced in China for most of their careers, and China-trained lawyers familiar with Chinese and Western law. A full-time translation team completes our all-round service to clients.

Key Practice Areas: Food and agribusiness, cleantech and clean energy, consumer and retail, health care, international dispute resolution, life sciences, mining and resources, banking and financial services.

事务所简介: 百年以来, 客户信赖美国德汇律师事务所作为其具有洞察力及创新力的业务合作伙伴。德汇的客户服务在众多独立调查中一直排名最优。我所活跃于 60 多个业务领域, 包括排名领先的跨境并购业务。1994 年以来, 德汇一直被评为全美年度已完成并购交易数量方面的前十大国际律所之一。德汇中国业务团队为跨行业的客户提供法律服务, 包括清洁技术和可再生能源、食品与农业、医疗保健与医疗器械、金融服务、化学、矿业和资源领域。中国大陆代表处(上海和今年即将开业的北京代表处)由受西方教育且其大部分职业生涯在中国执业的律师和受中国教育且熟悉中西法律的律师组成。一支专职翻译团队让我们为客户提供全方位服务。

主要业务领域: 农业、清洁技术、消费与零售、医疗保健、国际争议解决、生命科学、矿业与资源、银行业与金融服务。



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Freshfields Bruckhaus Deringer

富而德律师事务所

Established in 1743 始创于 1743 年

- China Chairman: Teresa Ko
- Number of partners: More than 420
- Number of associates: More than 2,500

Firm Overview: Freshfields Bruckhaus Deringer is a global law firm with a longstanding track record of successfully supporting the world's leading national and multinational corporations, financial institutions and governments on ground-breaking and business-critical mandates. Our 2,500-plus lawyers deliver results worldwide. We have had a significant presence in China for more than 25 years. From our offices in Beijing, Shanghai and Hong Kong we are well positioned to support you on all aspects of your business in China. We offer you a winning combination of legal skills, market knowledge, cultural awareness and commercial judgment. Our M&A team has led the league tables in greater China since 2005, and our capital markets team has advised on most of the landmark IPOs in Hong Kong.

Key Practice Areas: China Outbound Investment; Corporate; Banking and Finance; Competition and Anti-trust; Disputes, Litigation and Arbitration; Intellectual Property and Information Technology; Employment.

- 中国区主席: 高育贤
- 现有合伙人: 逾 420
- 现有律师: 逾 2,500

事务所简介: 富而德律师事务所是一家全球性律师事务所, 成功协助世界领先的国内和跨国企业、金融机构和政府机构处理过重大而具有里程碑意义的项目, 长期居于市场领先地位。本所拥有 2,500 多名律师, 在亚洲、欧洲、中东和美国等 15 个国家和地区的 27 个代表处, 为最多元化的政治和经济组织提供最高端的法律服务。

富而德早在 1985 年就在香港设立办事处, 在 90 年代成立北京、上海代表处, 共拥有 200 多名律师, 25 名合伙人。我们被公认为在国际律师事务所中拥有实力最雄厚的中国团队之一, 致力于中国企业境外投资和外国企业对华投资提供全方位法律服务。富而德在代表中国企业的对外投资、并购和资本市场项目方面具有丰富的经验, 业绩居于市场领先地位。

主要业务领域: 公司事务、境外投资、并购与合资; 证券与资本市场; 反垄断、竞争法和国际贸易; 争议解决(诉讼与仲裁); 金融与银行; 劳动法; 税法。



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www.freshfields.com

GRATA Law Firm

格拉塔 GRATA 律师事务所

Established in 1992 始创于 1992 年

- Chief Representative in China: Gulnur Nurkeyeva
- Number of partners: 26
- Number of associates: 101

- 中国业务发展主任：姑玲
- 现有合伙人：26
- 现有律师：101

Firm Overview: GRATA is recognized as the largest independent regional law firm focusing on countries in the Commonwealth of Independent States (CIS). GRATA has over 120 lawyers in 18 offices. Since its establishment in 1992, GRATA has provided both corporate and governmental clients with the highest quality legal advice and commercial business solutions, based on GRATA's core values of professionalism, objectivity, honesty, responsibility, confidentiality and close cooperation with clients. More than 20 years of successful experience practicing law, a deep and comprehensive knowledge of the local business environment and a clear understanding of clients' needs help GRATA add real value at all stages of a project, from initiation to execution. Our reputation as the most reliable advisor in the region based on a highly developed combination of our operational capacity, regional network of offices, strong local expertise, international standards of services and competitive fee structure. We have commercial awareness, we are creative and we stay open and flexible. In 2014, GRATA's quality management system was certified as ISO 9001:2009 compliant. GRATA also has the certificate of voluntary insurance of civil-legal liability in legal activities. GRATA lawyers have been recognized by leading international ratings including The Legal 500, Chambers Global, Chambers Asia-Pacific, IFLR1000, Who's Who Legal and Asialaw Profiles.

Awards

- Highly Recommended, Construction & Real Estate 2014, Asialaw Profiles
- Highly Recommended, IT, Telcom & Media 2014, Asialaw Profiles
- Band 1 Dispute Resolution Practice in Kazakhstan 2014, Chambers Global
- Energy Law Firm of the Year 2013, Acquisition International M&A Awards
- Best Natural Resources Team of the Year 2012
- Construction and Infrastructure Team of the Year 2011
- Best Kazakhstan Law Firm, 2011
- M&A Transaction of the Year 2009 (China Law Awards, ALB Law Awards)
- The Best Project Finance Deal of the Year by the ALB Law Awards 2009.

Key Practice Areas: Natural Resources, Industry and Trade, Banking and Finance, Telecommunications and Transportation, Construction and Infrastructure, Finance and Securities, Corporate Law, Labour Law, Subsoil Use, Real Estate, Tax Law, Customs Law, Environmental Law, Intellectual Property, Licences and Permits, Dispute Resolution, Contract Law and Procurements.

事务所简介: 格拉塔 GRATA 律师事务所于 1992 年创立, 经过数年快速、稳健的发展壮大, 格拉塔 GRATA 已成为欧亚规模最大的综合性律师事务所之一。“格拉塔”在 17 个城市设有办公室, 现有 120 多名合伙人及执业律师, “格拉塔”作为一家拥有专业资质和优秀人员的律师事务所, 竭力为客户提供全面和多元化的专业法律服务。凭借超过二十年的成功法律执业经验, 对当地商业环境的深刻全面了解, 以及对客户需求的清晰认识, 格拉塔 GRATA 在项目的每个阶段为客户提供真正富有价值的专业法律服务。

作为本地区值得信赖的法律顾问, 我们的声誉与成功基于我们的运营能力、地区办公室网络、强大的本地专业知识, 符合国际水准的法律服务, 以及有竞争力的收费安排。

我们具有商业意识, 我们富有创造性, 我们保持灵活和开放的态度。

2014 年, 格拉塔 GRATA 律师事务所的质量管理体系被认证, 获得 ISO9001: 2009 证书。

格拉塔 GRATA 也具有针对法律活动中民事责任责任的自愿保险证明。

格拉塔 GRATA 律师事务所还获得了众多国际权威法律评级机构的认可, 这些机构包括 The Legal 500、Chambers Global、Chambers Asia-Pacific、IFLR1000、Who's Who Legal 和 Asialaw Profiles。

近年荣誉

- 重点推荐, 建筑与房地产 2014 (Asialaw Profiles)
- 重点推荐, 电信和媒体 2014 (Asialaw Profiles)
- 2014 年在哈萨克斯坦实践纠纷解决一级团队 (Chambers Global)
- 2013 年度最佳能源团队 (Acquisition International M&A Awards)
- 2012 年度最佳自然资源团队
- 2011 年度最佳建设与基础设施团队
- 2011 年哈萨克斯坦共和国最佳律师事务所
- 2009 年度最佳并购交易大奖 (China Law Awards, ALB Law Awards)
- 2009 年 ALB 法律大奖, 中国—中亚天然气管道项目, 年度最佳项目融资交易大奖

主要业务领域: 自然资源、工业与贸易、银行与金融、交通与电信、建筑与基础设施、金融与证券、公司法、劳动法、底土使用、房地产、税法、海关法、环境法、知识产权法、许可与许可证、诉讼、合同法与采购。



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Harney Westwood & Riegels

衡力斯律师事务所



Established in 1960 始创于1960年

- Asia Managing Partner: Jonathan Culshaw
- Number of partners: 36
- Number of associates: 80

- 亚洲管理合伙人：顾嘉雄
- 现有合伙人：36
- 现有律师：80

Firm Overview: Harneys' Hong Kong office is the hub of our expanding British Virgin Islands and Cayman Islands legal practice in Asia. Our Chinese name means Justice and Strength. Justice reflects the firm's collegiate and meritocratic environment where the progression of our attorneys is based solely on their ability and hard work. Strength was chosen because over half of our lawyers in Hong Kong have more than 10 years' experience as practicing attorneys and our senior lawyers are experts in their respective fields.

Harneys has been the leading firm for BVI law for decades; we helped write the commercial law and no other firm comes close to our collective expertise. Lawyers from our Hong Kong office advise on a wide range of matters covering the core transactional practice areas including banking and finance, capital markets, corporate, trusts and investment funds.

Our Cayman transactional practice advises on banking and finance, corporate, capital markets, funds and trusts matters. We have particular expertise on Cayman Islands funds and the structuring of downstream corporate transactions for private equity and venture capital funds.

We undertake all aspects of litigation in BVI and Cayman Islands courts, shareholders disputes, fraud and asset tracing and enforcement, and contentious trusts disputes. For emergency injunctions our lawyers work closely with our BVI and Cayman based litigators and use the time zones to provide 24-hour service.

Our restructuring and insolvency group leads the offshore market in both global reach and expertise. We advise lenders and investors at all levels of the capital structure, corporates and insolvency officeholders. Other areas of expertise include debt and equity rescheduling and refinancing, distressed mergers and acquisitions and distressed funds advice.

The Hong Kong office also provides clients with a real time interface for Harneys' Anguilla and Cyprus law practices and its BVI intellectual property, regulatory, private client and shipping practices. We also offer corporate and fiduciary services through our affiliate Harneys Corporate Services (Asia) Limited.

Key Practice Areas: Corporate and Commercial (equity capital markets, M&A, reorganisations, joint ventures, private equity); Banking and Finance (project finance, capital markets, and derivatives); Investment Funds (hedge fund and private equity fund formation and structuring, regulatory consents, manager and admin-

istrator formation); Private Client (trusts and estates); Litigation (shareholder disputes, fraud and asset tracing, distressed funds, trust litigation); Restructuring and Insolvency (scheme of arrangement, creditors' arrangement); Shipping and Aircraft (acquisition, registration, financing, disposal and operation); and Tax and Regulatory.

事务所简介：衡力斯 (Harneys) 香港办事处是我们在亚洲地区日益扩大的英属维尔京群岛及开曼群岛法律业务的中心。我们的中文名称寓意“公正和实力”。“公正”体现了我们公司学院化和精英管理的环境，即公司律师职位晋升完全取决于工作能力和努力。选择“实力”这个词是因为公司香港办事处半数以上的律师都具有十年以上的执业经验，而且我们的高级律师都是各自领域的专家。衡力斯几十年来一直都是顶级的英属维尔京群岛律所。本所曾参与起草英属维尔京群岛商业法，就整体专业水平而言无疑是超越同侪。本所香港办事处的律师能够为一系列核心交易业务提供法律咨询服务，其中包括银行和金融、资本市场、企业、信托和投资基金。

本所设于香港的开曼群岛交易业务部门提供一系列的法律咨询服务，其中包括银行和金融、企业、资本市场、基金和信托事务。本所长于处理开曼群岛基金法律事宜，以及为私募股权和风险投资基金就下游企业交易结构提供法律意见。

本所承接英属维尔京群岛和开曼群岛法庭的各类诉讼案件、股东争议、诈骗及资产追踪/强制执行、争议性信托争议。对于紧急强制令等法律问题，我们的律师能够与我们位于英属维尔京群岛和开曼群岛的诉讼律师通力合作，按照时区为客户提供二十四小时不间断的法律服务。

本所的公司重组及破产和清盘法律团队拥有强大的国际网络及专业法律技能，在离岸法务市场中傲视同侪。本所为资本结构、企业及破产司职人员领域内所有层面的贷款人及投资者提供法律服务，并就债务及股权重新安排、再融资、困厄的并购及基金等提供专业法律意见。

本所的香港办事处能提供安圭拉岛和塞浦路斯的法律服务，为客户提供实时的业务接口，服务范围包括英属维尔京群岛的知识产权、监管、私人客户和船务业务等。本所亦透过其附属公司衡力斯企业服务(亚洲)有限公司为客户提供公司注册及信托服务。

主要业务领域：企业和商业(股本资本市场、并购、重组、合资、私募股权); 银行和金融(项目融资、资本市场、衍生产品); 投资基金(对冲和私募股权基金的设立及结构、监管审批、基金管理团队的组

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建); 私人客户(信托及遗产管理); 诉讼(股东争议、诈骗及资产追踪、困厄基金、信托诉讼); 重组及破产和清盘(安排计划、债权人安排); 航运及空运(收购、注册、融资、处置及运营); 及税务和监管。

Kilpatrick Townsend & Stockton

凯拓国际律师事务所

Established in 1860 始创于 1860 年

- Managing Partner: Kenneth S Chang (Shanghai)
- Number of attorneys: 630

- 执行合伙人: Kenneth S Chang (上海代表处)
- 现有律师: 630

Firm Overview: Kilpatrick Townsend is a multi-practice, international firm with 17 offices in China, Japan, Sweden and the US. From our Shanghai office, we provide our clients with the full complement of business and compliance services. The firm's Business and Compliance lawyers offer valuable counsel through an array of corporate business issues such as China inbound and outbound investment; market entry strategies; and trade and regulatory matters including Foreign Corrupt Practices Act (FCPA) and compliance issues. The Intellectual Property Practice provides procurement, counselling and litigation services and has more than 135 patent lawyers and staff with advanced degrees in various scientific or engineering disciplines.

Key Practice Areas: Business and Compliance: Alternative Dispute Resolution; Business and Finance; Business Litigation; Foreign Corrupt Practices Act (FCPA); Government Relations; International Employment; Mergers and Acquisitions; Private Equity; Securities. **Intellectual Property:** Trademark and

Copyright Counselling and Litigation; Patent Prosecution, Counselling and Litigation; Patent Re-examination; Trade Secrets; Transactional Intellectual Property.

事务所简介: 美国凯拓国际律师事务所是一家多元的国际律师事务所, 在中国、日本、瑞典和美国拥有十七处代表处。我们的上海代表处为客户提供全面的商业和合规服务。我们的商业合规律师为客户就许多商业问题提供非常有价值的建议, 比如中国境内外投资、市场进入策略, 以及贸易和监管问题, 包括反海外腐败法 (FCPA) 和合规问题。我们的知识产权部门提供申请、咨询和诉讼服务, 拥有超过 135 名在不同科学或工程学科拥有高等学历的专利律师和员工。

主要业务领域: 商业合规: 替代性争议解决、商业与金融、商业诉讼、反海外腐败法 (FCPA)、政府关系、跨国就业、收购合并、私募投资、证券。 **知识产权:** 商标和著作权咨询和诉讼、专利申请、咨询和诉讼、专利复审、商业秘密、知识产权事务。



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Linklaters

年利达律师事务所

Established in 1838 始创于 1838 年

- China Managing Partner: Fang Jian
- Number of partners: 459 (Global); 34 (China including HK)
- Number of associates: 2,000+ (Global); 200+ (China including HK)

- 中国区管理合伙人: 方健
- 现有合伙人: 459 (全球) / 34 (中国, 包括香港)
- 现有律师: 超过 2,000 (全球) / 超过 200 (中国, 包括香港)

Firm Overview: Linklaters has advised on significant deals in over 100 countries. In addition to serving clients from our 29 offices and via our alliance with Allens and Webber Wentzel, Linklaters lawyers have expertise in key jurisdictions across Asia, emerging Europe, the Middle East and Africa. Linklaters has unparalleled insight into China's legal framework, having advised clients in the region for over 30 years. Our market-leading practice is unique in having a truly integrated team of over 240 lawyers working across China's three major business centres: Shanghai, Beijing and Hong Kong. We have extensive experience working with both leading multinationals and Chinese companies, and are equally a trusted adviser to a number of SOEs on their market-making regional and global strategic investments.

Key Practice Areas: Corporate and M&A; Banking; Capital Markets; Private Equity; Financial Markets Regulation; Investment Fund Management; Projects; Restructuring and Insolvency; Structured Finance;

Employment; Antitrust; Energy and Infrastructure; Dispute Resolution; Real Estate; Technology; Media and Telecommunications.

事务所简介: 年利达曾就 100 多个国家境内的各类重大交易提供法律服务。除通过本所的 29 个办事处以及与澳大利亚安德慎律师事务所和南非 Webber Wentzel 律师事务所达成的联盟为客户提供法律服务外, 年利达的律师还在亚洲、欧洲新兴市场、中东和非洲的各个主要司法管辖区提供专业的法律服务。

年利达在中国本土已拥有超过 30 年的实践经验, 对中国的法律环境具备无可比拟的深刻洞见。我们的中国业务处于市场领先地位, 独特之处在于中国业务团队完全且真正一体化运作, 由 240 多名律师在中国三大商业中心 (北京、上海和香港) 协同合作, 为客户提供最优质的法律服务。我们与跨国企业和中国企业已有多年合作经验, 并且本所已成为多家国有企业信赖的法律顾问, 为其地区性和全球性战略投资交易提供法律服务。

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主要业务领域: 公司事务/并购、银行业务、资本市场、私募股权、金融市场监管、投资资金管理、项目、重组和破产、结构性融资、劳动法、竞争/反垄断、能源和基建、争议解决、房地产、技术、媒体和电信。

Mamo TCV Advocates

Established in 1973 始创于1973年

- Partner: David Tonna
- Number of partners: 10
- Number of associates: 25

- 合伙人: David Tonna
- 现有合伙人: 10
- 现有律师: 25

Firm Overview: The firm offers a top-tier level of consultancy in corporate and commercial legal services, and banking and financial services, which enables it to provide, in essence, a one-stop service to clients. One of the firm's main aims is to provide timely and hands-on legal advice by combining its diverse specialist resources and expertise in the most efficient manner. Mamo TCV is the legal firm of choice for a large number of Malta's leading establishments, corporations, banks, fund managers and wealth management groups or organizations, infrastructure projects and privatizations, consortia and other institutions, including government organizations. The firm also has an extensive foreign client base, and is the preferred correspondent in Malta for various leading international law firms based in Europe, the US, Middle East, China and the Far East.

Key Practice Areas: Corporate; Company Formations; Back Office Administration; Accounting and Tax Compliance; Insolvency; Mergers and Acquisi-

tions; Banking and Financial Services; Investment Funds and Regulations; Intellectual Property; Competition; EU Law; Insurance; Taxation; VAT; Maritime and Aviation; Aircraft; Super Yacht Registration; iGaming; Communications and IT; Real Estate; Immigration; Maltese Citizenship and Residence; Wealth Management; Litigation and Dispute Resolution; Trusts; Privatizations; Infrastructure; Energy.

事务所简介: Mamo TCV 律师事务所提供一流的公司和商业法律服务以及银行和金融服务, 使得我们可以为客户提供“一站式”服务。我们的主要宗旨之一是以最有效的方式、结合不同的专业资源和知识, 为客户提供及时、务实的法律意见。

Mamo TCV 律师事务所是马耳他许多重要机构、公司、银行、基金经理和财务管理集团或组织、基础设施建设和私有化、财团或其他机构, 包括政府机关选定的律师事务所, 并拥有广泛的外国客户群体。我们还是许多位于欧洲、美国、中东、中国和远东的领先国际律师事务所首选的代理律所。

MAMO TCV
A D V O C A T E S

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主要业务领域: 公司事务、公司成立、后勤行政管理、会计及税务合规、破产、兼并收购、银行及金融服务、投资基金及监管、知识产权、竞争法、欧盟法、保险、税务、增值税、海事及航空、超级游艇登记、电子竞技、通讯及信息技术、房地产、移民、马耳他公民权及居留权、财富管理、诉讼及争议解决、信托、私有化、基础设施建设、能源。

Morgan Lewis & Bockius

摩根路易斯律师事务所

Established in 1873 始创于1873年

- Managing Partner: Xiaowei Ye
- Number of partners: 700+
- Number of associates: 1,000+

- 管理合伙人: 叶小玮
- 现有合伙人: 700+
- 现有律师: 1,000+

Firm Overview: Morgan Lewis provide comprehensive litigation, merger and acquisition, finance and restructuring, regulatory, intellectual property, and employment and benefits legal services to corporate clients in many industries and markets. We craft and execute business- and industry-specific strategies that address the full scope of our clients' challenges and opportunities in the courtroom, in the boardroom, within the workforce and in government and policy matters.

Founded in 1873, Morgan Lewis offers 2,000 lawyers – as well as scores of patent agents, benefits advisers, regulatory scientists and other specialists – in 29 offices across North America, Europe, Asia and the Middle East.

Key Practice Areas: Energy and Environmental; Financial Services; Healthcare and Life Sciences; Retail; Technology.

事务所简介: 摩根路易斯律师事务所提供有关公司的、交易的、诉讼的和监管等方面的综合的法律服务, 其客户囊括现今主要行业中各种不同规模的企业, 从《财富》100 强公司到刚刚起步的新兴企业不等。针对客户在法庭、会议室、员工内部以及政府和政策事务中所面临的挑战和机遇, 我们来制定和执行顺应当今不断变化发展的经济环境和监管条件的商业与行业策略。

自 1873 年成立以来, 摩根路易斯律师事务所所在北美、欧洲、亚洲以及中东共设有 29 个分所, 拥有 725 名合伙人与将近 2000 名律师, 包括专利代理人、员工福利顾问、法律法规专家和其他专业人士。

主要业务领域: 能源与环境、金融服务、医疗与生命科学、零售、技术。

Morgan Lewis

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New York • Orange County • Philadelphia • Pittsburgh
Princeton • San Francisco • Santa Monica • Silicon
Valley • Singapore • Tokyo • Washington, DC • Wilmington
阿拉木图 • 阿斯塔纳 • 北京 • 波士顿 • 布鲁塞尔 • 巴黎
芝加哥 • 达拉斯 • 迪拜 • 法兰克福 • 哈利斯堡 • 休斯顿
哈特福德 • 伦敦 • 洛杉矶 • 迈阿密 • 莫斯科 • 纽约
奥兰治县 • 费城 • 匹兹堡 • 普林斯顿 • 旧金山 • 新加坡
圣塔莫妮卡 • 硅谷 • 东京 • 华盛顿特区 • 威尔明顿

www.morganlewis.com

McMillan

铭伦律师事务所

Established in 1903 始创于 1903 年

- Chair, China Practice Group: Stephen Wortley
- Number of partners: 102
- Number of associates: 81
- Number of counsel members: 52

- 中国业务部主席：霍华礼
- 现有合伙人：102
- 现有律师：81
- 现有法律顾问：52

Firm Overview: McMillan is a modern and ambitious business law firm serving public and private clients across key industries in Canada and internationally. With recognized expertise and acknowledged leadership in major business sectors, we provide solutions-oriented legal advice through our offices in Vancouver, Calgary, Toronto, Ottawa, Montréal and Hong Kong. Our firm values – respect, teamwork, commitment, client service and professional excellence – are at the heart of McMillan’s commitment to serve our clients, our local communities and the legal profession.

McMillan is currently the only Canadian national law firm headquartered in Canada with an office in Hong Kong. With a long track record in the Asia-Pacific region for over 20 years, and with one of the largest China-based client lists in Canada, McMillan offers an in-depth understanding of the Chinese marketplace. McMillan has one of the largest China practice teams in Canada, consisting of lawyers experienced in PRC law and with Mandarin language capabilities.

McMillan is a leader among Canadian law firms in providing service to China-based clients seeking acquisitions, investments or financing in Canada. McMillan has a long history of advising on China in-bound and out-bound transactions across a variety of industries, particularly mining, energy, oil and gas, natural resources, transportation and investment banking. McMillan is also a leading Canadian firm for Chinese companies going public in Canada, as well as for Hong Kong stock exchange listings by Canadian companies and Chinese companies with Canadian interests.

McMillan practices and lawyers have received numerous awards and top rankings.

Key Practice Areas: Mining; Energy, Oil and Gas; Forest Products; Automotive; Mergers and Acquisitions; Capital Markets; Corporate and Commercial Law; Financial Services; Commercial Real Estate and Construction; Competition and Antitrust; Government and Public Policy; International Trade; Tax; Banking, Finance and Insurance; Life Sciences; Infrastructure; Private Equity and Venture Capital.

事务所简介: 铭伦律师事务所 (铭伦) 是一家现代化, 而又充满雄心壮志的商业律师事务所, 致力为加拿大和各国主要行业的上市公司及私人客户提供法律服务。凭着公认的专业知识, 及在主要商务领域上的领导地位, 我们竭诚为客户提供法律解决方案。我们在温哥华、卡尔加里、多伦多、渥太华、蒙特利尔和香港均设有分所。我们秉承“相互尊重、团队协作、实践承诺、客户至上、专业卓越”的核心理念, 尽心尽力为客户、地方社区和法律界提供服务。

铭伦是目前唯一一家总部在加拿大, 而在香港设有分所的加拿大全国性律师事务所。我们在亚太地区开展法律业务已超过 20 年, 是拥有中国客户群体最多, 而且有着最大中国业务团队的加拿大律师事务所之一。铭伦深谙中国市场, 我们的团队包括对中国法律具有丰富经验并精通普通话的律师。

铭伦在为中国客户提供加拿大并购、投资或融资的相关法律服务方面, 是首屈一指的加拿大律师事务所, 在不同领域提供中国境内外交易的法律服务上, 有多年丰富经验, 特别是在矿业、能源、石油及天然气、自然资源、交通和投资银行领域。此外, 铭伦也是协助公司上市的前驱, 主要从事中国企业在加拿大上市, 又或协助加拿大企业和有加拿大营运的中国企业到香港交易所上市。

铭伦的业务范畴及律师团队荣获多项殊荣和顶尖排名。

主要业务领域: 矿业、能源、石油及天然气、林产品、汽车业、并购、资本市场、公司及商业法、金融服务、商业地产及建筑、竞争及反垄断、政府及公共政策、国际贸易、税务、银行、金融及保险、生命科学、基础设施、私募股权和风险资本。

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Noerr

诺尔律师事务所

Established in 1950 始创于 1950 年

- Number of partners/associated partners: 86/74
- Number of senior counsel: 21
- Number of associates: 250

Firm Overview: Noerr is a top European law firm with more than 490 professionals. Our core business is providing excellent, partner-led and interdisciplinary legal and tax advice that is academically based, innovative and highly results-oriented.

With our dedicated China Desk, we have many years of experience supporting German/European-Chinese business activities and investments. Our European-Chinese team provide legal excellence paired with cultural awareness and superb networks in the business and political worlds.

Awards

- International Firm of the Year 2014, Legal Business Awards
- European M&A Law Firm of the Year, Corporate Intl Global Awards 2014

Key Practice Areas: Competition Law; Finance; Capital Markets; Compliance; Corporate and Mergers and Acquisitions; Employment and Pensions; Intel-

- 现有合伙人 / 初级合伙人: 86/74
- 现有高级顾问: 21
- 现有律师: 250

lectual Property; International Trade; Litigation and Arbitration; Regulatory and Governmental Affairs; Restructuring and Insolvency; Tax and Private Clients.

事务所简介: 诺尔律师事务所是一家欧洲领先的商业律师事务所, 拥有逾 490 名专业人士。我们以为客户创造经济增值为使命, 不断致力于设计符合其商业理念的解决方案, 并提供出色的、合伙人督导和跨学科的法律和税务咨询作为核心业务领域。我们的服务以扎实的理论知识为支持、具有创新性且关注结果。我们的中国事务部设于法兰克福, 由一支经过德国正统法学教育及职业培训并具多年中德 / 欧投资和并购实务经验的中德律师团队组成, 在经济法和商法各领域为中国企业提供一站式的专业咨询服务。依靠我们在商业和政治领域的广泛网络, 我们的团队为您提供不仅仅是专业的法律咨询, 亦为您搭建起中欧间语言和文化的桥梁。

近年荣誉

- 2014 年国际最佳律师事务所 (Legal Business Awards)

Noerr

诺尔律师事务所

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阿利坎特 • 布拉迪斯拉法 • 布鲁塞尔 • 布加勒斯特
布达佩斯 • 伦敦 • 莫斯科 • 纽约 • 布拉格 • 华沙

www.noerr.com

- 2014 年欧洲并购最佳律师事务所 (Corporate Intl Global Awards)

主要业务领域: 竞争法、金融、资本市场、合规、公司法和并购、劳动法和养老金、知识产权、国际贸易、诉讼、仲裁、监管和政府事务、重组和破产、税务和私人客户。

Norton Rose Fulbright

- Head of North Asia: Phillip John
- Number of partners (China/Hong Kong): 33
- Number of lawyers (China/Hong Kong): 100+

Firm Overview: Norton Rose Fulbright is a global legal practice. We provide the world's pre-eminent corporations and financial institutions with a full business law service. We have more than 3,800 lawyers and other legal staff based in more than 50 cities across Europe, the United States, Canada, Latin America, Asia, Australia, Africa, the Middle East and Central Asia.

We have offices in each of China's key commercial hubs: Beijing, Hong Kong and Shanghai. Our China practice group was established in 2001, and we have lawyers with more than 20 years' experience of doing business there.

Key Practice Areas: Antitrust and Competition; Banking and Finance; Business Ethics and Anti-Corruption; Corporate, M&A and Securities; Dispute Resolution and Litigation; Intellectual Property.

- 北亚区主管: 庄菲腊
- 中国和香港合伙人人数: 33
- 中国和香港律师人数: 100+

事务所简介: Norton Rose Fulbright 是全球律师事务所, 为全球卓越的企业及金融机构提供全面的商业法律服务。我们拥有超过 3800 位律师, 遍布欧洲、美国、加拿大、拉丁美洲、亚洲、澳洲、非洲、中东、中亚等地超过 50 个城市。

我们在中国主要的商业中心包括北京、香港及上海设有办公室。我们的中国业务团队于 2001 年设立, 律师成员拥有超过 20 年在华业务经验。

主要业务领域: 反垄断和竞争法、银行与融资、商业道德和反腐败、公司业务 / 并购与证券、纠纷调解与诉讼、知识产权。

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ONC Lawyers

柯伍陈律师事务所

Established in 1992 始创于 1992 年

- Managing Partner: Sherman Yan
- Number of partners: 9
- Number of associates: 28

Firm Overview: ONC Lawyers is a progressive legal practice based in Hong Kong. We have been growing continuously since our establishment in 1992, and we are now one of the largest domestic law firms, with more than 100 members of legally qualified and supporting staff. Since 2013, we have been designated by Asialaw Profiles as a "highly recommended" law firm, and ranked by Chambers Asia Pacific as a leading firm in the Asia-Pacific region.

ONC Lawyers is a member of the International Society of Primerus Law Firms, a highly selective society of the world's finest independent law firms, with nearly 200 member firms in more than 40 countries. Primerus was founded in 1992.

ONC Lawyers formed an association with Zhonghao Law Firm (Hong Kong) in January 2013. With this association, we have a joint force of about 235 lawyers to serve our clients from the mainland and overseas.

- 执行合伙人: 甄灼宁律师
- 现有合伙人: 9
- 现有律师: 28

Key Practice Areas: Banking and Finance; Construction and Arbitration; Corporate Finance; Insolvency and Restructuring; Intellectual Property and Technology; Litigation and Dispute Resolution; Property; Shipping and Logistics.

事务所简介: 柯伍陈律师事务所建基于香港, 是一所不断进步的律师事务所。自 1992 年成立以来, 我们不断发展, 现已是最大的本地律师事务所之一, 拥有超过 100 名具备法律资格的律师及支援团队。自 2013 年起, 我们更荣获 Asialaw Profiles 评选为“高度推荐”的律师事务所, 及荣获 Chambers and Partners 评选为亚太地区的领先律师事务所。

柯伍陈律师事务所是 International Society of Primerus Law Firms 的会员, 该协会成立于 1992 年, 会员资格严谨, 只有最优秀的独立律师事务所方可加入, 目前在全球 40 多个国家拥有近 200 名会员。

ONC Lawyers
柯伍陈律师事务所

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柯伍陈律师事务所与中豪律师集团(香港)事务所已于 2013 年 1 月正式联营。联营后, 我们合共拥有约 235 名律师, 为内地及海外的客户提供更佳服务。

主要业务领域: 银行及金融、建筑及仲裁、企业融资、清盘及重组、知识产权及科技、诉讼及调解争议、物业、船务及物流。

PC Woo & Co

胡百全律师事务所

Established in 1945 始创于 1945 年

- Senior Partner: Moses Cheng Mo Chi
- Number of partners: 15
- Number of associates: 40 (Hong Kong); 3 (PRC)

Firm Overview: Effectively serving clients for over 70 years, PC Woo & Co provides a broad range of professional legal services with a steadfast devotion to quality. We are committed to preserving the fundamental values that have made our firm great, and to staying ahead of the rapidly changing times. Together with our associate firm Zhonglun W&D Law Firm and members of the Perfectus Alliance and the International Alliance of Practising Lawyers, we have extended our professional services to cover major cities in China and around the world. We have also been honoured with awards and wide recognition for our professional practice, in particular our pro bono work (by the Hong Kong Council of Social Service and the Law Society of Hong Kong).

Key Practice Areas: Commercial and Corporate; Property; Litigation; Intellectual Property; China Practice; Private Clients; SMEs and Public Policy.

- 首席合伙人: 郑慕智
- 现有合伙人: 15
- 现有律师: 40 (香港) / 3 (中国)

事务所简介: 全心全意服务客户超过七十年。胡百全律师事务所于 1945 年由胡百全博士创办, 为香港历史最悠久的律师事务所之一。多年来, 本所亦努力不懈, 与时俱进, 务求达到各客户的要求, 继续光辉地发展及适应瞬息万变的时代。本所连同百全律师联盟和国际执业律师联盟的成员, 把我们的专业服务推广至中国内地和世界各地的主要城市。胡百全律师事务所亦与北京中伦文德律师事务所《更紧密的经贸关系安排》下, 获得中国北京市司法部批准两所联营, 我们将共同为客户提供多个司法管辖区一站式的专业法律服务。胡百全律师事务所一直坚持投入公益服务, 乐于支持及捐助给非牟利机构, 为他们提供免费法律咨询。我们的贡献分别获得香港社会服务联会颁发的“5 年 PLUS 商界展关怀”及香港律师会颁发的“香港律师事务所公益奖”奖项。

主要业务领域: 商业/公司、房地产、诉讼、知识产权、中国业务、私人客户、中小企/公共政策。



P.C. Woo & Co.
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石家庄 • 武汉 • 太原 • 广州 • 深圳
伦敦 • 利雅得

www.pcwoo.com

Patpol European And Polish Patent And Trade Mark Attorneys



EUROPEAN AND POLISH PATENT AND TRADE MARK ATTORNEYS

Established in 1966 始创于1966年

- **Managing Partner: Janusz Nowakowski**
- **Number of partners: 19**
- **Number of associates: 3**

- **执行合伙人: Janusz Nowakowski**
- **现有合伙人: 19**
- **现有律师: 3**

Firm Overview: Patpol is one of the leading firms in the field of intellectual property protection in Poland, with almost 50 years in business. We provide our clients from all over the world with the highest quality full service in all matters relating to intellectual property.

Key Practice Areas: Patpol actively supports its clients, in particular in obtaining exclusive rights for the subjects of industrial property law, such as: inventions; trademarks; industrial designs; utility models; geographical indications; and integrated circuit topographies.

We also advise our clients in all cases of infringements of intellectual property rights, suppression of acts of unfair competition, infringements of copyrights and infringements of trademark rights on the internet.

We also offer services of searching and examining, as well as monitoring of patents, trademarks, utility models and industrial designs.

事务所简介: Patpol 律师事务所是波兰知识产权保护领域最领先的律师事务所之一, 成立至今已将近50年。我们为全世界的客户提供知识产权相关的高质量、全方位服务。

主要业务领域: Patpol 律师事务所积极支持客户就工业产权法保护的客体取得专利权, 如发明专利、商标、工业设计、实用新型、地理标志、集成电路布图设计。

我们还为客户就知识产权侵权、制止不正当竞争、著作权侵权、商标网络侵权等各类案件提供法律服务。

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此外, 我们还提供检索、审查和监控专利、商标、实用新型和工业设计的服务。

Paul Weiss Rifkind Wharton & Garrison 宝维斯律师事务所

Paul Weiss
宝维斯律师事务所

Established in 1950 始创于1950年

- **Managing Partners: Jeanette K Chan, John E (Jack) Lange, Xiaoyu Greg Liu**
- **Number of partners: 143**
- **Number of associates: 818**

- **执行合伙人:**
陈剑音、朗杰、刘晓宇
- **现有合伙人: 143**
- **现有律师: 818**

Firm Overview: Paul Weiss Rifkind Wharton & Garrison is a globally oriented, full-service law firm. With a presence in Asia for over 30 years, we have worked on a number of precedent-setting deals in the M&A, JV, foreign direct investment, private equity and capital market areas in greater China and across Asia. Our team of multinational, Western-trained, Chinese-speaking lawyers has expertise in US and Chinese law, and international business transactions.

We work across many industries, including agriculture, automotive, broadcasting, communications, consumer products, education, energy and renewable energy, internet, media and technology, financial services, manufacturing, online games, pharmaceuticals and real estate. Our team and many of our deals have received independent recognition as "market leading" in Asia. Please visit our website or contact us for further information on how we can assist you.

Key Practice Areas: (In Asia) M&A; Private Equity; Project Finance; Foreign Direct Investment; Capital Markets; Telecoms; Media and Technology; Corporate and Commercial; Regulatory.

事务所简介: 宝维斯律师事务所是一家在全球范围内提供全方位法律服务的律师事务所。本所已在亚洲从业30余年, 为投资者在大中华地区和亚洲的并购、合资、外商直接投资、私募基金投资和资本市场方面大量开创先河的项目提供法律咨询服务。本所律师为跨国、接受西方教育且精通中文的律师, 擅长美国、中国法律和国际商业业务。

本所业务领域广泛, 横跨多个行业, 涵盖农业、汽车、广播、通信、消费类产品、教育、能源及可再生能源、互联网、媒体及技术、金融服务、制造业、网络游戏、制药和房地产等。

本所的律师团队和多个项目均被誉为亚洲“具有市场领先地位”的团队和项目。

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欢迎访问本所网站或与本所联系, 以获得有关本所将如何为您提供服务的更多信息。

主要业务领域: (亚洲) 并购、私募基金投资、项目融资、外商直接投资、资本市场、电信、媒体和技术、公司 / 商业事务、监管。

Penkov Markov & Partners

Established in 1990 始创于1990年

- Managing Partner: Vladimir Penkov
- Number of partners: 8
- Number of associates: 20

Firm Overview: Penkov, Markov & Partners is one of the leading law firms in Bulgaria, providing top quality legal services and legal representation.

PM&P is leader in its practice areas, providing most sufficient advice to its clients. The company culture requires full dedication and commitment in order to find the best solution.

PM&P is the first Bulgarian law firm to have been awarded a Quality Management Certificate in accordance with the international standards ISO 9001:2000 and subsequently ISO 9001:2008.

Awards: The company and its managing partner have received numerous awards and are ranked among the leaders in The Legal 500 EMEA, IFLR1000, Global Law Experts, Chambers and Partners Global, Chambers Europe and others.

Key Practice Areas: Commercial and Company Law; State Regulations; Tax Law; Real Estate;

- 执行合伙人: Vladimir Penkov
- 现有合伙人: 8
- 现有律师: 30

Banking, Finance and Capital Markets; Litigation and Arbitration; IT, Media and Telecommunications; Energy and Environment.

事务所简介: Penkov, Markov & Partners 律师事务所是保加利亚领先的律师事务所, 为客户提供优质的法律服务。

PM&P 律师事务所是行业的领先者, 为客户提供最充分的法律意见。我们的公司文化要求我们全心全意为客户找到最佳解决方案。

PM&P 律师事务所是第一家通过 ISO 9001:2000 和 ISO 9001:2008 标准国际质量体系认证的保加利亚律师事务所。

奖项: PM&P 律师事务所及其执行合伙人已获得《法律 500 强: 欧洲、中东和非洲》(The Legal 500 EMEA)、《国际金融法评论 1000



PENKOV · MARKOV & PARTNERS
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强》(IFLR1000)、《全球法律专家》(Global Law Experts)、《钱伯斯环球》(Chambers and Partners Global) 和《钱伯斯欧洲》(Chambers Europe) 等颁发的许多荣誉。

主要业务领域: 主要业务领域: 商法和公司法; 国家法律; 税法; 房地产; 银行、金融和资本市场; 诉讼与仲裁; 技术、传媒与通讯; 能源和环境。

PLMJ Law Firm

Established in 1967 始创于1967年

- Managing Partner: Luís Pais Antunes
- Head of China Desk: Rita Assis Ferreira
- Number of partners: 50
- Number of associates: 250

Firm Overview: PLMJ is one of Portugal's leading law firms. A reference for legal practice in Portugal and internationally, PLMJ stands out for its dedication to its clients, its dynamism, its capacity for innovation and the quality of its services. PLMJ is cohesive, united, competitive and equipped to provide first class legal services.

PLMJ is organized into specialist teams of lawyers who have vast experience and knowhow in each practice area. The teams are coordinated by partners who ensure strict quality control and a permanent focus on achieving results and meeting the needs of the client.

Key Practice Areas: PLMJ is a full service firm focusing in Arbitration; Banking and Finance; Capital Markets; Corporate and M&A; Criminal Law, White Collar Defence and Compliance; Debt Recovery; Employment and Labour Law; Energy and Natural Resources; EU and Competition Law; Intellectual Property; Litigation and Dispute Resolution; Private Equity; Privatizations; Projects and Infrastructures and International Projects; Public and Administrative Law; Real Estate and Con-

- 执行合伙人: Luís Pais Antunes
- 中国代表处主管: Rita Assis Ferreira
- 现有合伙人: 50
- 现有律师: 250

struction; Restructuring and Financial Litigation; Sports; Tax; Telecommunications, Media and Technology (TMT).

事务所简介: PLMJ 律师事务所是葡萄牙的一家顶尖律师事务所。

作为葡萄牙和国际法律行业的代表, PLMJ 因竭诚服务客户的宗旨、充满活力和创新能力、服务质量优秀而闻名。PLMJ 律师事务所是一家非常专业并专注于为客户的活动创造价值的全方位律师事务所。PLMJ 律师事务所拥有高道德标准, 紧密团结、统一并具有竞争力, 时刻准备好为客户提供一流的法律服务。

PLMJ 律师事务所由不同的专业团队组成, 这些专业团队的律师在各业务领域拥有丰富的经验和知识。合伙人负责协调所有的专业团队, 以严格保证质量控制, 并持续关注成果和满足客户的需求。

主要业务领域: 仲裁; 银行与金融; 资本市场; 公司业务 / 并购; 刑法, 白领犯罪和合规; 债务回收; 劳动法; 能源和自然资源; 欧盟法和竞争法; 知识产权; 诉讼和争议解决; 私募; 私有化; 项目和基础设施

PLMJ
SOCIEDADE DE ADVOGADOS, RL

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建设及国际项目建设; 行政法; 房地产和建设; 重组和金融诉讼; 体育; 税务; 科技、媒体和通信。

Sarie-Eldin & Partners



Established in 2007 始创于 2007 年

- Managing Partner: Dr Hani Sarie-El Din
- Number of partners: 4
- Number of lawyers: 22

- 执行合伙人：Hani Sarie-El Din 博士
- 现有合伙人：4
- 现有律师：22

Firm Overview: Sarie-Eldin & Partners was established by Dr Hani Sarie-Eldin. The firm comprises highly qualified professionals able to provide timely, effective legal services and advice. The firm specializes in business and commercial law including capital markets, M&As, GDRs, derivatives, IPOs, private placements, banking, corporate finance, project finance, PPP projects, corporate restructuring commercial agencies, real estate development projects, competition and information technology. Moreover, the firm has a strong litigation and arbitration department, in addition to a procedures and government relations department which carries out all relevant corporate and administrative matters to satisfy clients' needs.

Although the firm was established only in August 2007, it enjoys a strong regional presence and a large local and international client base, including leading local corporations, regional and international financial institutions and governmental organizations. The firm was selected to represent prominent local, regional and international clients in major transactions that took place from August 2007 to date. These transactions include strategic mergers and acquisitions, IPOs, private placements, banking, project finance, syndicated loans, real estate development projects and concession agreements.

Key Practice Areas: The firm is considered one of the leading law firms in Egypt and internationally. Due to the firm's portfolio of executed deals in the area of banking and finance (which included the largest, most sophisticated and complex transactions in the Egyptian market), Sarie-Eldin is considered one of the most experienced law firms in Egypt and the Middle East in banking and finance transactions. One of its major projects in 2010 was awarded Deal of the Year by Euromoney for the Arab-African region in 2011.

In the area of Capital Markets and Mergers and Acquisitions, the firm offers valuable services and timely assistance for the successful closure of such transactions. In 2015, Sarie-Eldin & Partners advised the majority shareholders on sale of their stake in Bisco Misr to Kellogg Company, the world's leading cereal company. The selling majority shareholders included the Concord Egypt Fund and the Commercial International Bank, for a total transaction value of US\$125 million.

In the PPP and infrastructure fields, the firm advised the successful bidder of University of Alexandria Hospitals project to finance, construct, equip and operate two hospitals and a blood bank. The firm also advised the government on several mega projects in the energy sector and was selected as the legal advisor to the Suez Canal Economic Zone Development Project.

事务所简介: Sarie-Eldin & Partners 律师事务所由 Hani Sarie-Eldin 博士创立并拥有许多高素质的专业人士, 可以提供及时、有效的法律服务和建议。Sarie-Eldin & Partners 律师事务所专注于商事和商业法, 尤其是资本市场、兼并收购、全球存托凭证、衍生品、首次公开发行、私募发行、银行、公司融资、项目融资、政府和社会资本合作 (PPP) 项目、公司重组、商事代理、房地产开发项目、竞争法和信息技术。此外, 为了满足客户的需求, 除了程序和政府关系部门负责所有公司和行政相关事宜之外, Sarie-Eldin & Partners 律师事务所还拥有实力雄厚的诉讼与仲裁部门。

虽然刚设立于 2007 年 8 月, Sarie-Eldin & Partners 律师事务所在本地区拥有强大的地位以及庞大的本地和国际客户基础, 包括领先的当地公司、地区和国际金融机构和政府组织。从 2007 年 8 月起至今, Sarie-Eldin & Partners 律师事务所在许多重大交易中被选代表了本地、地区和国际知名的客户。这些交易包括战略性兼并收购、首次公开发行、私募发行、银行、项目融资、银团贷款、房地产开发项目和特许权协议。

主要业务领域: Sarie-Eldin & Partners 律师事务所被认为是埃及和国际上领先的律师事务所之一。由于在银行与融资领域已完成交易 (包括埃及市场中最大、最复杂的交易) 中拥有良好的业绩表现, Sarie-Eldin & Partners 律师事务所被认为是埃及和中东地区银行与融资交易中最有经验的律师事务所之一。Sarie-Eldin & Partners 律师事务所 2010 年的一个重要项目被 Euromoney 评为非阿地区 2011 年度最佳交易。

在资本市场和兼并收购领域中, Sarie-Eldin & Partners 律师事务所为这些交易的成功完成提供有价值的服务和及时协助。2015 年, Sarie-Eldin & Partners 律师事务所在大股东向全球领先的谷类公司家乐氏 (Kellogg) 转让 Bisco Misr 股权的交易中为大股东提供法律服务。转让股权的大股东包括 Concord Egypt Fund 和国际商业银行, 交易总价值为 1 亿 2500 万美元。

在 PPP 和基础设施建设领域, Sarie-Eldin & Partners 律师事务所为亚历山大大学医院项目的中标人就两家医院和一家血库的融资、建设、装备和运营提供了法律意见。Sarie-Eldin & Partners 律师事务所还为政府就许多能源领域的大型项目提供法律服务, 并被选任为苏伊士运河经济开发区项目的法律顾问。

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Skadden Arps Slate Meagher & Flom 世达国际律师事务所

Established in 1948 始创于 1948 年

- Asia-Pacific Practice Leader: Michael Gisser
- Number of partners: Approximately 400
- Number of associates: Approximately 1,200

Firm Overview: With approximately 1,600 attorneys in 23 offices on five continents, Skadden Arps Slate Meagher & Flom and affiliates (Skadden) serves clients in every major financial centre. The firm's strategically positioned international locations allow proximity to clients and their operations, and ensure a seamless and unified approach at all times. For more than 60 years, Skadden has provided legal services to the corporate, industrial, financial and governmental communities around the world in a wide variety of high-profile transactions, regulatory matters, and disputes and litigation. With approximately 90 attorneys in the firm's Asia-Pacific offices – in Beijing, Hong Kong, Seoul, Shanghai, Singapore, Sydney and Tokyo – Skadden has the resources to handle the region's largest and most complex transactions.

Key Practice Areas: Mergers and Acquisitions; Corporate Finance; International Arbitration and Litigation; Energy and Infrastructure Projects;

- 亚太区业务主管合伙人: 纪仕
- 现有合伙人: 约 400
- 现有律师: 约 1,200

Banking; International Competition; Real Estate; Investment Finance; Investigations.

事务所简介: 世达国际律师事务所在五大洲拥有约 1,600 名律师及 23 间办公室, 在全球各主要金融中心为客户提供服务。世达在美国及全球的战略布局使我们临近客户及其业务, 确保随时与客户保持密切、一致的沟通。60 多年来, 世达在全球各地为企业、工业、金融机构和政府部门提供法律服务, 协助客户完成各种高知名度的交易, 处理广泛的监管事务、诉讼和争议事宜。世达在亚太地区拥有约 90 名律师, 分别在北京代表处、香港办公室、首尔代表处、上海代表处、新加坡办公室、悉尼办公室和东京办公室执业。丰富的律师资源使世达能够处理区内规模最大、复杂程度最高的各类交易。

主要业务领域: 收购兼并、国际融资、国际仲裁和诉讼、能源和基础设施项目、银行业务、国际竞争、房地产、投资项目融资和调查。



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www.skadden.com

Slaughter and May 司力达律师事务所

Established in 1889 始创于 1889 年

- Number of partners: 120
- Number of lawyers: Over 700

Firm Overview: Slaughter and May was founded in 1889 in the city of London. We have over 700 lawyers in our own offices in London, Hong Kong, Beijing and Brussels, and work in close cooperation with many of the world's leading independent law firms, allowing us to offer a high-quality, integrated and seamless global legal service.

China work has been central to our practice for many years and we have been engaged in a broad range of China work since the Hong Kong office's establishment in 1974. Thirteen partners and over 40 lawyers are based in our Hong Kong and Beijing offices. By combining the expertise of our offices with that of the leading Chinese law firms with whom we cooperate, we are able to provide integrated service of the highest quality.

Key Practice Areas: Corporate; M&A; Capital Markets; Financing; Real Estate; Dispute Resolution and Competition. We also have leading practices in Tax, Pensions and Employment, Financial Regulation, IT and IP.

- 现有合伙人: 120
- 现有律师: 700 多位

事务所简介: 司力达律师事务所于 1889 年在英国伦敦成立, 在伦敦、香港、北京和布鲁塞尔设有办事处, 拥有 700 多名律师, 并与世界各地最优秀的独立律师事务所紧密合作, 为客户提供高水准、综合性和一站式的国际法律服务。

中国以及与中国有关的项目, 多年来已成为司力达业务的中心。我们自香港办事处在 1974 年开业起已参与众多与中国有关的项目。我们的香港和北京办事处共有 13 位合伙人和超过 40 名律师。通过结合我们各分所及与我们合作的领先的中国律师事务所的专业知识, 我们能为客户提供最高质量的综合服务。

主要业务领域: 公司、并购、资本市场、融资、房地产、争议解决和竞争法。

此外, 我们在税务、养老金和劳动法、金融监管、信息技术和知识产权等领域拥有领先的法律实务经验。

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VISCHER

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SWISS LAW AND TAX 瑞士法律与税务

VISCHER was incorporated in 2009, with roots dating back to 1857
菲谢尔律师事务所的历史可以追溯到 1857 年, 2009 年事务所改成股份制公司

- Number of partners: 26
- Number of associates: 68 (including trainee lawyers)
- 现有合伙人: 26
- 现有律师: 68 (包括见习律师)

Firm Overview: We are an influential, innovative Swiss law firm, ranked among Switzerland's leading law firms by the world's most prestigious law firm rankings Chambers Europe, Chambers Global and Legal 500. We are dedicated to providing effective legal solutions to business, tax and regulatory matters. Our approximately 90 lawyers, tax advisers and public notaries are organised under the direction of experienced partners in practice teams, covering all areas of commercial law. Our breadth of practice ensures we have the right team available for every mandate and client.

Clients demand and deserve impartial, unbiased advice. Our conflict of interest standards set us apart from other firms. The fact that we are not tied to an association of law firms or attorney network means that our ability to select and instruct counsel in international transaction is not compromised. We have spent decades building up networks with attorneys and firms that meet our standards. We can choose freely from that network, according to the demands of the matter at hand.

VISCHER has grouped partners and associates experienced in dealing with Chinese direct investments and Sino-Swiss trade in its China desk, to pool the relevant experience and efficiently handle mandates relating to China. We are supported by our China desk counsel, Fiona Gao, a seasoned native Chinese attorney, who enables us to communicate with our Chinese clients in Chinese and to make them feel at home when dealing with us. VISCHER is a member of the Swiss-Chinese Chamber of Commerce (SCCC) and of the Swiss Chinese Chamber of Commerce in China.

Our offices can be found in Zurich and Basel, the two largest business centres of Switzerland.

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Key Areas of Law

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Key Fields of Business

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事务所简介: 菲谢尔是一家富有战斗力、影响力和创新精神的瑞士律师事务所, 在钱伯斯欧洲和钱伯斯全球 500 强排名中名列瑞士律师事务所前茅。我们为客户提供法律、税务以及治理范围内的有效解决方案。我们的专业团队由久经沙场的合伙人领导, 由近百名律师、税务师及公证人组成, 经验丰富, 遍及所有经济领域。这些优势使我们能够为客户提供量身定制且极为迅速有效的个性化服务。

独立性是我们得以保障客户利益的关键, 因此我们一如既往地坚守极高的避免利益冲突准则, 这在法律服务国际化的当下已经越来越难能可贵了。在国际客服领域, 我们既没有加入某个律师事务所联盟, 也没有参加任何有组织的律师网络。为了在国际客服上也保持独立, 我们历经数十年, 全力打造一个自己的、覆盖全球所有重要经济区域的协理律师网络。我们因而不受制于某一律师事务所联盟或某一律师组织的内部方针, 得以完全从客户的利益出发, 自由选择我们的国外协理律师。

我们的律师中, 有的已经对中国企业在瑞士投资过程中的一些特殊问题有深切的了解, 有的十分熟悉对华贸易, 菲谢尔将他们的经验聚集起来, 为中国客户提供最佳的服务。我们的顾问高悦女士为菲谢尔中国业务团队提供鼎力支持, 她可以用中文与我们的中国客户沟通, 令人感到宾至如归。菲谢尔是瑞中商会 (SCCC) 和北京瑞士商会的会员。

我们在瑞士最大的两个经济中心城市苏黎世和巴塞尔设有分所。

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Wragge Lawrence Graham & Co

睿阁律师事务所



Guangzhou Representative Office established in September 2008 广州代表处始创于 2008 年 9 月

- Chief Representative Officer: Jamie Rowlands
- Number of partners: 1
- Number of directors: 1
- Number of associates: 5
- Number of trainees: 1
- 首席代表: 路兰德
- 合伙人: 1
- 现有主管: 1
- 现有律师: 5
- 现有实习律师: 1

Firm Overview: Wragge Lawrence Graham & Co is a UK-headquartered international law firm providing a full service to clients worldwide. Specialist sector knowledge is at the core of our advice, and our lawyers' sector expertise extends to construction and engineering, healthcare and life sciences, technology, private capital, real estate, manufacturing and energy. The firm has offices in 10 locations: Birmingham, Brussels, Dubai, Guangzhou, London, Monaco, Moscow, Munich, Paris and Singapore, plus trusted networks across the world. With 770 lawyers in these 10 global offices, we're trusted advisers to FTSE 100 and 250 businesses, entrepreneurs, financial institutions, UK and overseas government departments and high net worth individuals.

The firm has recently announced its merger with the Canadian-headquartered firm Gowlings. The combination will be formalized in January 2016 under the name Gowlings WLG.

事务所简介: 英国睿阁律师事务所是一家总部设在英国的国际性律师事务所, 为全球客户提供全方位的法律服务。对专业领域的专门知识是我们提供的法律建议的核心。我们的技术专长涵盖建筑工程、医疗与生物技术、科技、私人资本、房地产、制造业和能源等领域。

睿阁在全球设有 10 个办事处: 伯明翰、布鲁塞尔、迪拜、广州、伦敦、摩纳哥、莫斯科、慕尼黑、巴黎和新加坡, 此外还有值得信赖的全球合作网络。睿阁目前拥有 770 位律师, 以团队的方式为客户服务, 从而确保能够向客户提供最高效的意见。

凭借全球布局以及在各个专业领域的专业知识与专门技术, 睿阁一直是众多富时指数 100 及富时指数 250 的公司、企业家、金融机构、英国或海外政府机构以及高净值人士所信赖的顾问。

我所最近公布了其即将与加拿大律所 Gowlings 合并的消息, 合并将于 2016 年 1 月正式生效, 合并后更名为 Gowlings WLG。

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LONDON

09 SEPTEMBER 2015

Venue: The Law Society of
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One can expect this Legal ConfEx to be a platform of thought provoking ideas and best practices from the legal industry on subjects like Litigation, Intellectual Property, Disputes, Compliance, Risk Management, Legal Outsourcing among others from all around the globe with a great opportunity for networking and developing long-term business relations. This Legal ConfEx would act as the ideal platform to promote the welfare, interests, education and professional development of all legal professionals who are directly or indirectly associated with the legal industry.

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Partner
DLA Piper
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Litigation
O2, UK



Loreto Reguera
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Dervish Tayyip
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古老大地的新商机

New business in ancient lands

对于中国来说，中东和北非已经不仅仅只是石油和天然气的储藏之地。
在本文中，龙思聪探讨该地区的新投资热点

*For China, the Middle East and North Africa region is no longer simply an oil and gas reservoir.
Leo Long explores MENA's new investment hotspots*

巴林王国有一座名为 Diyar Al Muharraq 的人工岛，鲜为中国人所知；但在岛的西南角，一座叫“龙城”（Dragon City）的超级购物中心在四月份工程还没竣工时，其商铺就已经全部租出。该购物中心可容纳超过 750 家零售商铺，预计将成为一个中国商品的大型直销贸易平台。

这个特大型项目是巴林一家当地开发商和中国大型国际贸易公司 Chinamex 之间合作协议的结晶。该项目借鉴了 Chinamex 位于阿拉伯联合酋长国（阿联酋）的另一个购物中心“迪拜龙城”（Dragon Mart）的成功经验。迪拜龙城有超过 3500 家店铺，被誉为中国大陆以外最大的中国商品交易中心。

In the southwest corner of the artificial island city Diyar Al Muharraq in the Kingdom of Bahrain, a place known to few Chinese, the Dragon City super mall found itself fully leased in April, well before its completion. Accommodating more than 750 retail stores, the mall is expected to become a major direct sales platform for Chinese products.

The mega-project is a result of an agreement between a Bahraini developer and Chinamex, one of China's biggest international trading companies. It follows the success of Chinamex's Dragon Mart in the United Arab Emirates (UAE). With more than 3,500 outlets, Dragon Mart has been lauded as the largest Chinese trading hub outside mainland China.

为了鼓励外国投资，卡塔尔对外国投资人提供了各种优惠待遇

In order to incentivize foreign investment, Qatar offers a variety of inducements



Dani Kabbani
安睿律师事务所
多哈办公室
管理合伙人
Managing Partner of
Doha Office
Eversheds

但是零售业仅仅是中国在整个中东和北非地区大量投资项目的冰山一角。“巴林和整个中东地区有许多行业被视为受中国投资公司追捧的热点行业，”巴林 Zu'bi & Partners 律师事务所的高级合伙人 Qays Zu'bi 谈道。

有些投资目标国家也在积极向外国投资者敞开市场，阿联酋就是一个例子。“尽管阿联酋已经建立了可能是最广泛的自由贸易区，但近年来该国新的自贸区在数量上仍然有大幅增长，”德同律师事务所驻安曼和多哈的合伙人 Safwan Moubaydeen 谈道。

安睿律师事务所多哈办公室管理合伙人 Dani Kabbani 说：“为了鼓励外国投资，卡塔尔对外国投资人提供了各种优惠待遇，包括免税、能源补贴、天然气和电力的名义费率以及低成本融资等。”

在经历了一些政治动荡后，埃及也在努力改善其投资环境。Al Tamimi & Company 律师事务所合伙人及埃及办公室负责人 Mohamed Khodeir 说：“过去两年埃及在促进商业需求的立法层面有了重大变化。最近投资体制也进行了调整，为申请业务批准和许可的投资人提供一站式服务。”

中国是沙特阿拉伯、阿联酋和伊朗等国最大的贸易伙伴之一。而且，随着中国与中东和北非国家在不同领域合作的加强，中国很可能在该地区的投资中起到重要作用。

在 2014 年的中阿合作论坛上，中国国家主席习近平宣布中国将进一步与阿拉伯国家开展合作。在多次提及新丝路蓝图的同时，习主席提出构建“1+2+3”的合作格局。其中，“1”是指能源，“2”是指建设工程和贸易，“3”是指核能、航天卫星和新能源。

习主席提到的行业也是阿拉伯本地和国际专家眼中的热门行业。“贸易、建设工程和油气始终是中国在中东和北非地区直接投资的最热门行业，”Al Tamimi & Company 律师事务所在迪拜的管理合伙人 Husam Hourani 说。

勘探能源

根据《经济学人》的资料，中国在 2014 年已经超越美国成为最大的石油进口国，其中大约 51.2% 的石油来自沙特阿拉伯 (16.1%)、

But participation in the retail sector is only a small chapter of China's tremendous investment story in the entire Middle East and North Africa (MENA) region.

“There are a number of industries that are considered as being the hot industries for Chinese investment companies in Bahrain and in the Middle East in general”, says Qays Zu'bi, senior partner of Zu'bi & Partners in Bahrain.

Some target countries are actively opening up its market to foreign investment, with UAE a typical example. “While the UAE has perhaps the widest range of established free zones, there has been a significant increase in number of new free zones established across the region in recent years”, says Safwan Moubaydeen, a partner of Dentons based in Amman and Doha.

Dani Kabbani, the managing partner of Eversheds' Doha office, says, “in order to incentivize foreign investment, Qatar offers a variety of inducements to foreign investors including tax exemptions, energy subsidies, nominal rates for gas and electricity and low-cost financing”.

Having undergone some political instability, Egypt is also striving to improve its investment environment. “The past two years have witnessed major changes on the legislative level to facilitate doing business needs in Egypt. Most recently the Investment regime was changed to provide a one-stop-shop for investors when seeking approvals and licensing their business”, says Mohamed Khodeir, partner and head of Al Tamimi & Company's Egypt office.

As one of the largest trading partners of Saudi Arabia, UAE and Iran, China is likely to play a more important role in the investment into the region with its strengthening ties with MENA countries in a number of sectors.

In the 2014 China-Arab States Cooperation Forum, Chinese president Xi Jinping announced the country's further cooperation with Arab states. Xi reiterated the new Silk Road “economic belt” blueprint forming part of the One Belt, One Road policy. At the same time, he proposed what he dubbed a “1+2+3” framework for cooperation: 1) energy, 2) construction and trade, and 3) aeronautics and nuclear and new energy.

The industries mentioned by Xi are also the most popular in the eyes of both local and international experts. “Trading, construction and oil and gas are always the hottest industries for foreign direct investment from China into the MENA region”, says Husam Hourani, managing partner of Al Tamimi & Company in Dubai.

Fuel exploration

According to *The Economist*, China overtook the US as the world's biggest importer of oil in 2014. Approximately 51.2% of China's oil imports originated in the Middle East's oil-rich countries of Saudi Arabia (16.1%), Oman (9.7%), Iraq (9.3%), Iran (8.9%), UAE (3.8%) and Kuwait (3.4%).

Saudi Arabia remained the top oil exporter to China until recently surpassed by Russia. But the entire MENA region still has the lion's share of China's massive oil consumption. “Oil and gas are still the predominant industry in Saudi Arabia in particular and in the region as a whole”, points out Salman Al-Sudairi, the managing partner of Latham & Watkins' office in Riyadh.

In April, a joint venture refinery established by Saudi Aramco and Chinese oil giant Sinopec exported its first cargo of petroleum coke. The refinery additionally produces a reported 400,000 barrels per day.

Iraq is also a hotspot for energy investment. “We have seen a geo-political strategy of Chinese companies being involved in the

阿曼 (9.7%)、伊拉克 (9.3%)、伊朗 (8.9%)、阿联酋 (3.8%) 和科威特 (3.4%) 等盛产石油的中东国家。

在近期被俄罗斯超越之前，沙特阿拉伯一直是中国的第一大石油进口国。而整个中东和北非地区仍然在中国巨大的石油消费总量中占据着最大份额。“对于整个地区尤其是沙特阿拉伯而言，石油和天然气仍然是主导产业，”瑞生律师事务所利雅得办公室管理合伙人 Salman Al-Sudairi 说。

在四月，沙特阿美石油公司和中国石油巨头中石化公司成立的一家合资炼油厂出口了第一批石油焦炭。而这家炼油厂据说日产量可达到 40 万桶。

伊拉克也是中国能源投资的热门目的地。“我们已经看到中国企业作为经营者参与上游油气资产开发的地缘政治战略，”伊拉克的 Iraq Law Alliance 律师事务所管理合伙人 Thomas Donovan 说。

2014 年英国石油公司和中石油增加了他们在伊拉克的合资企业中所占股份，以开发伊拉克最大的鲁迈拉油田。该油田出产伊拉克 40% 以上的石油。

但是这类能源项目中的一部分面临运输困难。Donovan 说，由于缺少陆路途径，来自中国的基础设施物料都必须通过港口进口到伊拉克。遗憾的是，他表示“目前港口运作非常缓慢、低效”。

中东和北非地区能源行业的投资机会已经扩展到油气之外的其他资源领域，如可再生能源，其中以太阳能和风能最为突出。根据阿布扎比国家银行委托编写的《Financing the Future of Energy》报告，大多数中东和北非国家已经设定了可再生能源的未来目标。

约旦目前约 96% 的能源依赖进口。该国已经决心在 2020 年前将可再生能源在能源结构中所占比例从现有的 1% 提高到 10%。六月份，中国可再生能源企业汉能集团出资 3.01 亿美元，重点资助约旦电网的新风力和太阳能项目的扩展。汉能集团的中国同行天合光能和保威新能源近年也在约旦获得了巨额合同。

“在能源结构中引入新的元素对于约旦降低能源进口至关重要，目前对能源进口的依赖制约了约旦经济的发展，” Ali Sharif Zu'bi Advocates & Legal Consultants 驻安曼律师 Leena Nusseir 说。

中国投资人往往看重目标公司的技术及其在中国市场的应用

Chinese investors are often interested in ... the ability to utilize [the target's] technology in the Chinese market



Simon Jaffa
Barnea & Co.
创始合伙人
特拉维夫
Founding Partner
Barnea & Co.
Tel Aviv

我们注意到银行业[许多大型中国银行]的强劲势头

We are seeing strong activity on the banking sector with many of the large Chinese banks



Neil Cuthbert
德同律师事务所
高级合伙人
迪拜
Senior Partner
Dentons
Dubai

development of upstream oil and gas assets as operators”, says Thomas Donovan, managing partner of Iraq Law Alliance.

In 2014, BP and China's CNPC raised their shares in their joint venture to develop Rumaila, Iraq's largest oil field, producing more than 40% of Iraq's oil.

Some of these energy projects face difficulties in transportation, however. Donovan points out that Chinese infrastructure components must be imported into Iraq via sea due to lack of land routes. Unfortunately, he says, “this port is currently inefficient and slow”.

Opportunities in MENA's energy sector have expanded beyond oil and gas to other resources including renewables, mainly solar and wind energy. Most MENA countries have set out renewable targets, according to the report *Financing the Future of Energy* commissioned by the National Bank of Abu Dhabi.

Jordan relies on imports to cover about 96% of its energy needs, with around 1% coming from internal renewable sources. For this reason, it has vowed to reach a 10% share of renewable energy sources in the country's energy mix by 2020.

In June, China's renewable energy powerhouse Hanergy poured US\$301 million in funds to expand Jordan's power grid, with an emphasis on new wind and solar projects. Hanergy's renewable energy peers Trina Solar and Powerway also have won big contracts in the country in recent years.

“Introduction of new elements into the energy mix is essential to Jordan in order to decrease imported energy, which is currently straining the Jordanian economy”, says Leena Nusseir, an associate of Ali Sharif Zu'bi Advocates & Legal Consultants in Amman.

A similar strategy has been adopted by other countries with heavy dependence on energy imports like Morocco, which relies on imports for 91% of its energy supply. In 2014, the state-owned Shanghai Electric reportedly invested US\$2 billion in Morocco to develop about 3,500 megawatt (MW) solar power in a period of five years.

“The idea is to create a capacity to meet Morocco's increasing energy demand”, says Julien David, a partner of Gide Loyrette Nouel in Paris.

Even oil-rich countries are taking initiatives to develop new energy projects to mitigate dependence on oil and gas and to take leadership in carbon emission performance. Saudi Arabia is the

法律制度的复杂和官僚主义… 是投资者在埃及面临的主要障碍

*Complexity in the legal system
and the bureaucracy is the key
impediment for investors [in Egypt]*



Mahmoud Bassiouny

Matouk Bassiouny

合伙人

开罗

Partner

Matouk Bassiouny

Cairo

其他严重依赖能源进口的国家也采取了类似策略，例如摩洛哥。该国 91% 能源供应依靠进口。据报道，2014 年中国国有企业上海电气集团在摩洛哥投资 20 亿美元，将在大约五年时间内开发约 3500 兆瓦的太阳能项目。“这个想法是要创造产能，满足摩洛哥不断增长的能源需求，”基德律师事务所巴黎办公室合伙人 Julien David 说。

即使盛产石油的国家也在积极主动地开发新能源项目，减少对油气的依赖，并且在减少碳排放方面起到带头作用。这方面沙特阿拉伯最为野心勃勃，其目标是在 2032 年前具备 54000 兆瓦的可再生能源产能。

《阿联酋 2021 年愿景》也明确将减少对化石燃料的依赖定为目标。气候组织今年早些时候发布的报告预计，阿联酋这个区域贸易中心未来有望成为可再生能源中心，阿布扎比和迪拜共同计划于 2020 和 2030 年前将可再生能源供应量分别提高到能源总量的 7% 和 15%。

另外，核能投资也值得留意。约旦的规划和国际合作部长 Imad Najib Fakhoury 于七月份表示该国期待中国在其铀和页岩等矿业领域进行投资，虽然这些产业目前还处在初始阶段。

奠定基础

不可否认，中东和北非地区的许多建设项目与能源有紧密联系，但是也并非都是如此。为主办 2020 年世界杯足球赛，卡塔尔将花费约 40 亿美元建设场馆和其他设施，但是这个数额与该国的其他大型项目的耗资相比却还是小巫见大巫。

Sultan Al-Abdulla & Partners 律师事务所多哈办公室合伙人 Salman Mahmood 列举了卡塔尔今年的一些大型项目：耗资 450 亿美元的鲁赛尔城、350 亿美元的卡塔尔铁路开发项目、150 亿美元的卡塔尔珍珠岛项目等等。“由于正在实施的项目多种多样，且规模巨大，预计也将为许多附属行业带来投资机会，卡塔尔也将为这些后续投资开放市场，” Mahmood 表示。

史密夫·斐尔律师事务所中东地区合伙人及负责人 Zubair Mir 谈道，阿联酋一系列社会基础设施项目，特别是教育项目吸引了外

most ambitious, with a target of 54,000 MW renewable energy capacity by 2032.

UAE's Vision 2021 is also clearly aimed at reducing the Emirates' dependence on fossil fuels. A report released by the Climate Group earlier this year predicted that the trading hub has the potential to be the future hub of renewable energy, with Abu Dhabi and Dubai altogether aiming to increase the renewables supplies to 7% of total energy capacity by 2020 and 15% by 2030.

Investment in nuclear is something to watch as well. Jordanian Minister of Planning and International Cooperation Imad Najib Fakhoury stated in July that the country looks forward to Chinese investment in mining sectors including uranium and shale oil, though they are still in an early stage.

Laying foundations

Admittedly, many construction projects in MENA are closely related to energy, but it is not necessarily so. To host the 2022 FIFA World Cup, Qatar will spend about US\$4 billion for stadiums and other facilities, an amount that is small compared to its other large projects.

Salman Mahmood, a partner of Sultan Al-Abdulla & Partners in Doha, lays out Qatar's major projects in recent years: the planned city of Lusail at US\$45 billion, Qatar Rail Development Programme at US\$35 billion and the artificial island Pearl-Qatar at US\$15 billion. “With the variety and scale of the projects being implemented, numerous ancillary industries are expected to benefit which should open the door for further investment into the Qatari market”, says Mahmood.

A number of social infrastructure projects in UAE, in particular education-focused projects, have drawn the attention of foreign investors, observes Zubair Mir, a partner and head of Middle East of Herbert Smith Freehills. According to Mir, investors see a gap in the market for UAE to develop as a hub for higher education in the MENA region. “Investors are looking at projects to build new schools and universities, as well as the infrastructure needed to support those facilities, such as student accommodation”, Mir says.

In a sense, construction is the go-to sector for Chinese investment in almost all MENA countries. In Egypt, “recently

[在阿联酋]，投资人正在寻找 新学校和大学的建设项目

*Investors are looking at projects to
build new schools and universities
[in UAE]*



Zubair Mir

史密夫·斐尔律师事务所

中东地区

合伙人及负责人

Partner and

Head of Middle East

Herbert Smith Freehills



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以色列...是由高科技支撑起来的
创新型和技术密集型国家

*Israel is internationally recognized
as an innovative and technology-
intensive nation*



Michelle Tzhorl
西博雷特律师事务所
合伙人
北京
Partner
Shibolet & Co.
Beijing



国投资人的注意，投资者注意到阿联酋在发展成为中东和北非地区高等教育中心方面的市场空间。“投资人正在寻找新学校和大学的建设项目，以及为这些项目提供支持的基础设施，例如学生宿舍设施，” Mir 谈道。

some significant interest of Chinese companies is directed towards infrastructure projects”, notes Bahieldin Elibrachy, a partner of Ibrachy & Dermarkar in Giza. “Significant interest is shown in the area of power generation and transportation.”

Algeria poses a similar case. “In recent years, it appears that Chinese direct investment in Algeria is massively oriented towards building and especially infrastructure”, says Vincent Lunel, a partner of Lefèvre Pelletier & Associés and the manager of its Algiers office.

This investment is only expected to grow. In late April, Chinese premier Li Keqiang said during a meeting with Algerian prime minister Abdelmalek Sellal that China is ready to participate in Algeria’s construction of roads, ports and airports.

In May, China State Construction Engineering Corporation signed contract for part of Algeria’s US\$11.2 billion East-West Highway project to run connect Morocco and Tunisia across the expanse of Algeria. In 2013, Chinese Rail Construction Corporation also won contracts for part of this project.

In Israel, Ziv Wassercug, a partner of Tadmor & Co Yuval Levy & Co in Tel Aviv, mentions that Chinese and other foreign investors are also showing particular interest in large-scale infrastructure projects such as build-operate-transfer projects, seaports and railways.

In May, Israel port authorities signed a deal with Shanghai International Port to run a new port for 25 years. According to Xinhua News Agency, the project marks Israel’s first partnership in infrastructure and is a new development in the cooperation between the two countries.



ALAGHBARI & PARTNERS
Lawyers and Legal Consultants

ALAGHBARI & PARTNERS was recently established in January 2014, by bringing together a number of independent legal practices to create a unique and leading law Firm in Yemen, which successfully joins long and extensive years of experience and knowledge in the judicial and legal fields since 1994.

The team as a whole, consists of a distinguished group of Lawyers and Specialist Consultants, whom share diverse academic and professional experience both in Yemen and other jurisdictions, and consequently embrace an excellent understanding of various cultures and legal systems.

The Firm is fond of its increasing wide range of clients varying from individuals, small and medium enterprises to multinational businesses, government institutions and other types of national and international entities and organisations; and is highly committed to protecting its clients’ interests and meeting all commitments to the highest possible standards.

The Firm provides general legal advice and assistance as well as represents clients in litigation (commercial, civil and in some instances criminal cases) and other forms of dispute resolution procedures (mediation and arbitration) in Yemen.

To find out more about the Firm and the legal team, please visit our website at www.aghbarilaw.com

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从某种程度上讲,几乎所有中东和北非国家的建筑行业都很受中国投资者的欢迎。在埃及,“中国企业近期对基础设施项目表现出很大兴趣,主要表现在发电和交通运输领域,”Ibrachy & Dermarkar 律师事务所吉萨办公室合伙人 Bahieldin Elibrachy 表示。

阿尔及利亚也有类似的情况。“近年来,大量的中国直接投资都进入了建筑行业,特别是基础设施领域,”Lefèvre Pelletier & associés 律师事务所合伙人及阿尔及尔办公室负责人 Vincent Lunel 表示。

中国总理李克强在四月下旬会见阿尔及利亚总理阿卜杜勒·马立克·塞拉勒时表示,中国已为参与阿尔及利亚的道路、港口和机场建设做好准备。预计这将进一步刺激中国投资的增长。

五月,中国建筑工程总公司就阿尔及利亚造价 112 亿美元的东高高速公路项目的部分路段与当局签订了建设合同。该高速公路将横跨阿尔及利亚,连接摩洛哥和突尼斯两国边境。早在 2013 年,中国铁路建设集团也赢得了该项目的部分合同。

位于以色列特拉维夫市的 Tadmor & Co Yuval Levy & Co 律师事务所合伙人 Ziv Wassercug 表示,中国和其他国家的投资人也对以色列大型基础设施项目表现出了浓厚兴趣,例如建设-运营-移交 (BOT) 项目、海港、铁路的建设等。

五月,以色列港口管理部门与上海国际港务集团签约,双方将合作运营一个新港口,为期 25 年。根据新华社的消息,该目标志着两国之间在基础设施合作领域的新进展,并且中国将成为以色列首要的基础设施合作伙伴。

来自 Iraq Law Alliance 的 Donovan 表示,中国企业在伊拉克的基础设施开发中也有卓越的表现。根据他的说法,由于中国企业在当地的成功表现,而美国和欧洲企业却表现得犹豫不决,政府有信心将大型改造和建设项目交给知名的中国企业。

新兴技术

在中东和北非,以色列的技术对投资者有强烈的吸引力。“以色列被国际公认为是由高科技支撑起来的创新型和技术密集型国家,”西博雷特律师事务所北京代表处合伙人 Michelle Tzhori 表示。

包括阿里巴巴和百度在内的许多中国企业正在涌入以色列,在技术、媒体和电信 (TMT)、农业和医疗技术领域开展投资及合作。

位于特拉维夫市的 Barnea & Co. 律师事务所创始合伙人 Simon Jaffa 表示,中国投资人与西方投资人不同。西方投资人为了商业模式带来的丰厚投资回报而对公司进行投资,并且主要着眼于收购或上市。“中国投资人往往看重目标公司的技术及其在中国市场的应用,”Jaffa 说。

“我们注意到,近期中国投资人的一个重大变化是更愿意对处于相对早期的公司进行投资,而过去他们通常寻找有良好收入及市场认可技术的公司进行投资,”位于特拉维夫的 Gross Kleinhendler Hodak Halevy Greenberg & Co. (GKH) 律师事务所合伙人 Eli Barasch 谈道。

Barasch 指出中国在以色列投资的几项趋势:首先,许多规模较小、受关注度较低的投资交易已经在进行;再者,中国人对以色列风投基金进行投资,以寻找当地合伙人,对技术初创公司进行投资;最后,中国人还对在以色列成立研发中心表现出兴趣。

“去年以色列风投基金筹集的资金有 30% 来自中国投资人。预

Donovan of Iraq Law Alliance says that Chinese enterprises also excel at infrastructure development in Iraq. This is a result, he says, of the demonstrated success of Chinese firms as well as the hesitation of the US and European companies; for this reason, the government is confident in awarding well-known Chinese companies large scale rehabilitation and construction projects.

Emerging technologies

The treasures to be found in Israel's bubbling technology sector hold strong attraction for investors in the MENA region. “Israel is internationally recognized as an innovative and technology-intensive nation powered by the high-tech industry”, says Michelle Tzhori, a Beijing-based partner of Shibolet & Co.

Many Chinese companies, including Alibaba and Baidu, are flocking to Israel for investment and partnership in fields such as technology, media, telecommunications, agriculture and healthcare.

Simon Jaffa, the founding partner of Barnea & Co in Tel Aviv, says that Chinese investors are different from Western investors, who generally seek to invest in companies that have business models with strong returns of investment and target either acquisitions or an IPO. “Chinese investors are often interested in the target company's technology and the ability to utilize such technology in the Chinese market”, Jaffa says.

“The one big change we have noticed of late is the willingness of Chinese investors to invest in relatively early stage companies as compared to the past when they typically were looking for companies with revenue and market accepted technologies”, says Eli Barasch, a partner of Gross Kleinhendler Hodak Halevy Greenberg & Co in Tel Aviv.

Barasch points out some tendencies of Chinese investment into Israel. First, there are a large number of smaller or less well known investment transactions. Second, Chinese invest in Israeli venture capital (VC) funds to locate local partners for identifying and investing in technology start-ups. Third, investors are also showing an interest in establishing research and development centres in Israel.

“Last year 30% of the amounts raised by Israeli VC funds came from Chinese investors, and it is anticipated that this year the said percentage will rise to 50%”, adds Yoav Sade, a partner of Meitar Liguornik Geva Leshem Tal Law Office.

As a result, “we see growing interest in Israeli companies that have developed unique intellectual property in their field of expertise”, says Wassercug of Tadmor & Co. Yuval Levy & Co.

At the same time, investors should be aware that Israeli policy restricts the export of technological know-how and intellectual property from companies that have received support from Israeli authorities – a potentially pressing issue for Chinese investors who may be keen to export these virtual goods.

“Chinese companies investing in Israeli technology companies with the ultimate goal of repatriating technology to China need to be aware of this issue from a very early stage in their evaluation process”, Barasch says.

But interest in technological developments is not confined to Israel. In May, Aliyun, the cloud computing unit of e-commerce giant Alibaba, signed a joint venture agreement with Dubai's Meraas Holding to provide big data services in the region.

“The UAE, and Dubai in particular, is very keen on diversifying its economy to improve economic stability and provide a platform for sustainable growth”, says Alastair Holland, the managing partner of Ashurst's Abu Dhabi office.

计今年该比例将提高到 50%,” Meitar Liquornik Geva Leshem Tal 律师事务所合伙人 Yoav Sade 补充说。由于这个原因, Wassercug 表示:“我们发现投资人对在专业领域拥有独特知识产权的以色列公司的兴趣与日俱增。”

同时, 中国人应当了解以色列对获得官方支持的公司的专有技术和知识产权出口实行的限制政策, 这是中国投资人应当考虑的主要问题之一。“投资以色列技术公司并且最终目标是将该技术带回国内的中国企业, 应当从评估阶段一开始就注意这个问题,” Barasch 说。

但技术开发并不仅限于以色列。五月, 中国电商巨头阿里巴巴的云计算业务部门阿里云与迪拜 Meraas Holding 签订了合资协议, 将为中东地区提供大数据服务。“阿联酋, 特别是迪拜, 非常渴望经济发展的多元化, 提高经济稳定性, 并为持续增长提供平台,” 亚司特律师事务所阿布扎比办公室管理合伙人 Alastair Holland 表示。

阿联酋的战略性地地理位置使其可以充当不同大陆之间的桥梁。“我们看到阿联酋日益成为亚洲和其他外国投资人对北非及撒哈拉沙漠以南非洲地区投资的门户,” 来自史密夫·斐尔的 Mir 表示。

医疗保健

此外, Mir 提到, 医疗行业的投资继续受到热捧, 而且投资者也在这个区域针对医药以及医疗相关业务进行了战略性的并购交易。

以色列人的不拘礼节创造了有利于创新的、有活力的工作环境

Israeli informality creates a dynamic work environment that is conducive to innovation



Eli Barasch
Gross Kleinhendler Hodak
Halevy Greenberg & Co.
合伙人
特拉维夫
Partner
Tel Aviv

The UAE’s strategic location allows it to serve as a bridge connecting different continents. “Increasingly we see the UAE being used as a gateway for investment in both Northern and Sub-Saharan Africa by Asian and other foreign investors”, says Mir of Herbert Smith Freehills.



ZAKI HASHEM & PARTNERS
ATTORNEYS AT LAW

Zaki Hashem & Partners (ZH&P), one of the largest firms in Egypt and the entire Middle East, was established in 1953 to be one of the oldest and leading law firms in Egypt with a modern partnership form. The Firm gives top priority to providing quality legal service to its clients and is known for its hard working attorneys and staff, its integrity and overall quality of work.

It is worth mentioning that ZH&P has an outstanding track record in advising major Chinese clients in different sectors. The Firm, for example, has advised the Chinese Embassy in Egypt and provided legal services on different legal matters including the purchase of a new chancery in Egypt. ZH&P has also acted as the Egyptian legal counsel to Huawei Technologies for more than 10 years now and the Firm is still providing permanent legal advice to Huawei on the day to day running of the business. The Firm is also privileged in acting as the Egyptian legal counsel to the Chinese Consortium in its negotiations with the Egyptian Government with respect to the anticipated US\$ 1.5 Billion Electrified Railway Project in Egypt connecting between 10th of Ramadan City and the New Capital City.

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ZAKI HASHEM & PARTNERS

[在摩洛哥], 中国企业集团主要是电信业的供应商和能源行业的承包商

Chinese groups are ... suppliers for the telecom industry [and] contractors in the energy industry [in Morocco]



Jean-François Levraud
基德律师事务所
卡萨布兰卡办公室
管理合伙人
Managing Partner of
Casablanca Office
Gide Loyrette Nouel

在以色列, 与新兴的高科技领域一样, 医疗行业特别是医疗设备领域也吸引着越来越多的中国投资者。

与以色列的科技吸引中国投资者的原因一样, 将目标公司产品或者服务进行在中国或亚洲的本土化是中国投资者所青睐的直接投资策略, Herzog Fox & Neeman 律师事务所特拉维夫办公室律师 Anat Cherni 说。

“特别是在医疗领域, 我们也看到很多的战略性投资, 其中一般都会包括一些商业权利, 例如产品在中国或大中华地区的生产权或者在该区域的分销权,” Cherni 说。

融资和资本

在阿联酋和卡塔尔, 银行和金融业对中国投资人的吸引力也在增加。“我们注意到银行业的强劲势头, 中国银行、中国工商银行和中国国家开发银行等许多大型中国银行在广阔的区域运营,” 德同律师事务所驻迪拜高级合伙人 Neil Cuthbert 表示。

MSCI 证券指数去年已将阿联酋和卡塔尔的股票交易所纳入其全球资本市场指数, 这有望进一步带动外国投资。

“我们还应当注意沙特阿拉伯近期宣布向外国投资人开放股票交易所。外国投资人现在可以向作为世界最大经济体之一的沙特阿拉伯的股票市场投资,” 西盟斯律师事务所阿布扎比办公室合伙人 Haitham Hawashin 表示。

更多可能性

当阿联酋和以色列等国家深受中国投资者欢迎的同时, 其他一些国家却由于各种原因较少被中国投资者问津。例如, 从经济角度看, 中国对黎巴嫩的投资数额过少, 尽管该国有良好的法律环境和银行服务, Badri and Salim El Meouchi 事务所驻贝鲁特高级律师 Michel El-Meouchi 表示。

“但是, 这意味着现在任何人来投资都可以达成很好的条件, 而目前主要的基础设施投资项目无疑都将得益于大量政治资金, 这可能会对中国企业产生吸引力,” El-Meouchi 说。

Healthcare

Mir also notes that healthcare investment continues to be popular and investors are making strategic acquisitions in the region of pharmaceutical and other healthcare-related businesses.

Alongside new high-tech fields, healthcare is another magnetic target for a growing number of Chinese investors in Israel, especially the medical devices sector.

Much like the Israeli technologies that attract Chinese investors, localization of a target company's product or services is a popular direct investment policy for them, according to Anat Cherni, advocate of Herzog Fox & Neeman in Tel Aviv.

“Specifically in the medical field, we are witnessing many strategic investments, which typically also include some commercial rights, such as exclusive manufacturing of the product in China, or in greater China, or exclusive distribution rights in this area”, says Cherni.

Financing and capital

Investors are becoming increasingly attracted to banking and finance in both the UAE and Qatar. “We are seeing strong activity on the banking sector with many of the large Chinese banks such as Bank of China, ICBC and China Development Bank operating in the wider region”, says Neil Cuthbert, a senior partner of Dentons in Dubai.

Due to global index provider MSCI's upgrade last year, UAE and Qatari stock exchanges have been integrated with global capital markets, with potential to drive foreign investment.

“We should also note the recently announced opening up of Saudi Arabia's stock exchange to foreign investors who are now able to invest in the stock market of one of the world's largest economies”, says Haitham Hawashin, a partner of Simmons & Simmons' Abu Dhabi office.

More possibilities

While countries like UAE and Israel are popular among Chinese investors, some countries remain less touched by investors for various reasons.

Chinese investment is economically under-represented in Lebanon, for example, despite its strategic advantages such as a mature legal environment and strong banking services, says Michel El-Meouchi, a senior associate of Badri and Salim El Meouchi Law Firm in Beirut.

“However, this means that anyone investing right now can negotiate good terms, and major infrastructure investments today would no doubt benefit from significant political capital, which is something that may interest Chinese firms”, says El-Meouchi.

Energy and construction are the main sectors for potential investors in Lebanon, which is estimated to have offshore energy reserves including over 120 trillion cubic feet of natural gas.

Although Morocco is one of the largest foreign direct investment (FDI) destinations in the Maghreb region (Morocco, Algeria, Tunisia and Libya) with over US\$3 billion of FDI mainly in real estate, Chinese investment is yet to grow in the country that has competitive cost of production, strong and modern banking sector and flexible labour law.

“Chinese investments in Morocco are still few, around US\$150 million, and are concentrated in the information technology and

能源和建筑是黎巴嫩最主要的潜在投资领域。据估计,该国拥有包括 120 万亿立方英尺的天然气在内的海上能源储备。

摩洛哥是马格里布地区(包括摩洛哥、阿尔及利亚、突尼斯和利比亚)最大的投资目的地之一,外国直接投资超过 30 亿美元,主要集中在房地产行业。该国具备有竞争力的生产成本,现代化的、发达的银行业以及灵活的劳动法律制度。中国在摩洛哥的投资还有很大的增长空间。

“中国在摩洛哥的投资数额仍然很低,仅为 1.5 亿美元左右,集中在信息技术和电信行业,” Chassany Watrelot & Associés 律师事务所驻巴黎合伙人 Mohamed Oulkhour 说。

基德律师事务所卡萨布兰卡办公室管理合伙人 Jean-François Levraud 对此表示同意:“摩洛哥的中国投资数量还不是很多。中国企业集团主要是作为电信业的供应商和能源行业的承包商在摩洛哥开展业务。”

伊朗也发出了一些复苏的信号。根据伊朗一家主要律师事务所负责人提供的信息,中国在伊朗的投资主要集中在汽车行业,但是在技术市场中的一些近期活动,包括数宗高调的收购,显示出伊朗技术领域投资的增长势头。

最近,中国华晨汽车集团与伊朗第二大汽车制造商合作推出了两条汽车组装线。目前,奇瑞、力帆和江淮等中国汽车制造企业都在当地建立了业务机构和合作关系。

telecommunications sectors”, says Mohamed Oulkhour, a partner of Chassany Watrelot & Associés in Paris.

Jean-François Levraud, managing partner of Gide’s Casablanca office, agrees. “There has not been so many Chinese investments yet in Morocco. Chinese groups are present as suppliers for the telecom industry, as contractors in the energy industry.”

Iran also sends some signal of reinvigoration. Chinese investment in Iran presently focuses on the automotive sector; new activity in the technology market shows growth with a number of high-profile acquisitions, according to the head of a leading Iranian law firm.

China Brilliance Auto recently launched two assembly lines working with Iranian’s second-largest carmaker. Chinese automobile manufacturers Chery, Lifan and Jianghuai also have established local presence and partnerships in Iran.

The agreement reached in mid-July on the development of Iran’s nuclear capacities could lead to the lifting of most sanctions on the country’s economy.

In Tunisia, Adly Bellagha, senior lawyer of Adly Bellagha & Associates in Tunis, sees foreign investment generally focusing on textiles as well as the manufacture of electrical, mechanical and metallurgical products for export and services.

“Sectors seeing the most formation growth include those with higher added value such as services and electrics, and automotive industries remain the largest growing sectors, as well as green energy”, adds Bellagha.



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The author, Andrew Godwin, is a former partner of Linklaters who spent more than a decade in China and is currently an associate director of the Asian Law Centre at Melbourne Law School in Australia.

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七月中旬达成的有关伊朗核能开发的协议可能会导致针对该国的大部分经济制裁被取消。

在突尼斯, Adly Bellagha & Associates 律师事务所的高级律师 Adly Bellagha 说, 总体来说突尼斯的外国投资集中在纺织和用于出口的电气、机械和冶金产品的制造以及各种服务业。“增长最快的行业包括服务和电气等高附加值行业, 而汽车和绿色能源仍然是最大的增长中行业,” Bellagha 补充道。

障碍

社会动荡无疑会对外国投资产生影响。其礼律师事务所阿布扎比办公室管理合伙人 Christopher Jobson 说, 在利比亚内乱之前, 中国企业在利比亚基础设施行业十分活跃, 估计在过去几年间有 50 多个利比亚基础设施项目合同授予了中国企业。“但是, 由于目前存在的政治问题, 这些投资项目大部分已经搁浅, 或陷于付款纠纷,” Jobson 说。

即使在较为稳定的中东和北非国家, 投资者在进入市场前也应注意各种法律、文化和社会问题。“最基本的问题是对外商所有权的限制,” 年利达律师事务所阿联酋管理合伙人 Scott Campbell 说。

对于在阿联酋(自由贸易区除外)设立的公司而言, 至少 51% 的股权必须由阿联酋国民持有。而卡塔尔、埃及、巴林、阿尔及利亚、约旦、阿曼等国家也存在不同程度的所有权限制。

“没有 [阿曼] 部长会议的同意, 外国投资者无法获得百分之百的所有权, 或者仅仅是在私有化项目中允许完全的外国所有权,” 位于阿曼首都马斯喀特的 Al Busaidy Mansoor Jamal & Co 律师事务所执行合伙人 Mansoor Malik 说。

中国投资者还应注意程序问题。“在中东投资面临的另一个更普遍的问题是在设立境内企业时缺少对时限和监管问题的了解,” 其礼律师事务所驻迪拜合伙人 Philip O' Riordan 说。他还补充说, 考虑到行业的敏感性, 油气行业尤其如此。

腐败和官僚主义等行政管理问题也值得注意。“关于影响外国投资者的当地法律、法规和程序, 要在一些法域获得最新的公开信息往往很困难,” 来自西盟斯的 Haitham Hawashin 说。Matouk Bassiouny 律师事务所驻开罗合伙人兼金融项目负责人 Mahmoud Bassiouny 谈道: “我们发现法律制度的复杂和官僚主义, 以及某些情况下的政策障碍……是投资者在埃及面临的主要障碍。”

除监管问题之外, 中国投资者还必须克服文化差异。例如, Barasch 就提到, 以色列非常注重平等主义思想, 而这种行为方式渗透到了技术行业, 特别是规模较小的初创企业。

“以色列人的不拘礼节创造了有利于创新的、有活力的工作环境, 但是中国投资者要想从以色列投资项目中获得最大回报, 需要了解这些文化差异,” Barasch 表示。

中东和北非国家的另一个常见问题是人力资源, 特别是非常依赖外国劳动力的海湾合作委员会 (GCC) 国家。“在卡塔尔, 最主要的挑战是建立技能娴熟的劳动力队伍。要获得合适的人才可能要付出高昂的代价,” El-Meouchi 说。

“因此, 应考虑与当地企业分担风险, 选择适当的合作伙伴和适当的时间进入市场, 转移并平衡商业和法律风险,” 其礼律师事务所利比亚办公室管理合伙人 Albudery Shariha 表示。■

Roadblocks

Social instability will no doubt affect foreign investment. Prior to recent civil unrest in Libya, Chinese companies were very active in the Libyan infrastructure sector.

According to Christopher Jobson, managing partner of Clyde & Co's Abu Dhabi office, an estimated 50 infrastructure projects were awarded to Chinese companies in the last few years. “However, most of these have subsequently stalled or are in payment disputes, due to the on-going political problems”, says Jobson.

Even in relatively stable countries, investors should be concerned about various legal, cultural and social issues before entering the markets. “The most basic issue is dealing with foreign ownership restrictions”, says Scott Campbell, the managing partner of Linklaters' offices in UAE.

For a company established in UAE, at least 51% of its shares must be held by UAE nationals, save for those companies established in the free zones. Similar restrictions on ownership also exist in countries such as Algeria, Bahrain, Egypt, Jordan, Oman and Qatar, though at different thresholds.

“No 100% foreign investment is readily available without [Oman's] Council of Ministers approval, or permitted only in the case of privatization projects”, says Mansoor Malik, the managing partner of Al Busaidy Mansoor Jamal & Co in the Omani capital, Muscat.

Investors also need to be careful with procedural issues. “Another, more general, problem with investment in the Middle East is a lack of understanding of the timelines and regulatory issues when it comes to establishing entities onshore”, says Philip O'Riordan, a partner of Clyde & Co in Dubai. He adds that this is particularly the case in the oil and gas sector, given the sensitive nature of this industry.

Administrative obstacles such as corruption and bureaucracy are also worth attention. “Obtaining up-to-date, publicly available information on local laws, regulations and procedures relevant to foreign investors tends to be difficult in some jurisdictions”, says Simmons' Hawashin.

Mahmoud Bassiouny, partner and head of finance and projects of Matouk Bassiouny in Cairo, says, “we have found that complexity in the legal system and bureaucracy is the key impediment for investors, as well as in some cases the presence of policy barriers ... in Egypt”.

In addition to regulatory challenges, investors must also conquer considerable cultural gaps. For example, notes Barasch, Israel has a very egalitarian ethos and this behaviour carries over to the technology sector, especially in smaller start-ups.

“Israeli informality creates a dynamic work environment that is conducive to innovation, but Chinese investors need to understand these cultural differences if they're going to succeed in getting the most out of their Israeli investments”, says Barasch.

Another common challenge lies in human resources, especially in Gulf Corporation Countries Council (GCC) countries, which are highly reliant on foreign workforces. “In Qatar, one of the main challenges is building a skilled workforce. It can be costly to get the right talent in place”, El-Meouchi says.

“Therefore, sharing risk with local business should be considered as long as choosing a right partner and a right time to enter into the market by migrating or balancing risks both commercial and legal”, says Albudery Shariha, the managing partner of Clyde & Co's Libya office. ■

法律标准抑或道德标准？ Put ethics or letter of the law first in pre-emptive filings of unregistered marks?



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《商标法》第32条规定：“申请商标注册不得损害他人现有的在先权利，也不得以不正当手段抢先注册他人已经使用并有一定影响的商标。”这是商标注册原则和申请在先原则的例外条款，其目的在于对有一定影响的未注册商标进行保护，禁止他人恶意抢注。

欲适用该条款，需满足两个要件：一是未注册商标在诉争商标申请日前，在相同或类似商品上在先使用并有一定影响；二是使用不正当手段。

对《商标法》关于禁止恶意抢注条款的适用一直存在分歧。主要争议点在于：该条款中规定的“有一定影响”是否在认定“恶意抢注”行为上具有独立的价值；换言之，要求被恶意抢注的商标“有一定影响”是为了保护使用在先的权利人在该商标上创造并凝聚的商誉，还是为了证明诉争商标申请人的主观恶意？

观点冲突

一种观点认为，“在先使用并有一定影响”作为对未注册商标的保护前提和基础，具有不可替代的独立价值。北京市高级人民法院最近作出的关于第5216764号“超极”商标争议行政纠纷二审判决中，即持有这种观点。

在该判决中，法官认为：适用本条予以保护的在先未注册商标，至少需要满足两个

条件。第一，该“商标”无论其本身还是经过使用均需实际具有识别作用，而不仅是具有识别商品或者服务来源的可能性。

第二，该“商标”需要经过使用且具有一定影响才能形成商誉，从而受法律保护。也就是说，只有在先使用的是一个能够起到识别商品或服务来源的商标且该商标具有一定商誉的情况下，才谈得上将这种商标声誉归属于哪个主体的问题，如果使用并未起到商标的作用或者没有形成商誉，则不存在商标法上的利益，也就无需考虑该利益的归属问题。

另一种观点认为，要求在先商标权人证明“有一定影响”的目的在于认定诉争商标申请人主观明知或应知，即为证明申请人具有主观恶意。因此只要能证明在先商标的知名度覆盖到诉争商标申请人，诉争商标申请人知晓在先商标，即可认定构成《商标法》第32条后半段禁止的情形。

恰当理解

笔者认为，《商标法》第32条中“禁止恶意抢注”条款的规定是为了对有一定影响、已使用的未注册商标给予一定程度的保护。对该条款适用条件的理解须基于该条款的立法目的。

过严地理解该条款将造成部分应受保护的商标被排除在法律保护之外，过宽地理解又会造成对《商标法》所确立的注册原则和申请在先原则的冲击。

而如何理解，应首先从保护商标的主要目的出发。商标的保护主要是为了禁止混淆，也就是说相关公众已经将该商标与特定的商品或服务来源建立了联系。但仅仅在先使用却没有建立起上述联系的未注册商标



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不会因他人的注册而导致相关公众混淆，该未注册商标的在先使用人也就没有禁止他人注册该商标的权利基础。因此，受保护的未注册商标都应当是具有商誉的商标，此即该条款中规定的“具有一定影响”。

在前述的两种观点中，后一种将“有一定影响”作为认定诉争商标申请人恶意的一种手段或方式的认识，这是对“有一定影响”要件本身价值的否定。

“有一定影响”作为独立要件是不可或缺的。诚然，以“在先使用并有一定影响”的商标使用效果覆盖至商标注册申请人为由，可以推知商标申请人主观上有应知的恶意。但是，若可以通过“有明确告知、有业务往来、接触”等方面的证据直接认定商标申请人申请注册商标的主观明知恶意，是否可以忽略对“有一定影响”要件的要求？答案显然是否定的。否则，在先使用商标权人完全可以通过适用《商标法》第15条关于代理关系的规定来寻求救济，而不必选择适用《商标法》第32条。

综合考虑

当然，对于“有一定影响”的证明程度，需要结合具体案情进行综合判断。在有证据证明诉争商标申请人具有明显恶意时，可以适当降低对“有一定影响”的证明要求，但需要坚持的最基本的标准应是该诉争商标具备了指示商品或者服务来源的功能，且形成了商誉。

否则，如果仅以具有“恶意”即判定构成第32条恶意抢注，从而撤销在先申请的诉争商标注册，就会落入以“道德”而非“法律”来评价抢注行为的漩涡，与中国实行的商标申请在先这一基本原则相悖。■

“**‘有一定影响’作为独立要件是不可或缺的**”

Article 32 of the Trademark Law sets out that “an application for trademark registration may not prejudice the existing prior rights of another nor may improper means be used to pre-emptively register the trademark of another that is already in use and has a certain degree of influence”. This is an exception to the trademark registration and first to file principles, and it aims to prohibit others from pre-emptively registering in bad faith, or squatting, on unregistered trademarks with a certain degree of influence and being protected doing so.

Two conditions must be satisfied for this provision to be applied. First, the unregistered mark must have been in use on identical or similar goods and it must have possessed a certain degree of influence prior to the filing date of the disputed trademark. Second, the registering party must have used improper means in its attempt to squat on the mark.

There has been contention over whether the “certain degree of influence” of this clause has any value in identifying a malicious registration. The question is whether requiring that the trademark being squatted have a certain degree of influence is to protect the commercial reputation of the prior rights holder created via the disputed trademark, or to establish the subjective bad faith of the trademark applicant.

Conflicting views

One view holds that setting a precondition of a mark being in prior use and holding a certain degree of influence, and making that precondition the basis for protecting an unregistered trademark is objectively useful. This view can be seen in Beijing Municipal Higher People’s Court’s decision in the appeal case over the trademark “超极” (chaoji, in English, “super”).

The judges held that at least two conditions needed to be satisfied in order to apply this provision and accord protection to an existing unregistered trademark. First, the trademark must actually possess distinguishability, either intrinsically or derived through use, and not merely hold the potential to identify the source of the goods or service. Second, the trademark could only be seen as having a reputation if it has achieved a certain degree of influence through use. Only by fulfilling these two conditions could the unregistered trademark be protected by the law.

The judges held that only in the situation where a trademark has been in prior use

and is capable of distinguishing the source of a good or service and that trademark has a definite reputation it is possible to consider who owns that trademark’s reputation. If use has not given rise to a trademark’s requisite function, nor has it built up a reputation, then no interests exist under trademark law; thus, whether those interests should be vested would not need to be considered.

An alternative view is that requiring a prior rights holder to provide evidence of a certain degree of influence is done with intent to determine that of which the trademark applicant subjectively had or ought to have been aware – the existing reputation of the mark. Namely, it is done to establish that the applicant has acted in subjective bad faith. Provided that it can be demonstrated the reputation of the existing trademark involved the applicant and that the applicant was aware of the existing trademark, then courts can render a finding that the registration is prohibited per article 32.

Protections for unregistered marks

Article 32 must be understood per its legislative intent. The provision affords a certain degree of protection to existing unregistered trademarks possessing a certain degree of influence. An overly strict reading will result in certain trademarks deserving of protection being cast outside the custodial net of the law. Yet too lenient a reading will have a negative effect on the registration and first-to-file principles under the Trademark Law.

One must first understand why trademarks are protected in order to understand the provision. Trademarks are protected primarily to avoid confusion, as the public have already made a connection between the trademark and the source of certain goods or services.

An existing unregistered trademark that lacks that connection with the public will not engender confusion if registered by another, therefore the prior user of the existing unregistered trademark lacks the right to prohibit another from registering that trademark. Protected unregistered trademarks should be those with a reputation – this is the “certain degree of influence” stipulated by the provision.

The alternative view raised above considers the certain degree of influence stipulated as a means or method of determining the bad faith of the disputed trademark applicant. This in effect denies

“ *Having a certain degree of influence is an indispensable condition* ”

the value of the key condition of possessing a certain degree of influence itself.

Having a certain degree of influence is an indispensable condition. It is true that it can be deduced that the trademark applicant ought to have known of the mark’s prior use and subjectively acted in bad faith on the grounds that the effect of using a trademark in prior use with a certain degree of influence extends to the trademark registration applicant.

Nevertheless, can the condition that the mark must have some degree of influence be ignored if it can be directly determined that the trademark applicant was well aware of the prior use and subjectively acted in bad faith as demonstrated by evidence that the trademark applicant “was expressly informed, had business dealings or contact”? The answer is clearly no. Otherwise the existing trademark rights holder would simply seek remedies under article 15 of the Trademark Law, the provision on agency relationships, without resorting to article 32.

In sum

When there is clear evidence that a trademark applicant has acted in bad faith, the probative requirements for a certain degree of influence may be suitably reduced. The most basic criterion that needs to be adhered to is that the disputed trademark both be able to distinguish the source of the goods or service and have given rise to reputation.

Without these, if the question of whether a pre-emptive mark registration is squatting as per article 32 is determined solely on the basis of bad faith, and the application – the first to be filed – is cancelled as a result, the situation will fall into the murky mire where pre-emptive registrations are assessed by ethics rather than law. This runs counter to the basic first to file principle for trademarks used in China. ■

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电影片名与商标权冲突的困惑与解决

Resolving potential conundrums in trademark disputes over film titles



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近年来,中国电影产业规模呈爆发性增长,系列电影、衍生品、电影主题公园、互联网+电影的出现都极大改变着电影产业的盈利模式和周期。以前将电影片名作为商标进行注册的情况并不多见,现在由于电影的品牌效应凸现,利用《商标法》的“注册在先”原则将他人知名电影片名抢先注册为商标的现象越来越多。利用“商标专用权”起诉同名电影制片方侵权的案例也开始出现。

然而现有法律框架对此类冲突却没有明确规定。已发生的案例中,有的裁判机关认为保护电影片名没有法律依据,拒绝保护;有的虽给予一定程度的保护,但法律依据和判案思路却大相径庭,让人不免困惑。

值得欣喜的是,2014年中国最高法院出台的一份司法解释征求意见稿为促进冲突的解决提供了一线曙光。

何法可依?

电影片名通常是电影内容的高度概括,也是品牌和经济价值的集中体现。但在以往实践中,当电影片名被他人不正当地利用时,当事人维权却往往面临无明确依据的尴尬境地。

从表面上看,《商标法》中“申请商标注册不得损害他人现有的在先权利”的规定似乎为当事人维权提供了法律依据。但事实上,业界普遍认为“在先权利”是指著作

权、外观设计专利、姓名权、肖像权这些权利,“电影片名”不在其中。2008年中国最高法院发布的《关于审理注册商标、企业名称与在先权利冲突民事纠纷若干问题的规定》在对“在先权利”包含的权利进行列举式说明时,“电影片名”依然不在此列。

另一方面,鉴于电影作品受《著作权法》保护,那么电影片名作为电影作品的名称,是否能够依据《著作权法》进行保护呢?答案也是否定的。在涉及电影片名与商标权冲突的电影《五朵金花》案中,一审法院认为“五朵金花”不能囊括作品的独创部分,不具备作品属性,不应受《著作权法》保护。该案虽然最终调解结案,但案中涉及的电影片名不能依据著作权保护的观点却得到了业界广泛认同。

虽然《反不正当竞争法》有保护“知名商品特有的名称”的相关规定,但一部电影的片名要满足相关条件面临较大的障碍。特别是此条在解决商标确权阶段的冲突时并不好用。总体来说,缺少明确的法律依据,使大多数制片方依据其电影片名对抗商标权的请求以落空告终。

进展有限

在法律依据不明确的情况下,为了回应社会的关注,出现了数个给予“电影片名”以保护的、具有一定突破性的案例,但不同案件中使用的法律依据和审理思路却并不完全一致。

在“Harry Potter”商标异议案中,商评委引用《商标法》中“有其他社会不良影响”这一兜底条款驳回被异议商标的注册申请。

在“007”、“JAMES BOND”商标异议案中,二审法院认定,在先知名的电影人物



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角色等应当作为“在先权利”保护。业界普遍认为,这是中国法院首次将“商品化权”纳入“在先权利”的范围。

在民事侵权领域的“功夫熊猫”案中,审理法院认为,“功夫熊猫”是对影片内容“一只只会功夫的熊猫”的描述,不属于商标性质的使用,不构成对他人注册商标权的侵犯,从而巧妙的从另一角度解决了二者间的冲突问题。

裁判机关上述创新的解释值得称道,但处理手法各异。而且在中国法律体系中,个案也无普遍约束力,现有冲突很难通过一两个案例解决。

一线曙光

2014年中国最高法院发布的《关于审理商标授权确权行政案件若干问题的规定》(征求意见稿)第17条规定,“作品名称、作品中的角色名称等不构成作品,但具有较高知名度,将其作为商标使用在相关商品上容易导致相关公众误认为其经过原作品权利人许可或者与原作品权利人存在其他特定联系的”,当事人以此主张构成受《商标法》保护的在先权益,法院予以支持。

此条的突破性意义在于首次将知名作品名称、角色名称明确为“在先权益”,使得“影片名称”终可名正言顺的同与之冲突的“商标权”相抗衡。

虽征求意见稿尚未通过,从标题来看也仅适用于商标行政确权案件。但笔者认为,确立“民事权益”的独立法律地位,在商标行政确权领域,可以有效阻却对知名电影片名的抢注行为。而在民事侵权领域,则可能作为当事人进行不侵权抗辩的有力武器。对于意见稿,我们充满期待。■

“ [征求意见稿]首次将知名作品名称、角色名称明确为‘在先权益’ ”

The Chinese film industry has experienced explosive growth in recent years. Movie franchises, merchandise, theme parks and online integration have greatly altered the film industry's release cycles and profit models. In the past, film titles were rarely registered as trademarks, yet now there is an increasing number of cases where the Trademark Law's first to file doctrine is exploited to pre-emptively register well-known film titles because of their brand effect. There is also an emergence of cases where producers are sued for infringement of exclusive rights to use a trademark when their films have identical titles.

Existing legal framework does not have clear provisions on these types of conflicts. Some authorities have held that protecting film titles lacks legal basis and thus refused protection. Others have afforded titles a certain degree of protection, but were left scratching their heads at the wide gap between the legal basis and judgment rationale. Happily, the Supreme People's Court has offered a ray of hope in resolving these conflicts in a set of draft interpretations which were recently circulated for public comment.

Foundation for protection

A film title is usually a broad description of the film, as well as an embodiment of the film's brand and worth. However, past practice has shown that whenever a film title has been illegitimately used, the concerned party typically encounters the awkward situation of there being no clear basis for protecting their rights.

Superficially, the Trademark Law provision that "an application for the registration of a trademark may not damage the prior rights of any third party" would seem to provide the legal foundation for a party to protect their rights. However, the general opinion in legal circles is that here "prior rights" refers to such rights as copyright, design patents, right to one's name and right to one's image, and not the title of a film.

The Regulations on Certain Issues Concerning Hearing Civil Disputes over Conflicts Between a Registered Trademark or Enterprise Name and Prior Rights, issued by the Supreme People's Court in 2008, similarly does not include film titles among its illustrative list of prior rights.

Given that the Copyright Law protects cinematographic works, can it protect a film title as well? The answer is again

negative. In the dispute over the title of the film Five Golden Flowers and a registered trademark, the court at first instance held that "Five Golden Flowers" does not cover the part of the work that is an original creation and does not possess any of the attributes of a work, therefore it should not be protected by the Copyright Law.

The case ultimately went to mediation, but the view that the title of a film cannot be accorded protection on the basis of the Copyright Law came to be widely accepted in legal circles.

The Law Against Unfair Competition contains a provision on the protection of the "name exclusively used by a well-known good", but a film title would face significant obstacles to satisfy the relevant conditions. In particular, this provision is not easily used in resolving conflicts over confirmation of trademark rights.

In short, the lack of a clear legal basis has resulted in the majority of trademark challenges by film producers based on the titles of their films to come to naught.

Limited progress

There have been a number of groundbreaking cases granting protection to film titles, but the legal bases and arguments have been inconsistent.

In the Harry Potter case, the Trademark Review and Adjudication Board cited the Trademark Law's catch-all provision that the mark "had some other adverse effect on society" to deny the registration of the opposed trademark.

In the 007 and James Bond case, the appellate court found that a well-known character's name and title should be protected as a prior right. Industry circles are generally of the opinion that this was the first time that a Chinese court had included merchandising rights within the scope of an existing prior right.

In the Kung Fu Panda civil infringement case, the court artfully resolved the conflict from another angle. The court held that "Kung Fu Panda" is a description of the film – namely, it is a film about a panda that knows kung fu. "Kung Fu Panda" was not used in the nature of a trademark, thus the use of "Kung Fu Panda" would not constitute infringement of another's registered trademark.

These innovative interpretations should be praised, yet how the cases were handled is inconsistent. Further, China does not have a system of case law, so individual cases have no general binding force. This

“ [The draft] sets out that the titles of works and the names of characters are prior rights ”

means that existing trademark conflicts over film titles or character names are unable to be resolved through one or two individual cases.

A ray of light

In 2014, the Supreme People's Court issued a draft of the Regulations on Certain Issues Related to Trials of Administrative Cases Involving the Grant and Confirmation of Trademark Rights for public comment. Article 17 of the draft regulations sets out that "the titles, character names, etc. of creative works do not constitute creative works but do possess a relatively high degree of notoriety, and if their use as trademarks for relevant goods easily misleads the relevant public into believing that they have been licensed by the original work's rights holders or that they have some other type of specific relationship with the original holders of the rights in the works", then the court will uphold a party's claim that the works' title or characters constitute a prior right protected by the Trademark Law.

The breakthrough significance of this provision is that it is the first piece of legislation that sets out that the titles of works and the names of characters are prior rights, making it possible for film titles to rightly and properly stand on an equal footing with the trademarks with which they come into conflict.

The draft has not yet been adopted, but the title reveals that it will only be applicable to administrative cases involving the confirmation of trademark rights. The authors would argue, however, that establishing an independent legal position for civil rights and interests can effectively hinder the pre-emptive registration of well-known film titles in the administrative cases on the confirmation of trademark rights. This may serve as a powerful weapon for parties conducting a defence of non-infringement in tort cases. The adoption of the draft is something to await. ■

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共存协议在商标授权案件中的效力

Do marks on OEM goods infringe domestic trademarks?



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共存协议最早于上个世纪八九十年代出现在西方国家。国际商标协会 (INTA) 对于共存协议的定义为：“由拥有近似且不会产生混淆可能性的共存商标的双方或三方达成的协议，允许当事人间为和平共存设定规则。”事实上，共存协议的签订是目前解决商标共存纠纷较为有效的手段，其本质上仍为合同的一种，是当事人意思的充分表达。

然而，在中国现行法律框架下，对于商标授权案件中共存协议的效力并没有明确的规定。商标授权行政机关在实际审查中，大多依赖审查员对于商标共存是否可能导致混淆进行主观裁量，进而裁定是否采纳共存协议，允许在后商标的注册。甚至相似案件最终审查结果大不相同。本文试对共存协议在商标授权案件中的效力适用做简要探讨和分析。

国外判例

世界知识产权组织一方面认可共存协议的存在，另一方面也将共存可能令消费者产生混淆的情况纳入考虑，将两者进行平衡，综合进行严格考量，决定是否采纳共存协议。美国法院更多将共存协议视为合同对待，只要不涉及重大公共利益问题，实践中更多趋向于认可当事人达成的共存协议的效力。

英国法院的实践与世界知识产权组织关于共存协议效力认可所采纳的标准类似，综合考量当事人意思自治以及商标共存在市场中造成混淆的可能性，兼顾保护消费者利益。早期欧共体商标注册体系并不认可商标共存协议的效力，后来转变为在一定程度上参考共存协议的内容。

中国实践

第三次修正的《商标法》第 30 条规定，申请注册的商标，凡不符合该法有关规定或者同他人在同一种商品或者类似商品上已经注册的或者初步审定的商标相同或者近似的，由商标局驳回申请，不予公告。

实践中，申请商标因违反前述法条被商标局驳回后，在后的商标申请人通过寻求与在先商标所有人 (引证商标所有人) 达成共存协议，由引证商标所有人同意在后商标在中国的注册，进而在驳回复审程序中提交共存协议，请求商标评审委员会核准商标注册，这已经成为商标申请人克服商标注册障碍的通用选择。

然而，目前中国关于共存协议在商标授权案件中的效力并无明确法律规定。2007 年 10 月 16 日，在商标评审委员会第 24 次委务会上，第一次表明其在驳回复审案件中对于共存协议将有条件地接收共存协议的态度。

商评委观点

商评委经研究认为，第二次修正的《商标法》第 28 条 (现行《商标法》第 30 条) 的立法目的有两个：第一，保护在先注册或者初步审定的商标，避免商标权利冲突；第二，保护消费者利益，防止相同或者近似商标出现在市场上，造成相关消费者的混淆。

“ [共存协议] 本质上仍为合同的一种，是当事人意思的充分表达 ”



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在前述两项立法宗旨之下，商标评审委员会认为在决定是否允许商标共存时，应该考虑双方商标整体上能否能够为消费者区分，共存是否容易造成消费者混淆。

具体而言，需综合考量两个因素：(1) 双方商标使用商品的类似程度、相关商标的近似程度及各自的知名度；(2) 相关商标的知名度。

根据以上原则，实践中审查员在审查共存协议的效力时，在《商标法》第 30 条的制定背景之下，将更多地将双方商标的共存是否会造成相关消费者的混淆纳入首要考量因素，进而决定是否采纳共存协议。

对共存协议的思考

笔者认为，商标权属于民事财产权利，申请商标与引证商标之间是否存在冲突主要是私权性质的民事纠纷。如果当事人之间就商标共存达成协议，体现了在先商标权利人对其权利的处分。根据意思自治原则，除非涉及重大公共利益，应当认定其效力，准予在后商标的注册。

商标授权行政机关对于混淆可能性的判断仅是一种推定，而在先商标权利人在出具共存协议时，必然会对事关其切身利益的、商标共存是否会在市场上造成混淆的可能性进行判断，此种判断相较于商标授权行政机关而言，更符合实际情况。

而且，即使商标共存有引起消费者混淆的危险，这种危险也可以通过标注商号等其他信息加以区分。即使能推定可能存在混淆，这也不是否认商标共存协议的理由。

考虑到上述情况，商标授权行政机关在审查工作中，应对当事人的意思自治给予尊重。■

Coexistence agreements first began appearing internationally in the 1980s. The International Trademark Association defines a coexistence agreement as “an agreement by two or more parties that similar marks can coexist without any likelihood of confusion; it allows the parties to set rules by which the marks can peacefully coexist”. Coexistence agreements are, at essence, contracts that express the parties’ intent in full. They have been relatively effective in resolving trademark coexistence disputes.

Currently China lacks specific regulations addressing the validity of coexistence agreements in the field of trademark registration. The majority of administrative authorities responsible for trademark registration rely on their examiners’ subjective discretion during substantive review in determining whether the coexistence of trademarks could lead to confusion. They decide whether to accept coexistence agreements and approve registration of the later trademark. As a result, outcomes in similar cases have been vastly different.

This column will briefly consider and analyse whether coexistence agreements are valid and applicable during trademark registration.

International precedent

The World Intellectual Property Organization (WIPO) recognizes coexistence agreements and takes into consideration possible confusions caused by coexistence while reviewing trademark registrations. The decision on whether to accept these agreements must balance a number of factors.

Courts in the US have shown a tendency to treat coexistence agreements as contracts. The courts tend to recognize the validity of the coexistence agreements among parties in practice, so long as issues regarding significant public interest are not involved.

Courts in the UK have applied criteria in practice similar to WIPO in recognizing the validity of coexistence agreements. The courts take into consideration party autonomy, the potential for confusion resulting from the coexistence of trademarks and the protection of consumers’ interests.

In the EU, trademark coexistence agreements initially were not recognized by trademark registrars. Later they began to serve as reference.

China practice

Article 30 of the thrice amended Trademark Law sets out that a trademark office will neither accept a trademark registration application nor publish the mark if a) the mark is not in compliance with the Trademark Law, or b) the mark is identical or confusingly similar to another’s registered or preliminarily approved trademark for identical or similar goods.

In practice, the common option for those whose registration applications have been rejected for the above reasons is to attempt to reach a coexistence agreement with the prior trademark owner (the reference mark owner) with the reference mark owner consenting to the later mark being registered in China.

The coexistence agreement would then be submitted with evidences for the rejection review, and the applicant would request that the Trademark Review and Adjudication Board (TRAB) approve the later mark’s registration.

Chinese laws presently are silent as to the validity of coexistence agreements in trademark right granting cases. However, during the TRAB’s 24th general affairs meeting convened 16 October 2007, the board indicated that it would accept coexistence agreements in rejection review cases under certain conditions.

According to the TRAB, the above article of the Trademark Law had two legislative objectives. The first was to protect prior registered or preliminarily approved trademarks so as to avoid conflicts over trademark rights. The second was to protect the interests of consumers by preventing identical or similar trademarks leading to confusion in the market.

The TRAB was of the opinion that, when deciding whether to permit the coexistence of trademarks, consideration was needed as to whether the trademarks could, on the whole, be distinguished by consumers, and whether their coexistence was likely to lead to confusion among consumers.

TRAB held that two specific factors also required be scrutiny. First, the degrees of similarity of the individual trademarks and the goods for which they are registered. Second, the reputation of relevant marks.

Due to article 30 of the Trademark Law, examiners in practice have a

“ *Coexistence agreements are, at essence, contracts that express the parties’ intent in full* ”

greater tendency to consider whether trademark coexistence would result in confusion among consumers as the most important factor in deciding whether to accept a coexistence agreement.

On coexistence agreements

It can be argued that trademark rights are civil property rights. Potential conflicts between a trademark application and a reference mark is predominantly a matter of civil dispute related to private rights.

Reaching a trademark coexistence agreement indicates that a prior trademark rights holder has reached settlement for their rights. The agreement’s validity should be recognized per party autonomy, and the trademark registration should be granted in the absence of damaging important public interests.

The decisions by administrative trademark authorities regarding the degree of confusion caused by coexistence of the marks are merely a presumption of the authority.

The prior trademark rights holder will certainly consider whether the coexistence of trademarks will potentially cause confusion in the market, which is a matter of immediate importance to the holder when agreeing to trademark coexistence. The prior trademark rights holder’s understanding thus should have more weight than that of the authority in the actual circumstances of the coexistence.

Furthermore, even where coexisting trademarks might pose the risk of confusing consumers, the risk could be mitigated by indicating the later products’ trade name or other pertinent information. A presumption of confusion should not be grounds to invalidate a trademark coexistence agreement. Considering the foregoing circumstances, administrative authorities should respect parties’ autonomy when considering trademark registration applications. ■

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并购交易中的对赌协议

Using valuation adjustment mechanisms in M&A deals



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对赌协议，即估值调整机制，源自私募股权和创业投资，但目前已经被运用于公司并购交易中；尤其在高溢价的并购交易中，更是屡见不鲜。

对赌条款存在的最主要原因是信息不对称。具体来说，当投资方拟对某一目标公司进行投资时，由于信息不对称，投资方即使委托专业机构进行详尽的尽职调查，也往往无法对融资方的情况做到充分了解。因此，为了保护自身的利益，投资方一般在投资协议中约定一定的估值调整触发条件，一旦这些触发条件被满足，投融资双方根据约定行使估值调整权利，以弥补投资方因高估值或融资方因低估值而受到的损失。

协议要素

对赌协议一般发生在投资方与目标公司、目标公司的股东、实际控制人之间。选择适当的主体，是对赌协议具备法律效力的关键。为了保证对赌协议合法，与投资方签署对赌协议的另一方主体应当是目标公司的大股东和实际控制人，而不应当是目标公司本身。

关于协议的内容，在中国比较常见的是对财务绩效和股票发行进行对赌。财务绩效对赌是股权投资中最常用的对赌，即在对赌协议中约定目标公司未来一段时间的财务绩效指标（如净利润、复合增长率等），如果绩效未达标，则需要目标公司、目标公司原股东和/或实际控制人进行补偿，反之亦然。补偿的形式多为支付现金或股权。

股票发行对赌即对目标公司能够在未来一定期限内上市进行对赌。如果目标公司在约定的期限内未能上市，则投资方有

要求原股东回购股份，回购金额的计算一般为： $\text{投资款} + \text{投资款} \times \text{投资期} \times \text{银行贷款同期利率}$ 。如果上市成功，对赌条款自动失效。

司法认可

在海富公司与甘肃世恒及香港迪亚增资纠纷一案中，海富公司向甘肃世恒公司增资2000万元，持有甘肃世恒3.85%股权。若甘肃世恒2008年净利润不足3000万元，海富公司有权要求甘肃世恒公司予以补偿。如果甘肃世恒公司未能履行补偿义务，海富公司有权要求香港迪亚公司履行义务。

最高人民法院认定海富公司与甘肃世恒之间的对赌约定无效，理由是投资方与目标公司之间的对赌协议“使得海富公司的投资可以取得相对固定的收益，该收益脱离了世恒公司的经营业绩，损害了公司利益和公司债权人的利益”。与此同时，最高人民法院还认定“香港迪亚公司对海富公司的补偿承诺不损害公司及公司债权人的利益，不违反法律法规的禁止性规定，是当事人的真实意思表示，是有效的”，即投资人与目标公司股东之间的业绩补偿承诺合法有效。

上海瑞沅公司与连云港鼎发公司、朱立起股权转让纠纷一案中，各方在《增资协议》及补充协议中约定：上海瑞沅公司出资3000万元，持有目标公司5.64%股份；如

“**法律在评价对赌行为时应该更多去关注双方交易过程的正义性**”



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果目标公司未能于2013年12月31日前成功上市，上海瑞沅公司有权要求朱立起、连云港鼎发以现金形式回购其所持的全部或部分股权。负责审理此案的上海市第一中级人民法院最终根据鼓励交易、尊重当事人意思自治、维护公共利益、保障商事交易的过程正义等原则，判定上海瑞沅公司与连云港鼎发、朱立起之间的回购条款有效。

从上述案例可以看出，投资方与目标公司股东之间的对赌协议，不论是业绩对赌还是上市对赌，目前都已获得了人民法院生效判决的认可。笔者非常钦佩人民法院尊重股东自治、尊重市场在资源配置中作用的理念，赞同法院以一般合同效力的认定标准评价投资方与目标公司股东及实际控制人之间对赌协议的做法。

关于对赌协议的思考

有人认为对赌协议是资本的傲慢，是金融大鳄对创业者实施的华尔街式的掠夺。但是笔者认为，与传统民事主体比较，商事主体具有更强大的交易能力、信息获取能力以及更精准的专业判断能力。

现任北京大学教授的蒋大兴在其著作中指出，法律应当给予商事主体的是机会平等的保护以及保护的平等，而不是保证某一特定交易中的各方享有等同收益。因此，法律在评价对赌行为时应该更多去关注双方交易过程的正义性，而非对赌博弈的结果。

由于对赌博弈的最终结果确定完全取决于双方当事人的风险偏好和商业博弈。根据风险自担的原则，只要当事人意思表示真实，不存在违反法律、行政法规的情况，这种投资方与目标公司之间的对赌就应当是有效的。■

Valuation adjustment mechanisms, or VAM agreements, have been employed in mergers and acquisition deals. VAM agreements were first used in private equity and venture capital, and have been most commonly used in M&A transactions with large premiums.

VAM agreements are principally used in these transactions because of the asymmetrical state of information. Specifically, when making a proposal to a target company, the investor usually fail to fully understand the financier's situation due to this asymmetry, even where the investor has engaged professional services to conduct due diligence into the company.

In their investment agreement, an investor will set out the value adjustment triggering conditions in order to protect their interests. Once these conditions are met, both the investor and the financier exercise their rights to adjust value based on mutual agreement to pay the damages, either to the investor due to high valuation or to financiers due to low valuation.

The meat of an agreement

Choosing a proper entity is key to securing the validity of an agreement. VAM agreements generally are between an investor and a target company, its shareholders or its actual controller(s). To ensure the agreement's legality, the other party should not be the target company itself but its major shareholders or actual controller(s). Common practice in China is to employ a value adjustment mechanism on the financial performance or share offering of a target company.

In practice, VAM agreements that have been used most widely in equity investment are those on financial performance. In these, the financial performance of the target company (e.g. net profits, compound annual growth rate) is specified for a period in the future. If the financial performance falls short, the target company and its original shareholders or actual controllers should compensate, and vice versa. Compensation is fulfilled in cash or equity.

VAM on share offerings focuses on whether the target company can be listed in a specified period of time. If the target company fails to do so, investors are entitled to repurchase shares from the original shareholders. The formula for calculating the value of repurchased shares is set out below:

$$\text{Investment value} + (\text{investment value} \times \text{investment term} \times \text{bank loan interest rate during that term})$$

The VAM agreement automatically becomes invalid when the target company goes public.

Judicial acknowledgement

The Supreme People's Court heard a capital increase dispute between Suzhou Industrial Park Haifu Investment and Gansu Shiheng Nonferrous Metals Recycling and Hong Kong Diya. In the dispute, Haifu increased capital in Shiheng by RMB 20 million (US\$3.2 million), giving Haifu a 3.85% stake. Per their agreement, if the net income of Shiheng failed to reach RMB 30 million in 2008, Haifu would be entitled to claim compensation. If Shiheng failed to compensate, Haifu would be entitled to demand that Diya fulfil Haifu's obligated compensation.

The Supreme People's Court determined that the VAM agreement between Haifu and Shiheng was invalid on the grounds that the agreement "enabled Haifu to obtain relatively fixed profit from its investment, which deviates from Shiheng's operational efficiency and impairs the interests of the target company and its creditors".

The court also determined that "Diya's compensation commitment toward Haifu is valid and an authentic declaration of the wills of the parties; it neither damaged the interests of the target company and its creditors nor did it violate the prohibition stipulated in laws and regulations". Thus the performance compensation commitment between investors and the target company's shareholders is legally valid.

In the equity transfer dispute between Shanghai Ruifeng, Lianyungang Dingfa and Zhu Liqi heard by Shanghai Municipal No. 1 Intermediate People's Court, the parties specified in their capital increase agreement and supplemental agreements that Ruifeng would invest RMB 30 million and hold a 5.64% stake; if the target company failed to be listed by 31 December 2013, then Ruifeng would be entitled to repurchase in cash all or part of the shares held by Zhu Liqi and Dingfa.

The court found that the repurchase agreement between Ruifeng, Dingfa and Zhu Liqi was valid. The court held that the law encourages transactions, respects party autonomy, maintains public interests

“ *When evaluating VAMs, the law should pay closer attention whether parties' transactions are just* ”

and secures the procedural justice of commercial transactions.

These cases demonstrate that courts have acknowledged VAM agreements between investors and shareholders of target companies in either financial performance or share-offering. The courts' view that the law respects shareholder autonomy and the role of markets in disputing resources is admirable. Their recognition of VAM agreements between investors, shareholders and actual controllers of a target company, based on the determination standards of general validity, should be lauded as well.

Some considerations

There is an opinion that the VAM agreement is an embodiment of the arrogance of capital, a Wall Street-esque plundering of start-up entrepreneurs by financial giants. The authors, however, would hold that, in contrast with traditional civil entities, commercial entities have stronger transactional ability, greater information access and more pertinent capacity for professional judgment.

Peking University professor Jiang Daxing has stated that the law should offer commercial parties equal opportunities for protection as well as equality in protection, rather than securing all parties to enjoy equal profits within a certain transaction. Therefore, he said, when evaluating VAMs, the law should pay closer attention to whether the parties' transactions are just, rather than simply what results from gambles on VAM.

It is noted that what results from VAM is wholly dependent on both parties' risk preferences and how they play the game of commerce. Per the principle that holds that parties should shoulder their own risks, VAM agreements between investors and target companies should be deemed as valid if they reflect the genuine will of the parties and do not violate any law or administrative regulation. ■

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新司法解释对涉外民商事诉讼的影响

How new judicial interpretations impact foreign-related civil & commercial litigation



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最高人民法院于今年2月4日发布《关于适用〈中华人民共和国民事诉讼法〉的解释》（《新民诉法解释》）。《新民诉法解释》的条文从原来的320条增加到552条，全面明确、细化了旧版《民事诉讼法》于2013年增加和修改的重要制度的相关程序，修改了民商事审判中容易引起适用标准不一的内容，为新版《民事诉讼法》的执行提供了司法依据。

问：在涉外民商事诉讼方面，《新民诉法解释》中有哪些方便当事人诉讼的举措？

答：在涉外民商事诉讼方面，除立案登记制度外，《新民诉法解释》为当事人规定了下述在涉外诉讼案件中特有的制度：

首先，在涉外诉讼中外文材料的翻译问题上减轻了当事人的负担。根据《新民诉法解释》第527条的规定，诉讼当事人可以自行提供外文材料的中文翻译。只有在当事人对翻译有异议时，才需要共同委托翻译机构提供翻译文本。

而在此之前，涉外民商事诉讼当事人提供的翻译文件都必须是法院认定的翻译机构提供的翻译件。

其次，人民法院可与外国法院同时行使管辖权，人民法院的判决、裁定可以阻却外国法院的判决、裁定的承认与执行。

但这一制度的执行不得违背“一事不再理”原则：

中国法院和外国法院都有管辖权的案件，一方当事人向外国法院起诉，而另一方当事人向中国法院起诉的，人民法院可以受理。判决后，外国法院申请或者当事人请求人民法院承认和执行外国法院对本案作出的判决、裁定的，不予准许。

但是，如果外国法院的判决、裁定已经被人民法院承认，当事人就同一争议向人民法院起诉的，人民法院不予受理。

再次，在诉讼过程中，《新民诉法解释》减少了要求当事人提供担保的情形：1) 在当事人申请证据保全时，如法院认为无需提供担保时，当事人可以不用提供担保；2) 在强制执行涉外仲裁裁决时，被执行人因申辩而请求中止执行时，不再需要提供担保。这两项措施减轻了当事人的诉讼负担，充分保障了当事人胜诉权利及被执行人的申辩权利。

问：在涉外民商事诉讼制度方面，是否有增设一些突破性的制度？

答：涉外民商事诉讼方面的突破性制度主要表现在以下方面：

首先，《新民诉法解释》规定了“不方便法院”制度，为中国法院涉外审判实践提供了拒绝管辖的法律依据。

根据《新民诉法解释》第532条的规定，符合该条规定的情形的，法院可以裁定驳回原告的起诉，告知其向更方便的外国法院提起诉讼。

对于与中国联系不大、法院在认定案件事实或者适用法律方面存在相当大的困难、且判决结果可能还需在外国承认和执行的案件，被告可以向法院申请驳回原告的起诉，法院也可以主动作出这类裁定，

“ **《新民诉法解释》承认了外国临时仲裁裁决的效力** ”

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从而节省中国的司法资源。这一规定，将“不方便法院”制度从司法政策层面提升到司法解释的高度，为中国各级法院的审判实务提供了执行依据和标准。

其次，《新民诉法解释》承认了外国临时仲裁裁决的效力，并规定了承认与执行外国临时仲裁裁决的申请法院及办理程序。但是，根据《新民诉法解释》的规定，只有《纽约公约》成员国或与中国有互惠原则的国家做出的临时仲裁裁决，中国法院才会承认并执行。

虽然中国的《仲裁法》和《民事诉讼法》暂时均没有规定临时仲裁制度，但是《新民诉法解释》的这一规定将为临时仲裁制度在中国仲裁实践中的建立和完善发挥促进作用。

问：此次《新民诉法解释》对未来外国法院判决在中国的承认和执行有无影响？

答：《新民诉法解释》从申请程序、承认与执行的基础、承认与执行的顺序及程序、申请的期间四个方面详细规定了外国法院判决在中国的承认和执行问题。根据相关条文的规定，外国判决或裁决需要先获得中国法院的承认，然后再执行。

中国法院会组成合议庭对申请在中国承认与执行的案件进行审核。但中国法院的审核不是对案件的再审，不审核案件的实质性问题，仅审核外国判决或裁决是否符合中国承认与执行的条件。

《新民诉法解释》的这些新增规定将为外国法院的判决在中国的承认和执行提供司法依据。

未来，我们将能看到越来越多的外国法院的判决在中国得到承认和执行。■

On 4 February, the Supreme People's Court issued a revision of its Interpretations on Application of the Civil Procedure Law. The number of articles in the interpretations increased from the original 320 to 552, adding greater and more comprehensive clarity to the relevant procedures for important systems added and amended in the 2013 revision of the Civil Procedure Law. The interpretations revise provisions that resulted in inconsistent application of standards in civil and commercial trials, and provide judicial basis for the enforcement of the new Civil Procedure Law.

Q: What measures do the interpretations have to facilitate legal actions in foreign-related civil and commercial litigation?

A: In addition to the case filing system, the interpretations specify several systems exclusive to foreign-related litigation cases for concerned parties in foreign-related civil and commercial litigation.

First, the burden on parties to translate foreign language materials in foreign-related legal actions has been reduced. Previously, all translated documents provided by parties to foreign-related civil or commercial litigation had to be translations provided by agencies recognized by the courts.

Pursuant to article 527, a party may provide a Chinese translation of foreign language materials at its own initiative. A translation agency needs to be jointly engaged only when a party has an objection to a translation.

Second, a domestic court may exercise jurisdiction simultaneously with a foreign court, and the judgment or ruling of the domestic court can negate the recognition and enforcement of a foreign court's judgment or ruling.

However, this must not violate the principle of double jeopardy. In other words, a domestic court can hear a case where one party institutes a legal action in a domestic court and the other party institutes a legal action in a foreign court, and both courts have jurisdiction.

If a foreign court renders a judgment or ruling on a case on which a domestic court has already judged or ruled, and the foreign court or the concerned party requests that the domestic court recognize and enforce the foreign court's judgment, the domestic court should

“ *The interpretations recognize the validity of foreign ad hoc arbitral awards* ”

deny the request. Further, if a domestic court has already recognized a judgment or ruling of a foreign court on a case, and a party institutes a legal action in a domestic court in respect to the same dispute, the domestic court should refuse to accept the case.

Third, the interpretations reduce to two the number of situations in which parties are required to provide security in the course of a legal action. These are:

1. A party may be exempted from providing security when requesting a perpetuation of evidence if the court deems the security unnecessary.

2. The debtor will not be required to pay security when a foreign-related arbitral award is being enforced if they request suspension of enforcement in connection with their defence.

These two measures lighten the burden of parties in legal actions and safeguard parties' right to win at trial and the debtors' right of defence.

Q: What ground-breaking systems were introduced, if any?

A: The main ground-breaking structures introduced in the interpretations are set out below.

Firstly, the interpretations provide for the *forum non conveniens*, or inconvenient court, doctrine, setting out the legal basis for the refusal of jurisdiction by domestic courts in foreign-related trial practice. Pursuant to article 532, the court may in certain circumstances render a ruling to dismiss the plaintiff's complaint and advise them to institute a legal action in the more convenient foreign court.

A domestic court will experience significant difficulty in determining the facts or governing law in cases where the dispute's connection with China is minor. These judgments would require recognition and enforcement in a foreign country as well. In these cases, the defendant may request that the domestic court dismiss the plaintiff's complaint, and the court may also rule to do so at its own initiative, thereby economizing Chinese justicial resources.

Article 532 elevates the *forum non conveniens* doctrine from judicial policy to the heights of judicial interpretation. It provides the foundation and criteria for practical implementation in the hearings of domestic courts at every level.

Secondly, the interpretations recognize the validity of foreign ad hoc arbitral awards. The interpretations specify the courts where parties should apply for award recognition and enforcement as well as how the awards should be handled.

However, the interpretations set out that domestic courts will only recognize and enforce ad hoc arbitral awards rendered by signatories of the New York Convention or countries with whom China has bilateral arrangements. Although neither the Arbitration Law nor the Civil Procedure Law provide for ad hoc arbitration at present, this provision will effectively bolster the creation and consummation of ad hoc arbitration in Chinese practice.

Q: Will the interpretations impact the recognition and enforcement of future foreign court judgments?

A: The interpretations address this issue in detail, discussing it in four aspects: a) application process, b) application timeline, c) basis for recognition and enforcement, and d) the sequential procedure for recognition and enforcement. Pursuant to relevant provisions, a foreign judgment or award must be recognized by a domestic court before it can be enforced.

The domestic court will assemble a collegiate bench of judges to review a request for recognition and enforcement in China. This review is not a retrial of the case – the substantive issues of the case are not reviewed – rather, it focuses solely on whether the foreign judgment or award satisfies the conditions for recognition and enforcement in China.

The interpretations' provisions provide the judicial basis for the recognition and enforcement of foreign court judgments in China. It is probable that China will see an increasing number of these judgments recognized and enforced in the future. ■

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上半年上市公司重组失败个案分析

A look at listed company restructurings that failed in the first half of 2015



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从2014年12月30日至2015年6月25日，证监会上市公司并购重组审核委员会（并购重组委）2015年工作会议共发布了53个审核结果公告，其中12个重组方案未获通过。有必要通过对这12个重组方案进行研究，以防范、解决重组失败中遇到的法律问题。

法律问题

重组方案不符合国家相关政策和法律法规

一月，广东威华股份有限公司重组方案未获并购重组委通过，并购重组委给出的审核意见是方案拟购买的部分资产未取得环境保护部环保设施竣工验收及工业和信息化部稀土行业准入批准，不符合《上市公司重大资产重组管理办法》第11条第一款的规定，即不符合国家产业政策和有关环境保护、土地管理、反垄断等法律和行政法规的规定。

一般来说，国家产业政策和相关法律法规是重组方案能否通过的前提和硬性要求，因此不符合要求的重组方案面临失败的风险是相当大的。

信息披露不透明、不充分

尽管《上市公司重大资产重组管理办法》要求有关各方应保证所披露信息或提供信息的真实、准确、完整，但由于种种因素，甚至是大股东自身利益考量，上市公司重组有

关各方披露或提供的信息往往会选择性地对一些信息不予披露或者虚假披露。

证监会对于上市公司重组的信息披露一向有严格要求，因此信息披露不透明、不充分也会造成重组方案不能通过并购重组委审核。北京利德曼生化股份有限公司重组方案、河南通达电缆股份有限公司重组方案、天津广宇发展股份有限公司重组方案都没有获得通过，其中的重要原因就是信息披露不透明、不充分。

重组方案不利于增强上市公司的持续盈利能力、保持健全有效的法人治理结构

《上市公司重大资产重组管理办法》第11条和第43条对重组方案对于提高上市公司持续经营能力、上市公司盈利能力以及保持公司的独立性做出了具体规定，重组方案应该有利于提高上市公司资产质量、改善财务状况和增强持续盈利能力，有利于上市公司减少关联交易、增强独立性。这既是对上市公司资产和独立性的保护，也是对投资者和大多数股东权益的保护。

安徽丰原药业股份有限公司重组方案、广东群兴玩具股份有限公司重组方案、浙江万好万家实业股份有限公司重组方案、北京利德曼生化股份有限公司重组方案、北京神州泰岳软件股份有限公司重组方案、天壕节能科技股份有限公司重组方案未被审核通过，主要就是因为重组方案使得上市公司的盈利能力在未来存在较大不确定性，并且影响到上市公司的法人治理结构。

解决方案

是否符合法律法规往往被称为上市公司重组成功与否的生死线。因此在重组方案



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制定过程中，一定要对国家的产业政策及相关法律法规有充分的了解，特别是有关环境保护和反垄断等行政法规的规定。对于重组方案中可能存在违反法律法规风险的细节进行全面预估和审查，尽量消除法律风险或者对法律风险进行防范。

重组方案的信息披露主要是为了给各方创造公平环境，避免透过内幕交易来获得不当得利。所以信息披露要做到及时、公平，并符合法律的相关规定。

对于重组方案中的信息披露要重点关注该信息是否会给上市公司带来法律风险、实际控制人变更与否，以及该信息对公司独立性的影响。在披露信息准确、完整的前提下，注意信息表达的充分性，以避免不必要的风险。

并购重组委之所以对上市公司盈利能力和有效的法人治理结构加以强调，目的在于提高重组质量并且提高上市公司的成长性。重组方案应该有利于增强上市公司的持续盈利能力：首先，上市公司本身要不断提高自己的竞争力和盈利能力，减少影响盈利能力的确定因素。

其次，重组方案对于上市公司增强持续盈利能力的论证要做到充分、合理，避免造成不必要的误解。为了保持健全有效的法人治理结构，就要尽量避免关联交易，保障董事会、监事会、股东大会在公司治理中的地位和作用，使上市公司在业务、资产等方面与实际控制人及其关联人保持独立。

上市公司重组中的法律问题对上市公司重组成功与否有着重要影响，特别是要重点关注重组失败中遇到的法律问题。这就需要总结、研究相关经验和解决方案，以便能够做到事前防范与事后的及时补正，最终使上市公司重组方案获得通过。■

“ 是否符合法律法规往往被称为上市公司重组成功与否的生死线 ”

According to data announced at the 2015 working meeting of the China Securities Regulatory Commission (CSRC) Listed Company Acquisition and Restructuring Review Committee, 12 of the 53 restructuring plans reviewed were not approved between 30 December 2014 and 25 June. Further study of the cases that did not pass is required to guard against and resolve legal issues that may be encountered during failed restructurings.

Potential issues

Lack of compliance. The committee rejected Guangdong Weihua Corporation's restructuring plan in January. The Committee's review opinion was that certain assets the plan called to purchase had not undergone two procedures – the Ministry of Environmental Protection's review of environmental protection facilities and the Ministry of Industry and Information Technology's approval for rare earth industry access.

The plan thus did not comply with article 11 of the Measures for the Administration of Material Asset Restructurings of Listed Companies, i.e. they were not in compliance with state industry policies or with laws and administrative regulations on, e.g., environmental protection, land management or prevention of monopolies.

Relevant state industrial law generally are preconditions and compulsory requirements for restructuring plan approval. A plan that does not satisfy these requirements thus has a significant risk of failure.

Lack of transparency in disclosure. The parties to a listed company restructuring will often opt, in their disclosure or provision of information, to not disclose information or otherwise falsely disclose certain information notwithstanding where the measures require that parties warrant that all information provided or disclosed be true, accurate and complete. This is done for a variety of factors, including the major shareholder's consideration of its own interests.

CSRC consistently has set strict disclosure requirements for restructurings of listed companies. Insufficient or non-transparent disclosure may result in the restructuring plan not being approved. An important factor in the failure of approval for the restructurings of Beijing Leadman Biochemistry, Henan Tongda Cable and Tianjin Guangyu Development was insufficient or nontransparent disclosure.

Lack of continued profitability or an effective corporate governance structure.

Articles 11 and 43 of the measures set out specific provisions in respect to restructuring plans enhancing the continued operating capacity and profitability of listed companies and maintaining the companies' independence.

A going concern of any restructuring plan is that it should be conducive to enhancing the quality of the assets of a listed company, improving its financial position and strengthening its existence; it should also be conducive to reducing the listed company's connected transactions and strengthening its independence. This serves not only as protection for the assets and independence of the listed company, but also as protection of the rights and interests of investors and the majority of shareholders.

The main reason that the restructuring plans of Anhui Fengyuan Pharmaceutical, Guangdong Qunxing Toys, Zhejiang WHWH Industry, Beijing Leadman Biochemistry, Beijing Ultrapower Software and Top Resource Conservation Engineering failed to pass review is that they spelled relatively large uncertainty for the listed companies' future profitability and would have affected their corporate governance structures.

Solutions

Whether a listed company's restructuring plan is compliant often is seen as the crux for the plan's success. It is thus imperative to have a full understanding of state industrial law and policy when planning a restructuring – particularly the administrative laws and regulations on environmental protection and monopoly prevention. It is necessary to carry out a comprehensive projection and review of how a plan may pose a risk of violating the law so as to be on guard against risks and eliminate them to the greatest extent possible.

Information is disclosed primarily to create a fair playing field for all parties and to prevent improper gains through insider trading. Accordingly, disclosure must be fair, timely and compliant.

When planning a restructuring, disclosure needs to focus on whether there will be a change in actual controller, whether the information will expose the company to legal risks and the impact that the information might have on the company's independence.

“ *Whether ... a restructuring plan is compliant often is seen as the crux for [its] success* ”

Provided that the disclosed data is accurate, attention needs to be paid to how completely the data is presented, so as to avoid any unnecessary risks.

In stressing listed companies' profitability and corporate governance structures, the restructuring review committee aims to enhance restructurings and the growth potential of listed companies. The plan should be conducive to strengthening a listed company's continued profitability.

First, the plan must strive to enhance the company's competitiveness as well as profitability. It must also reduce any uncertainties which may harm its profitability. Second, the plan must provide sufficient and reasonable rationale for how to strengthen the company's continued profitability, so as to avoid any unnecessary misunderstandings.

Restructuring planners need to avoid connected transactions to the greatest extent possible so as to maintain a sound and effective corporate governance structure. They must also ensure the position and function of the board of directors, supervisory board and shareholders' general meeting in the company's governance so as to maintain the listed company's independence from its actual controller and connected parties in terms of business, assets or related matters.

Legal issues encountered during the restructuring of a listed company will significantly impact whether the restructuring plan will succeed. Attention must particularly be focused on legal issues encountered in failed restructurings.

Those who are planning restructurings should take care to review examples of prior cases where restructuring plans did not obtain approval, taking note of how the companies resolved their issues. Getting the bigger picture allows planners to take preventative measures and make any revisions to the restructuring plan necessary, so that the restructuring plan can in the end gain the approval of the committee. ■

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在阿根廷创设业务的多个选择

Bountiful options available to establish a business in Argentina



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外国投资者在阿根廷设立业务有三种选择：设立分支机构；收购阿根廷现有公司的所有权；或者创立新公司。在阿根廷，外国公司可运用的不同法律架构有如下主要特征、要求以及影响：

分支机构

外商在阿根廷设立分支机构，主要是设立分公司或代表处，但这并不意味着创建了新的法律实体。尽管分支机构必须在阿根廷公共商务注册处注册，但管辖其存续及有效性的主要是该公司母国的法律。

分支机构可通过总部委任的代表人代表总部在阿根廷开展活动。整个外商业务的资产（即公司总部的全部资本，不只是总部配置到阿根廷分支机构的资本）都要对该业务承担责任。分支机构的账目记录必须独立于总部运作之外，并定期向公共商务注册处提交财务报告。

分支机构必须由拥有广泛行政以及司法授权（可能在某些情况有所限制）的法人代表管理，以确保分支的所有事务及交易都能有效进行。分支机构受商务注册处的监管，必须与公司法人一样遵守相关要求。

设立或收购公司

《阿根廷商业公司法》（19550号）规定了许多公司形式，其中外商运用最多的是公司法人（西班牙文缩写 SA）及有限责任公司（西班牙文缩写 SRL）。与分支机构不同，公司的责任仅限于出资金额的大小。

与阿根廷本地公司不同，外国公司在阿根廷设立公司或收购现有公司的所有权之前，必须向商务注册处提交其在母国的设

立证明。外国公司还必须提交开展业务所要求的公司设立章程、内部规定、修订文件以及与其法人代表相关的其他文件。

公司法人。公司法人（SA）的存续实体与其权属主体相分离，其股东根据各自的出资金额对公司法人承担有限责任。在阿根廷设立公司法人最少需要两名股东，所有权益由股份表示，这些股份不一定要对公众发行。

这些公司的运作依据企业内部规定。公司法人的一般商业事务由董事会管理，董事会由一个或多个成员构成，董事可以是股东。董事会的大部分成员必须是阿根廷居民。阿根廷对股东的住地或国籍没有限制，但是外国商业公司的股东必须首先在商务注册处登记。

在以下情况中，董事对公司、股东及第三方承担共同的及各自的无限义务：业绩不佳；违法或违反公司内部规定；由于诈骗、越权行事、重大疏忽而导致的其他损失。

在阿根廷，公司法人要接受内部及外部审计。外部审计由阿根廷的相关部门执行。其他监管机构也参与审核特定的活动。

内部审计通常是由股东于年度大会任命的一名或多名公司审计师去执行。不受政府机关控制的公司并不一定要委任公司审计师。公司也可以根据内部规定建立由三至 15 名股东组成的监事会。

有限责任公司。虽然有限责任公司（SRL）和公司法人（SA）有很多共同点，但仍然有重要的差异需要特别指出。

有限责任公司：1) 成员至少须有两名，但不得多于 50 名；2) 其成员不能为公司法人；3) 没有资格在交易所上市；4) 若要进行成员变动，需要对公司章程进行修订；5) 设立步骤要比设立公司法人简单；6)

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其内部规定比公司法人的更灵活；7) 没有最低资本限制，但资本总额应符合公司的业务需要。

拥有阿根廷公司所有权权益的外国公司。要收购新公司或现有公司的所有权权益，外国公司必须满足上述要求，但首先必须在商务注册处登记，包括以下登记步骤。

首先，外国公司需要证明其已经根据母国现行法律完成设立。完成证明之后，外国公司必须向相关注册部门提交公司设立章程、修订文件，以及其他资格证明文件、修订文件或其法人代表相关的文件。如果该外国公司是公司法人，还必须将文件提交至相关监管部门。

之后，该外国公司必须提交在阿根廷注册的决议，以设立当地公司或收购当地公司的所有权权益。这个决议必须包含财政年度的结束日期、主要营业地及在阿根廷的指定法人代表。

在提交决议之后，外国公司必须向相关注册处通报其在母国根据公司设立章程及修订进行业务所面对的任何法律禁止或限制的事项（如有）。该公司也必须在申请时提交合伙人、成员或股东的名录。

最后，外国公司必须证明其在申请注册之时已经在阿根廷境外满足了以下至少一项要求：1) 至少有一家分公司或代表处，并且具备各自所在地的主管部门开具的相关存续证明；2) 根据公认会计原则（GAAP）的定义，该公司在其他公司拥有包括非流动资产在内的所有权权益；3) 在其母国拥有固定资产的所有权，并根据 GAAP 的定义证明该资产的存续以及价值。

最后两项要求必须以公司管理人员签署的财务报告或证书去证明，而这些报表和证书需来源于公司的账簿记录。■

When setting up a business in Argentina, foreign investors have three options: establishing a foreign branch office, acquiring ownership interests in an existing company or creating a new company. The main characteristics, requirements and implications of the different legal structures available to companies in Argentina are presented below.

Branch offices

A branch or representative office is created when a foreign company establishes a branch in Argentina, yet it does not imply the creation of a new legal entity. While a branch must be registered with the public registry of commerce, the laws governing its existence and validity are primarily the laws of the company's home country.

A branch office may undertake all activities pursued by a company's head office (HO) on behalf of the HO through the branch office staff member appointed as the company's representative. The assets of the entire foreign business – that is, the total value of the HO's capital, not only the capital the HO assigns to its Argentine branch – is subject to liability. The branch office's accounts must be kept separately from the HO's operations, and its financial statements must be filed periodically with the public registry of commerce.

The branch must be managed by a legal representative vested with broad administrative and judicial authority – which may be limited in certain circumstances – to ensure that all of the branch's affairs and business transactions are conducted efficiently. Branch offices are subject to supervision by the public registry of commerce and must comply with the same requirements as corporations.

Establishment or acquisition

The Business Associations Law (no. 19550) establishes a wide range of forms of companies. The forms most widely used by foreign investors are corporations (sociedades anónimas, or SAs, as regulated under Argentine law) and limited liability companies (sociedades de responsabilidad limitada, or SRLs, as regulated under Argentine law). Unlike branch offices, company liability is limited to the amount invested in the business.

Unlike local companies, foreign companies must submit proof of their formation or incorporation in their countries of origin to the public registry of commerce

before they can set up a company or acquire ownership interests in an existing one. They must also file their articles of formation or incorporation, bylaws, amendments and any other documents relating to their legal representatives that may be required to conduct business.

Corporation. A corporation (SA) has a legal existence separate and distinct from its owners. Its shareholders are limited in liability in terms of the amount they have invested in the corporation.

At least two shareholders are required to form a corporation. Ownership interests are represented by shares of stock, which may or may not be offered to the public.

The operation of these companies is regulated by their corporate bylaws. The general business affairs of the corporation are managed by a board of directors comprised of one or more members, who may be shareholders. The majority of the board members must be Argentine residents. There are no restrictions regarding shareholders' residency or nationality; however, foreign commercial company shareholders must register first with the public registry of commerce.

The board members are jointly and severally liable, without limitations, to the company, its shareholders and third parties for poor performance, breaking the law and/or bylaws, and any other damages arising from fraud, acting beyond the scope of their authority and gross negligence.

In Argentina, corporations are subject to internal and external audits. External audits are undertaken by the relevant authorities in the jurisdiction. There are also regulatory organizations to review certain activities.

Internal audits are usually carried out by one or more company auditors appointed by the shareholders at the annual meeting. Those companies not under the control of a governmental entity are not obliged to appoint company auditors. The bylaws may also establish the creation of a surveillance committee of three to 15 shareholders to monitor corporate management.

Limited liability company. A limited liability company (SRL) shares many characteristics with an SA, but there are important differences to highlight.

- SRLs must have at least two members and no more than 50;
- An SA cannot be a member;
- SRLs ineligible to list on the stock market;
- Changing the members requires an amendment to the articles of association;
- Establishing SRLs is less complex;
- More flexible bylaws than an SA; and

- No minimum on capital, but the amount should be in line with the company's purpose.

Foreign companies with ownership interests in an Argentina company. A foreign company that wishes to purchase ownership interests in a new or existing company must also meet the requirements mentioned above, but first register the company with the public registry of commerce. This involves a number of steps.

First, the foreign company must prove that it has been formed or incorporated in accordance with the laws in force in its home country.

Second, the company must file its original articles of formation or incorporation, their amendments and any other qualifying documents, amendments and documents related to its legal representatives with the competent public registry of companies. Should the company be a corporation, it must file these also with the superintendence of corporations.

Third, the company must submit the resolution to register a company in Argentina. This resolution must include the closing date of the fiscal year as well as the principal place of business and designated legal representative in Argentina.

Fourth, the company must inform the public registry of legal prohibitions or restrictions, if any, on activities in its home country, as demonstrated by the company's articles of formation or incorporation and their amendments. It also must submit the names of partners, members or shareholders at the time of the application.

Finally, the company must provide evidence that it meets at least one of three requirements outside Argentina on the date of application for registration, as set out below. The latter two must be evidenced by the company's financial statements or certificates signed by its officers, as taken from the records on the company's books.

- One or more branch or representative offices, evidenced by certificates of good standing issued by competent authorities;
- Ownership interests in other companies consisting of non-current assets, as defined by generally accepted accounting principles; or
- Ownership of fixed assets in its home country and evidence of their value. ■

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枯木逢春: 仲裁裁决不予执行时的生机

A light at the end of the tunnel when arbitral award enforcement is denied



林陈瑶
Chloe Lin
胡光律师事务所
律师
Attorney
Martin Hu & Partners

对于仲裁当事人而言,取得有利的仲裁裁决十分重要,但更重要的是凭借仲裁裁决要求对方当事人履行,以使自己的权益得以实现。得不到履行的仲裁裁决只是一纸空文,使当事人在仲裁中的一番努力付诸东流。为实现司法公正,避免当事人的权益受损,在一方拒绝履行生效的仲裁裁决时,另一方当事人可以向有管辖权的人民法院申请执行。接受申请的人民法院应当执行,并启动执行程序。

陷入绝境?

仲裁裁决不予执行是指,在执行程序中,人民法院根据一方当事人的申请或者依照职权,在符合法定事由的情况下,依法作出裁定,停止对仲裁裁决的执行活动。因此不予执行实质上是法院对仲裁所进行的一项司法监督,以保障仲裁的公正性。然而,这种监督是一种单向监督,即仲裁只能接受法院监督,当事人不能反过来监督法院有关执行的裁定。如此,倘若法院在执行程序中存在徇私舞弊、枉法裁判等行为导致仲裁裁决不予执行的,仲裁当事人又该如何进行救济呢?

根据现行《民事诉讼法》第154条的规定,对撤销或者不予执行的仲裁裁决,当事人不得上诉。根据最高人民法院发布的《关于当事人对人民法院撤销仲裁裁决的裁定不服申请再审理由是否受理问题的批

“**得不到履行的仲裁裁决只是一纸空文**”

复》以及《关于人民检察院对撤销仲裁裁决的民事裁定提起抗诉,人民法院应如何处理问题的批复》两份批复,对于法院撤销仲裁裁决的裁定,当事人无权申请再审;检察院提起抗诉的,法院不予受理。

从最高院的批复态度中可以推知,对法院不予执行仲裁裁决的裁定,当事人同样无权申请再审,检察院提起抗诉的,人民法院亦不会予以受理。

根据《仲裁法》第9条,如果裁决被人民法院依法裁定撤销或者不予执行的,当事人双方需要重新达成仲裁协议,并据此重新申请仲裁;或者放弃仲裁,就相关纠纷向人民法院起诉。换言之,当事人为赢得有利仲裁裁决所付出的精力和心血都将付诸流水,又要重新开始漫长的维权征程了。

一线生机

《民事诉讼法》新一轮修正于2012年完成,当时提出的执行异议和复议制度使面对法院不予执行仲裁裁决而无从救济的仲裁当事人看到了一丝希望的曙光。然而由于条款模糊,当事人是否可以对不予执行仲裁裁决的裁定提出异议和申请复议在理论界和实务界都充满争论,许多法院仍然倾向于要求当事人根据双方重新达成的仲裁协议申请仲裁,也可以向人民法院起诉。

今年发布的最高人民法院《关于适用〈中华人民共和国民事诉讼法〉的解释》关于适用《民事诉讼法》的解释有望在一定程度上解决上述争议。该解释第478条规定,人民法院以(1)仲裁裁决的事项不属于仲裁协议的范围或者仲裁机构无权仲裁或(2)仲裁庭的组成或者仲裁的程序违反法定程序为由,裁定不予执行仲裁裁决后,



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当事人对该裁定提出书面执行异议或者复议的,人民法院不予受理。当事人可以就该民事纠纷重新达成书面仲裁协议申请仲裁,也可以向人民法院起诉。

由上述规定,可以推断,除了以上述理由为依据作出的不予执行裁定以外,对其他不予执行仲裁裁决的裁定,当事人有权提出书面异议。当事人提出书面异议的,人民法院应当自收到书面异议之日起15日内审查,理由成立的,裁定撤销或者改正;理由不成立的,裁定驳回。当事人对驳回裁定或改正后的裁定不服的,可以自裁定送达之日起10日内向上一级人民法院申请复议。

涉外意义

执行异议和复议这一救济途径对涉外仲裁裁决或外国仲裁裁决的当事人也有重要意义。根据《最高人民法院关于人民法院处理与涉外仲裁及外国仲裁事项有关问题的通知》(1995),人民法院作出不予执行涉外仲裁裁决或外国仲裁裁决的裁定之前,必须报请本辖区所属高级人民法院进行审查;如果高级人民法院同意不予执行或者拒绝承认和执行,应将其审查意见报最高人民法院。待最高人民法院答复后,方可裁定不予执行或者拒绝承认和执行。

尽管有上述规定,在实践中,如果中级人民法院并未实行上报便作出不予执行的裁定,由于法院逐级上报属于上下级法院之间的内部程序,仲裁当事人无法通过法定途径要求上级法院对此进行纠正。在此情况下,当事人可以通过执行异议的方式督促中级人民法院进行上报,并通过执行复议的方式促使高级法院对中级人民法院不予执行仲裁裁决的裁定进行审查,从而间接实现救济。■

An arbitral award is but a worthless scrap of paper if a party cannot realize their rights and interests and demand performance on the strength of the award. To ensure judicial impartiality and avoid harm to the rights and interests of parties, a party may apply to the competent court for enforcement when the other party refuses to do so. The people's court is required to enforce the award and initiate the enforcement process.

Dire straits

When a court denies the enforcement of an arbitral award, it rules to halt the enforcement of an arbitral award upon application by a party or *ex officio*, provided that it satisfies the statutory requirements. This is essentially a form of judicial supervision of arbitration to ensure impartiality.

However, this supervision is unidirectional. The courts supervise arbitration, but the parties cannot supervise the court's ruling on enforcement. As such, how can the party to arbitration seek a remedy when enforcement is denied due to a court exhibiting such behaviour as practicing favouritism, committing irregularities or perverting the law in rendering its judgment or ruling?

Pursuant to article 154 of the Civil Procedure Law, a party may not launch an appeal against an arbitral award that is set aside or denied enforcement.

Pursuant to two documents from the Supreme People's Court, the Reply on Issues Concerning Whether to Hear a Case When a Party Requests a Retrial When a People's Court Rules to Set Aside an Arbitral Award and the Reply on Issues Concerning How the People's Court Should Handle Appeals Made by the People's Procurator against the Setting Aside of Arbitral Awards by Civil Courts, a party does not have the right to request a retrial when a court sets aside an arbitral award, and a court will not accept an appeal of award rulings lodged by a procuratorate. It can be understood from these replies that courts will not accept an application for retrial, nor will they accept an appeal lodged by a procuratorate.

Further, pursuant to article 9 of the Arbitration Law, if a court renders a ruling in accordance with the law to set aside or deny award enforcement, the parties are required to reach a new arbitral agreement and apply anew for

“ *An arbitral award is but a worthless scrap of paper if a party cannot realize their rights and interests* ”

arbitration on that basis. Otherwise, the parties must forego arbitration and bring the dispute to trial by instituting a legal action in court.

In other words, the energy and effort expended by a party in winning a favourable arbitral award will be for naught. Instead, it will need to start the long hard slog to protect its rights all over again.

A lifeline

The most recent revision to the Civil Procedure Law was performed in 2012. At the time, a provision allowing that enforcement of an arbitral award be objected or reconsidered was added. This gave no course of remedy to parties who had been denied enforcement of an arbitral award, leaving them with little hope for realizing their rights.

However, given the ambiguity of the provision, there has been a great deal of debate among academics and practitioners as to whether a party can file an objection to a ruling denying enforcement of its arbitral award, or otherwise apply for reconsideration of that ruling. Many courts still lean toward requiring that parties reapply for arbitration per a new arbitral agreement, or advise them to take action in court.

There is hope that the Supreme People's Court's Interpretation of the Application of the Civil Procedure Law, issued earlier this year, will resolve this debate to some extent. Article 478 of the interpretation specifies that the court will not accept a written objection or request for reconsideration by a party after a people's court has rendered a ruling denying the enforcement of an arbitral award on two grounds. These are if the matters addressed in the arbitral award fall outside the scope of the arbitral agreement or that the arbitral institution did not have the authority to arbitrate, or if the composition of the tribunal or the arbitral procedure violated statutory procedure. The parties then would have the option of reaching a new arbitral agreement and reapplying for arbitration, or otherwise filing a legal action in court.

One can deduce that parties have the right to file an objection when arbitral award enforcement is denied, save in cases where enforcement is denied on the two previously stipulated grounds. When an objection is submitted, the court is required to review it within 15 days of receipt.

The court can rule to set aside or amend the ruling if the grounds are tenable, or otherwise rule to dismiss the review. If the ruling is dismissed or revised, a party may apply for reconsideration to the people's court at the next higher level within 10 days from the date of the ruling's transmission.

Cases with foreign-related elements

This remediation channel via objection or reconsideration is quite significant for parties to foreign-related arbitral awards or foreign arbitral awards. Pursuant to the Supreme People's Court's Notice on Issues Related to the Handling by People's Courts of Foreign-related Arbitration and Foreign Arbitration Matters issued in 1995, a court must refer for review a ruling which denies enforcement of a foreign-related arbitral award or a foreign arbitral award to the court at the next highest level in its jurisdiction before it can render its ruling.

A higher court similarly is required to submit its review opinion to the Supreme People's Court if it agrees to deny enforcement or refuses to recognize and enforce the award. The court can render its ruling to deny enforcement or refuse recognition and enforcement only upon receiving the Supreme People's Court's response.

Notwithstanding the above provision, in practice, if the intermediate court denies an enforcement ruling without reporting to the higher court, the arbitral party has no legal measures at its disposal to demand that the higher court rectify the matter. This is because a case referral from a lower court to a higher court is an internal procedure. In this circumstance, a party can procure the referral to the higher court by the intermediate court via an enforcement objection, causing the higher court to review the intermediate court's ruling, thereby indirectly achieving a remedy. ■

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3D 打印与知识产权：冲突渐起

Intellectual property and 3D printing: A clash in the rising



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作为实用的替代性制造方案，3D 打印日益在全球各行业普及，但在印度却还驻足不前，一个主要原因是其应用涉及高昂的操作成本，而且对于这项技术可在哪些领域有效利用还没有清晰的界定。

3D 打印技术常被形容为“更环保、更顶尖”，它有巨大的潜力去刺激印度的制造业及其政府计划如“印度制造”（Make in India）的发展，并肯定会渗透印度的制造业。但这项技术也给知识产权执法和保护带来了许多挑战，涉及对受知识产权保护的产品进行未经授权的复制。未来几年，这个问题在印度一定会变得越来越重要。

什么是 3D 打印？

3D 打印又称为增量制造，是根据数码文件制造固体三维物件的过程。3D 打印物件是通过增量过程制造的。在这个过程中，机器连续铺设一层层材料直到整个物件被制造出来。每一层都可以被看作是最终成型物件的超薄水平横截面。

用 3D 打印技术制造物件，必须先从物件的虚拟设计开始。这种虚拟设计创建于通过 3D 建模程序或 3D 扫描生成的 CAD（Computer Aided Design）文件中。3D 建模程序用以设计全新的物件，而 3D 扫描仪扫描现有物体对其设计进行数码复制。3D 扫描仪用不同技术去生成 3D 模型，包括飞行时间法（time-of-flight）、结构光或调制光

（structured or modulated light）、容积扫描（volumetric scanning）等。输入 CAD 文件后，相应的 3D 物件就被制造出来。

知识产权和 3D 打印

3D 打印技术的运用目前只限于印度的工业市场，但随着个人消费者越来越容易获取便利的打印工具，这可能会造成知识产权侵权行为的泛滥。例如，侵犯权利人知识产权的 CAD 文件可能被创建并被上传到网络。这会马上被全球的消费者使用 3D 打印机下载或打印，CAD 文件可能会被稍加修改或原封不动地照搬。这样，窃取及侵犯知识产权就会成为大问题，因为个人侵权者会很难被定位。在 3D 技术可以被有效利用并使所有利益相关者满意之前，这个问题应该得到解决。

基于 3D 打印的特性，它将会影响几乎所有类别的知识产权，包括专利、设计、著作权和商标。但是，首当其冲的知识产权权利人应该是以制造或者设计为基础的行业。

在知识产权的执法过程中也会面对各种挑战。执法机构将面临的最大挑战之一是确定侵权者。考虑到多数侵权活动是以数码形式为开端，最终在侵权者住所内完成，海关等传统执法机关可以做的并不多。而且，一旦通过 3D 打印机实施知识产权侵权行为，不同当事人的连带责任就需要得到适当的判断。例如，当侵权的 3D 打印产品被其他人制造出来，对于 3D 打印机的制造者或者 CAD 文件的创建者是否应该承担责任就存在疑问。一旦监管制度变得清晰，执法机构就可以更方便地阻止违法行为。

尽管应对 3D 打印侵权案件的法律框架和执法机制可能与其他知识产权侵权案件

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有所不同，诉讼和替代性争议解决（ADR）策略在多数情况下都差不多。如同很多其他知识产权违法或者侵权案件，第一步是将案件中潜在的知识产权情况告知侵权者，并要求其停止侵权。如果对方没有回应或者侵权行为没有停止，通过诉讼或替代性争议解决方案处理问题就变得有必要。

需要做什么？

各市场或行业的参与者都要对网络保持警惕，搜索侵犯其知识产权的 CAD 文件并要求删除这些文件。新的知识产权登记人也可以设法将其专有权的保护范围扩展至涉及其产品设计的 CAD 文件的创建行为，尽管能否做到这点视乎具体的法律框架。

但是，做出适当的立法回应，考虑 3D 打印对知识产权的影响，这是协助知识产权人以及相关部门的最好办法。到目前为止，还没有看到印度在立法、监管或者行政层面尝试解决这个问题。

由于 3D 打印属于新兴科技，印度需要调整法律框架以最恰当的方式去解决相关问题。首先，法律框架需要界定 CAD 文件适用的知识产权保护性质和范围，以及这种保护是否需要延伸到最终的打印产品。

下一个问题就是可能因应用 3D 打印技术而遭侵犯的知识产权。考虑到多数侵权行为可能为个人而非商业性质，在目前知识产权法律下，对私人适用的例外情况必须重新评估。

考虑到 3D 打印技术基本上是一种增量制造机制，专利以及设计拥有者可能会成为最大的侵权受害者。在这样的背景下，著作权法下的某些条款也可以延伸到这些领域，以处理数码复制问题。■

“ [3D 打印技术] 带来了
知识产权执法和保护方面
的许多挑战 ”

While 3D printing is increasingly being used as an attractive alternative manufacturing option in different industries across the globe, the application of 3D printing technology has yet to gather momentum in India. This owes mostly to the high operational costs involved and lack of clarity on the right sectors where the technology may be viably utilized.

3D printing technology often is touted as “greener and leaner”. It has huge potential to stimulate India’s manufacturing sector and governmental initiatives such as Make in India, and is sure to permeate India’s manufacturing sector.

The technology presents a host of legal enforcement and protection challenges pertaining to unauthorized reproduction of products that may be protected by intellectual property rights, thus the issue will definitely gain importance in India in the years to come.

What is 3D printing?

3D printing, also known as additive manufacturing, is the process whereby solid, three-dimensional objects are produced from an electronic file. A 3D printed object is created via additive process. In this process, an object is created by laying down successive layers of material until the entire object is created. Each of these layers can be seen as a thinly sliced horizontal cross-section of the eventual object.

It all initiates with creating a virtual design of the object one wants to create. This virtual design is made in a CAD (computer-aided design) file generated using either a 3D modelling program, which is used to design a totally new object, or a 3D scanner, which creates a digital imprint of an existing object to replicate its design.

3D scanners use different technologies to generate 3D models such as time-of-flight, structured or modulated light and volumetric scanning. A 3D printed object can be created once the CAD file is inputted into the machine.

IP and 3D printing

3D printing technology has until now been limited to industrial markets in India. Affordable, user-friendly 3D printing equipment is increasingly becoming accessible to the individu-

al consumer, and this may facilitate rampant IP violation.

To give an illustrative example, a CAD file which infringes a holder’s IP rights (IPR) in some manner may be created and uploaded to the internet. This file can then be immediately downloaded by consumers across the globe, who can then print the object using a personal 3D printer with or without additional customization of the design. IP theft and violation thus is a major issue when it comes to 3D printing, insofar as it would be difficult to locate individual violators. This needs to be resolved before 3D printing technology can be efficiently exploited to the satisfaction of all stakeholders.

3D printing is expected to impact almost all categories of IP including patents, design, copyright and trademark due to its nature. However, the industries which base their output on manufacturing and design are the biggest IP holders expected to suffer as a result of popular 3D printing availability.

There are many challenges to IPR enforcement in these cases. One of the biggest challenges to be faced by enforcement agencies is identifying the infringer. Most of the infringing activity will be electronic, and this activity will be performed within the four walls of the violator’s residence. Considering this, traditional enforcement authorities such as Customs may be unable to do much in terms of enforcement.

Further, concomitant liability of different actors once IP rights infringement via 3D printers occurs also needs to be determined properly. For instance, there is the question of whether the maker of the 3D printer or the creator of the CAD file would be held liable when an infringing 3D printed product was made by a different actor. Once this scheme is clear, enforcement agencies will more easily be able to prevent violations.

Techniques in common

While the legal framework and enforcement mechanisms to deal with 3D printing infringement cases may vary from other instances of IP violation, the litigation and alternate dispute resolution (ADR) techniques would mostly remain the same.

Like any other case of IP violation or infringement, the initial course of action would be to inform the violators

“ [3D printing] presents a host of legal enforcement and protection challenges ”

of the underlying IPR and demand that they stop. If there is no response or the violation does not cease, it becomes essential to resort to litigation or ADR.

What needs to be done?

Markets or industries need to be vigilant online, searching for CAD files that infringe their IPR and asking that these infringing files be removed. New IP registrants can also look at ways to extend their exclusive rights protection to include the creation of CAD files of their design, though this may depend on the legal framework.

An adequate legislative response which takes into account the implications of 3D printing on IP rights is the best way to assist IP rights holders and authorities. As of now, there has been no legislative, regulatory or administrative attempt to address the issue in India.

Since 3D printing is an emerging technology, the legal framework needs to be shaped in a way that addresses the issues involved in the most appropriate way. The framework first needs to demarcate the nature and extent of IP protection CAD files would be eligible for and whether this protection also extends to the final printed product.

Next is the issue of those IPR which are likely to be infringed through use of 3D printing technology. Considering that most of the infringement could be personal rather than commercial, private use exceptions in current IP laws need to be evaluated.

3D printing technology is essentially an additive manufacturing mechanism, therefore patent and design holders may be the hardest hit victims. In this context, certain provisions incorporated into copyright legislation to deal with digital reproduction could also be extended to these areas. ■

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DIFC: 迪拜金融业的守护石狮子

DIFC: Guardian lion standing watch over Dubai's financial sector



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Senior Associate
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中国迪拜周活动于 5 月 15 日在北京结束。迪拜周期间，迪拜的特设金融自由区迪拜国际金融中心 (DIFC) 向有意在中东及其周边地区扩大国际业务及知名度的潜在中国投资者和中国企业推广其业已发展成熟且广受认可的金融生态体系。

据媒体报道，中国一些著名的金融和非金融机构对 DIFC 广受赞誉的监管框架、法律制度和基础设施表现出浓厚的兴趣。

DIFC 处在一个独特的法律和监管框架之内，这一框架由阿联酋联邦法律和迪拜法律合力建立，旨在为金融业创造一个最佳发展环境。由此，该金融中心拥有了自己的民事和商事法典，其在很大程度上引入了国际标准和普通法原则，并针对本地区的需要作出了相应的调整。

DIFC 的金融监管框架由迪拜金融服务管理局 (DFSA) 负责实施，是 DIFC 法院监督下的法律框架的重要辅助。DIFC 法院是一个以英语为工作语言的普通法法院，法院的程序规则仿照英国民事诉讼规则，现任法官聘自世界各地的普通法法院。

迪拜金融服务管理局成立于 2005 年，是一个独立的监管机构，负责监管在 DIFC 境内提供或源自该金融中心的金融及其附属服务。迪拜金融管理局的监管范围涵盖资产管理、银行和信贷服务、证券、集合投资基金、托管和信托服务、商品期货交易、伊斯兰金融、保险、国际股权和国际商品衍生产品交易。除了监管金融和附属服务，

“**迪拜金融管理局仅在有必要情况下才会行使执法权**”

迪拜金融管理局还负责监督和执行适用于 DIFC 境内的有关防治、打击洗钱及资助恐怖主义活动的要求。此外，迪拜金融管理局也获得 DIFC 公司注册局的授权，可以对该金融中心境内的公司和合伙企业的事务开展调查。

迪拜金融管理局最近与印度尼西亚的金融服务管理局 (OJK) 签订了谅解备忘录，从而将其正式关系扩展至东南亚相应机构，印证了自身的影响力。在此之前，迪拜金融管理局已与 90 多个国家的金融监管机构签订了谅解备忘录，包括欧洲证券和市场管理局、英国审慎监管局、塞浦路斯中央银行、法国金融市场管理局和葡萄牙中央银行等。

最大罚单

迪拜金融管理局于 4 月 15 日宣布对德意志银行 DIFC 分行处以 840 万美元的罚款，这是迪拜金融管理局成立 10 年以来开出的最大一笔罚单，对迪拜的金融监管和执法具有非同寻常的意义。所涉违规行为包括：误导金管局；德意志银行内部的治理、制度系统和控制等环节存在失误；在承接客户及反洗钱的过程中存在纰漏。但德意志银行回应，没有客户受到损失；此外，在了解客户或反洗钱义务方面，其并不存在违反银行操作规程的情况。

负责与迪拜金融管理局打交道的获授权人应该采取一种坦诚、合作的态度，向 DFSA 披露所有根据合理预计应当向金管局通报的信息——迪拜金融管理局将此视作 DIFC 监管框架最重要的支柱之一，并在这方面积极执法。迪拜金融管理局的期望是：受监管的 DIFC 企业都能在内部营造

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浓厚的合规文化，并能认识到满足或超过规定的合规标准符合整个 DIFC 金融服务行业的利益。如果未达到这些标准，可能导致必要的执法行动。

迪拜金融管理局采用的监督框架以风险为基础，对经授权的企业、市场机构、个人以及附属服务提供者实施监督。迪拜金融管理局监控包括反洗钱规定在内的法律法规的合规情况。

由迪拜金融管理局负责实施的 DIFC 主要法律是与金融服务相关的核心法律，包括：

- 2004 年《监管法》
- 2012 年《市场法》
- 2004 年《伊斯兰金融业务法》
- 2005 年《信托法》
- 2010 年《集合投资法》
- 2006 年《投资信托法》

迪拜金融管理局也负责市场监测和研究，以识别、评估和处理发生于 DIFC 内部或外部的可能对该金融中心或其社会群体造成风险的变化。

迪拜金融管理局有权调查涉嫌违反其负责实施的法律的行为。它可以行使检查、强制获取账簿和记录或者要求个人在宣誓或誓愿后接受质询等权力。对于可能构成犯罪的任何行为，迪拜金融管理局将提交给相关的地方、联邦或国际机构。

一般情况下，迪拜金融管理局仅在有必要情况下才会行使执法权，执法方式也确保 DIFC 参与者的合法活动能够不受妨碍。迪拜金融管理局作为一个基于风险的独立监管机构，对通过 DIFC 开展的金融服务活动进行许可和监管，是 DIFC 赖以成功的主要因素之一。■

During the Dubai Week in China summit in Beijing, which ended on 15 May, the purpose-built financial free zone Dubai International Financial Centre (DIFC) promoted itself as a mature and respected financial ecosystem to potential Chinese investors and firms seeking to expand their international presence and exposure across the Middle East and wider region.

It has been reported that prominent Chinese financial and non-financial institutions have expressed interest in DIFC's widely appreciated regulatory framework, legal systems and enabling infrastructure.

Unique framework

DIFC operates on a unique legal and regulatory framework developed by synthesizing federal and Dubai law to create an optimal growth environment for the financial sector. This permits DIFC to have its own civil and commercial code that is modelled closely on international standards and principles of common law while also tailored to the needs of the region.

DIFC's financial regulatory framework is administered by the Dubai Financial Services Authority (DFSA) as an adjunct to the legal framework overseen by the court of DIFC. The court is an English-language common law court; its rules of procedure are modelled on the English Civil Procedure Rules and it has a judicial bench drawn from various common law jurisdictions around the world.

DFSA functions

Established in 2005 to serve as independent regulator of financial and ancillary services conducted in or from DIFC, DFSA promotes its regulatory mandate over asset management, banking and credit services, securities, collective investment funds, custody and trust services, commodities futures trading, Islamic finance, insurance, international equities and international commodities derivatives exchanges.

In addition to regulating financial and ancillary services, DFSA is responsible for supervising and enforcing requirements applicable in DIFC to prevent and combat money laundering and the financing of terrorism. DFSA has also accepted a delegation of powers from

DIFC's registrar of companies to investigate the affairs of DIFC companies and partnerships.

As a measure of its stature, DFSA recently extended its formal ties with its counterparts in Southeast Asia by entering into a Memorandum of Understanding with Indonesia's Otoritas Jasa Keuangan.

This alliance was made on the back of over 90 other significant memoranda, including the European Securities and Markets Authority, the United Kingdom's Prudential Regulatory Authority, the Central Bank of Cyprus, France's Autorité des marchés financiers and Banco de Portugal, to name a few.

Biggest fine

DFSA made a distinct impression on Dubai's financial regulatory and enforcement by announcing on 15 April that it had issued a fine of US\$8,400,000 to the DIFC branch of Deutsche Bank, the biggest fine imposed by DFSA in its 10-year history.

The charged contraventions included misleading DFSA, failures in Deutsche Bank's internal governance and systems and controls and in its client take-on and antimoney laundering processes. Deutsche Bank in turn claimed that no client had lost money, nor had there been breaches in the bank's mechanisms in regard to knowing your client or anti-money laundering obligations.

There is a line of proactive enforcement of what DFSA sees as one of the most important pillars of DIFC regulatory framework – that authorized persons dealing with DFSA do so in an open and cooperative manner and must disclose to the DFSA any information of which the DFSA would reasonably be expected to be notified.

DFSA expects that regulated DIFC participants evidence a strong compliance culture, and recognize that it is in the interests of the DIFC financial services industry for them to meet or exceed the required standards. When these standards are not met, enforcement action may become necessary.

Monitoring compliance

DFSA operates on a risk-based supervisory framework. It acts to supervise authorized firms, market

“ *DFSA generally uses its enforcement powers only as required to achieve its objectives* ”

institutions and individuals, as well as ancillary service providers. DFSA monitors compliance with the laws and rules including provisions on combatting money laundering.

The primary DIFC laws administered by DFSA are the central laws related to financial services set out below.

- Regulatory Law 2004
- Markets Law 2012
- Law Regulating Islamic Financial Business 2004
- Trust Law 2005
- Collective Investment Law 2010
- Investment Trust Law 2006

DFSA also undertakes market monitoring and research to identify, assess and address developments within or outside DIFC that may pose a risk to DIFC or its community.

Enforcement powers

DFSA is empowered to investigate suspected violations of its administered legislation. It may exercise its powers to conduct inspections and compulsorily obtain books and records, or it may require that individuals be questioned under oath or affirmation.

DFSA refers any conduct potentially constituting a breach of criminal law to the competent local, federal or international authority for investigation and prosecution. DFSA generally uses its enforcement powers only as required to achieve its objectives, and in a way that ensures the legitimate activities of participants in DIFC continue freely.

It is argued that the role of the DFSA as an independent, risk-based regulator is one of the principal factors behind the DIFC's success. Its position allows DIFC to smoothly grant licences and regulate the activities of financial services conducted through the centre. ■

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发改委境外投资管理规定

Approval threshold significantly lowered in NDRC outbound investment rules



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在此前两期专栏中，我们已介绍了商务部境外投资新规。在本期中，我们将为大家介绍国家发展和改革委员会（发改委）的相关管理规定。

发改委于2014年4月8日发布了《境外投资项目核准和备案管理办法》（发改委9号令）。随后，发改委又发布了一系列相关规定，对发改委9号令进行了补充和修改，包括：

- 2014年5月14日发布了《关于实施〈境外投资项目核准和备案管理办法〉有关事项的通知》；
- 2014年6月22日发布了《关于启用全国境外投资项目备案管理网络系统的通知》；
- 2014年12月27日发布了《关于修改〈境外投资项目核准和备案管理办法〉和〈外商投资项目核准和备案管理办法〉有关条款的决定》。

上述新规对发改委境外投资项目的审批及核准工作进行了较大调整，主要体现在以下几个方面：

变“核准制”为“备案为主，核准为辅”。新规下，仅当企业境外投资涉及“敏感国家和地区”或“敏感行业”时，才需上报国家发改委核准。其中，中方投资额20亿美元及以上的境外投资项目，由国家发改委提出审核意见报国务院核准。除此之外的境外投资项目实行备案管理。（具体情况请见本页图示。）

核准及备案条件。新规下，国家发改委核准和备案适用的审核考量因素基本相同，即都包括：是否符合国家法律法规和产业政策、境外投资政策；是否符合国家资本项目管理相关规定；是否危害国家主权、安全、公共利益；以及投资主体是否具备相应的投资实力等。可见，发改部门对是否予以核准及备案仍有较大的自由裁量权。

简化核准及备案流程。新规下，对适用核准的项目，地方企业直接向所在地的省级发展改革部门提交项目申请报告，缩短了报送时间。此外，新规还明确了国家发改委的核准时间为20个工作日，经国家发改委负责人批准可延长10个工作日。但对需要评估的项目，评估时间（原则上不超过40个工作日）不计入核准时间。



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对于由国家发改委备案的项目，国家发改委将在七个工作日内做出决定。就由省级发展改革部门备案的项目，各省目前的规定并不完全一致，但较多省份规定为七个工作日内做出决定。

取得核准及备案的时限。新规要求，就需国家发改委核准或备案的项目，投资主体应“在对外签署具有最终法律约束效力的文件前”取得国家发改委出具的核准文件或者备案通知书。同时，新规还规定：“可在签署的文件中明确生效条件为依法取得国家发改委出具的核准文件或备案通知书。”此规定在一定程度上放松了取得申请核准及备案的时限要求。

项目信息报告制度。新规继续保留了项目信息报告制度，即对中方投资额在三亿美元及以上的境外收购或竞标项目，投资主体在对外开展实质性工作（即对外签署约束性协议、提出约束性报价、向对方国家政府审查部门提出申请及对外正式招标等）之前，应向发改委报送项目信息报告。

对符合国家境外投资政策的项目，发改委在收到项目信息报告后七个工作日内出具确认函。

结语

综上，发改委境外投资规定大幅降低了审批门槛，简化了中国企业境外投资的审批手续，但仍然保留了项目信息报告制度，且发改委对核准及备案的考量标准基本相同，对是否核准或备案仍有较大的自由裁量权。因此，中国企业在办理发改委境外投资审批手续时，仍应高度关注相关各项法律要求，确保项目及文件信息等符合规定要求。■

申请人	项目类型	中方投资额 (美元)	审批机关	
			省级发改部门	国家发改委
中央企业	非敏感国家和地区、 非敏感行业	无	无	备案
	敏感国家和地区、 敏感行业	投资额 < 20 亿 投资额 ≥ 20 亿	无	核准 提出审核意见报国务院核准
地方企业	非敏感国家和地区、 非敏感行业	投资额 ≥ 3 亿	无	备案
		投资额 < 3 亿	备案	无
	敏感国家和地区、 敏感行业	投资额 < 20 亿	无	核准
		投资额 ≥ 20 亿	无	提出审核意见报国务院核准

Our previous two columns introduced the Ministry of Commerce’s new regulations on outbound investment. This issue we will introduce related rules issued last April by the National Development and Reform Commission (NDRC).

After issuing the Measures for the Administration of the Approval and Record-filing of Overseas Investment Projects, NDRC issued a series of rules to supplement and amend the measures, including those set out below.

- Notice on Matters Concerning the Implementation of the Measures for the Administration of Approval and Record-filing of Overseas Investment Projects (issued 14 May 2014)
- Notice on Launching the Nationwide Network System for the Record-filing Administration of Overseas Investment Projects (issued 22 June 2014)
- Decision to Amend the Relevant Clauses of the Measures for the Administration of Approval and Record-filing of Overseas Investment Projects and the Measures for the Administration of Approval and Record-filing of Foreign-funded Projects (issued 27 December 2014).

Systemic changes

The measures along with the above rules create significant changes to the NDRC’s outbound investment approval and filing procedures, evident in five areas.

Procedural shift from approval to filing supplemented by approval. The measures set out that only outbound investment

projects involving sensitive countries and regions or sensitive industries require NDRC approval. Projects with US\$2 billion or more of Chinese investment are also subject to NDRC examination and then submitted to the State Council for approval. Other projects are only subject to filing. (See the table below.)

Conditions for filing and approval.

The factors for approval and filing are basically the same under the measures. Namely, that the projects are in compliance with national laws and regulations, industrial policies and policies for outbound investment; compliance with the relevant rules on state management of capital accounts; possibility of endangering state sovereignty, security and public interest; and corresponding investment capabilities possessed by investors.

NDRC obviously retains a large discretionary power as to whether to permit a project to be filed or to grant approval for a project.

Procedural simplification. To reduce processing time, companies may directly submit their application for projects subject to approval to their local provincial development and reform commission (provincial DRC).

There is a time limit of 20 working days for NDRC processing and approval, subject to a 10-day extension with authorization by the NDRC head. The project evaluation period is excluded from this 20-day approval period and cannot exceed 40 working days in principle.

The time limit for NDRC to render a decision on filed projects is seven

working days. The time limits on projects filed with the provincial DRC are inconsistent, however seven working days is the applicable limit in many provinces.

Deadlines. The deadlines for filing and obtaining approval for a project have been relaxed to a certain degree.

The measures require that outbound investors obtain a letter confirming approval or a notice of filing issued by NDRC “prior to the execution of any document which has final legal binding effect with a foreign party”.

The measures also provide that “obtaining a letter of confirmation or a notice of filing from NDRC may be specified as a condition precedent in an executed document”.

Project data reporting. The measures have preserved the investment project data reporting regime.

For overseas acquisitions or bids on projects with Chinese investment valued at US\$300 million or more, investors must submit a project report to NDRC before undertaking substantial works with foreign parties. These substantial works include reaching binding agreements with, and making binding offers to, a foreign party, filing applications to review departments of the government of the jurisdiction of the other party and making formal bids.

NDRC will issue a confirmation letter within seven working days of receipt of the report provided that the project does not violate outbound investment policies.

Conclusion

NDRC’s rules for outbound investment have substantially lowered the thresholds for approval. They have also simplified approval procedures for Chinese outbound investment, while maintaining the project reporting regime. NDRC retains a great deal of discretion by using essentially the same conditions to examine projects that are filed for the record and reported for approval.

Chinese companies must continue to pay considerable attention to NDRC’s requirements for approval to ensure that projects and documentation conform to all requirements under these rules. ■

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Applicant	Project type	Chinese investment amount	Approval authority	
			Provincial DRC	NDRC
State-owned enterprises	Non-sensitive countries and regions, non-sensitive industries	N/A	N/A	Filing
	Sensitive countries and regions, sensitive industries	Investment < US\$2 billion	N/A	Approval
		Investment ≥ US\$2 billion	N/A	Examination then transfer to State Council for approval
Local domestic enterprises	Non-sensitive countries and regions, non-sensitive industries	Investment ≥ US\$300 million	N/A	Filing
		Investment < US\$300 million	Filing	N/A
	Sensitive countries and regions, sensitive industries	Investment < US\$2 billion	N/A	Approval
		Investment ≥ US\$2 billion	N/A	Examination then submit to State Council for approval

反洗钱: 瑞士公司股东新的报告义务

Money laundering: New reporting duties for Swiss company shareholders



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在贯彻金融行动特别工作组 (FATF) 《2012 年修订版建议》，新联邦法律涉及更加严格的反洗钱规定的第一部分于 7 月 1 日开始生效，特别是对法律实体的透明度增加了要求。笔者在下文以有限公司为例，总结了有关透明度、违反透明度规定可能受到的处罚，以及何时需要采取行动的主要条款。该法律修正案也对有限责任公司和合作社有影响。

不能再隐瞒身份

此前，无记名股票的购买人基本上可以隐瞒身份，而新规定则完全改变了这一状况。即使只购买了一份股票，购买人也必须将所购股票及其姓名和地址报告给公司。

购买人的身份必须（通过附照片的正式身份证明或商业登记摘要）披露给公司。股东必须将其姓或名的任何变更、所涉公司或地址的变更向公司报告。与股票交易法规定不同的是，此类披露要求不设置最低门槛标准。董事会必须保留一份名录，载有购买人或股东的出生日期和国籍、以及他们的姓名或企业名称和地址。立法机关的新要求因此超出了原先仅针对记名股票实施的披露要求范围。

报告实益所有人

如果任何人购买某公司的股份后直接或间接达到或超过了该公司股本或表决权 25% 的限额，即使该股份未在股票交易所

上市，也不是以证券间接持有的形式发行，购买人仍必须向公司报告该交易的最终受益自然人（即实益所有人）的全名和地址或者确认其本人即为实益所有人。此项披露义务同样适用于记名和不记名股票。与上市公司披露相关法律规定不同的是，此项披露义务不是针对实益所有人，而是针对对股东施加的。股东必须向公司报告实益所有人的姓名或地址的变更。

记录保存

公司必须保存所收到的有关实益所有人的记录。在实益所有人从股东 / 购买人名录中删除后，有关其报告内容的证明文件还须保留十年。该名录必须始终保证可在瑞士境内查阅。

处罚措施

有关不记名股票的新股东以及报告实益所有人的义务都应当在购买交易完成后的一个月内履行。如果股东未能履行报告义务，相应的表决权和其他股东权利都将暂停，而且股东可能不能就相关股份主张财产权——特别是获得股息的权利。需要强调的是，如果股东未在购买股票后的一个月内履行报告义务，则会丧失与所购股份相关的财产权。即使后来补上了报告，财产权也只会从实际报告之日起生效。

董事的责任风险

董事会必须确保违反报告义务的股东不能行使相关权利，特别是参加股东大会或者获得股息等权利。否则，董事会成员可能会被要求承担责任。

另外，如果股东大会会有未获许可的人员参与其中，大会做出的相关决定可能会被

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申诉。公司对不履行义务的股东派发股息也涉嫌实施了非法的保证金退还或者隐藏收益分配。

过渡条款

在 7 月 1 日已经持有不记名股票的个人必须在一个月内履行报告义务。这个规定也适用于有关实益所有人的报告义务。在 7 月 1 日之前持有记名股票的人，不需要追溯性地履行报告义务，只需要就其自 7 月 1 日起购买的股票履行报告义务即可。

需要采取的行动

发行记名和不记名股票的所有有限公司必须尽快采取必要的预备措施。对于有法人股东的瑞士公司，董事会应当根据公司的具体情况，解决如何履行有关报告实益所有人的义务的问题。考虑购买瑞士公司股份的个人或实体必须注意这些新的报告义务。

对于住所地在瑞士或者在瑞士受监管的托管机构所保存或登记的间接持有证券，这些机构不履行上述义务不会受到处罚，因此购买人可根据具体情形考虑这是一个好的替代性选择。

尚未解决的问题

如果违反强调透明度的新规定，其后果对于股东和董事会来说都是很严重的。因此，在法律对许多问题尚无明确规定的情况下，新联邦法的第一部分就开始实施，这确实令人意外。考虑到许多问题还不明确，无论在什么情况下，在下一个派息日之前必须对所实施的报告义务进行检查，以确认是否需要进行调整。■

“ [新联邦法律] 特别是对法律实体的透明度增加了要求 ”

On 1 July the first part of the new federal law to implement the 2012 Revised Recommendations of the Financial Action Task Force concerning the tightening of money laundering provisions entered into force. This relates to, in particular, the provisions concerning increased transparency requirements for legal entities.

Taking limited companies as an example, the following summarizes the key provisions on transparency and potential sanctions and explains when action is necessary. The amendments also affect limited liability companies and cooperatives.

No more anonymity

Previously, the acquirer of a bearer share remained basically anonymous. This is no longer possible. Whoever acquires even a single bearer share must report the acquisition as well as their first and last names and address to the company.

The acquirer must be identified to the company (by an official photo ID or an extract from the commercial register). The shareholder must report to the company any change of first or last name, company or address.

In contrast to the stock exchange law, there are no thresholds for these reporting requirements. The board of directors must keep a directory containing the date of birth and nationality of the acquirer or shareholder in addition to the first and last name or the business name and the address. The requirements of the legislator thus go beyond what the law requires in the case of registered shares.

Reporting of beneficial owners

Whoever acquires shares in a company whose shares are neither listed on an exchange nor issued in the form of intermediated securities and thereby, directly or indirectly, reaches or exceeds the limit of 25% of the share capital or voting rights, must report to the company the first and last name and the address of the natural individual(s) for whom they are ultimately dealing (i.e. the beneficial owner) or confirm that they themselves are the beneficial owner.

This disclosure obligation applies to the acquisition of both bearer and registered shares. In contrast to the disclosure law for listed companies, the obligation to report is not imposed

on the beneficial owner, but rather on the shareholder. The shareholder must notify the company of any change in the first or the last name or the address of the beneficial owners.

Record keeping

The companies must keep a record of the reported beneficial owners. The supporting documents for the report must be kept for 10 years after the deletion of a person from the directory. The directory must be kept in such a way that it can be accessed at any time in Switzerland.

Sanctions

Both the obligation to report the new shareholder of bearer shares and the obligation to report the beneficial owners are to be fulfilled within one month of purchase. As long as the shareholder fails to meet its reporting obligations, the corresponding voting and other membership rights are suspended. The relevant property rights – especially the right to receive dividends – can also not be claimed.

It should be emphasized that the shareholder, if they do not fulfil the reporting requirements within one month of acquisition, forfeits their property rights. Even if reporting is completed at a later time, their property rights are only effective from the actual reporting date.

Directors' liability risk

The board of directors must ensure that no shareholder can exercise their rights in violation of the reporting requirements, in particular to take part in the general meeting of shareholders or receive a dividend. Otherwise, the members of the board of directors may be open to responsibility claims.

In addition, relevant decisions of the general meeting of shareholders can be subject to appeal due to the participation of unauthorized persons. There is also the question of whether dividend payments to a defaulting shareholder would be an infringing deposit refund by the company or a hidden distribution of earnings.

Transitional provisions

Individuals who already had held bearer shares on 1 July have to comply with their respective reporting obliga-

“ [The new law includes] provisions concerning increased transparency requirements ”

tions within one month. This also applies in respect of the reporting of the beneficial owners. There is no retrospective reporting requirement for registered shareholders who were in possession of shares prior to 1 July, only for those shares which are purchased from 1 July.

Actions required

All limited companies with registered or bearer shares should take the necessary preparatory measures as soon as possible. For Swiss companies in which legal persons are invested, the board of directors should deal with the question of how the obligation to report the beneficial owners must be implemented in their particular case. Any person or entity who is considering an acquisition of shares in a Swiss company should pay attention to these new reporting obligations.

Since no sanctions apply if the shares are issued in the form of intermediated securities, i.e. deposited or registered with a Swiss domiciled and regulated custodian, it should be considered whether this might be an alternative in the particular case.

Open questions

The consequences of a violation of the new rules on transparency are hard for both shareholders and the board of directors. It is therefore all the more surprising that this part of the revision came into force despite the law not explicitly addressing many questions.

Given the ambiguities, the implementation of the reporting obligations must, in any case, be checked again before the next dividend date in case the implementation needs to be adjusted. ■

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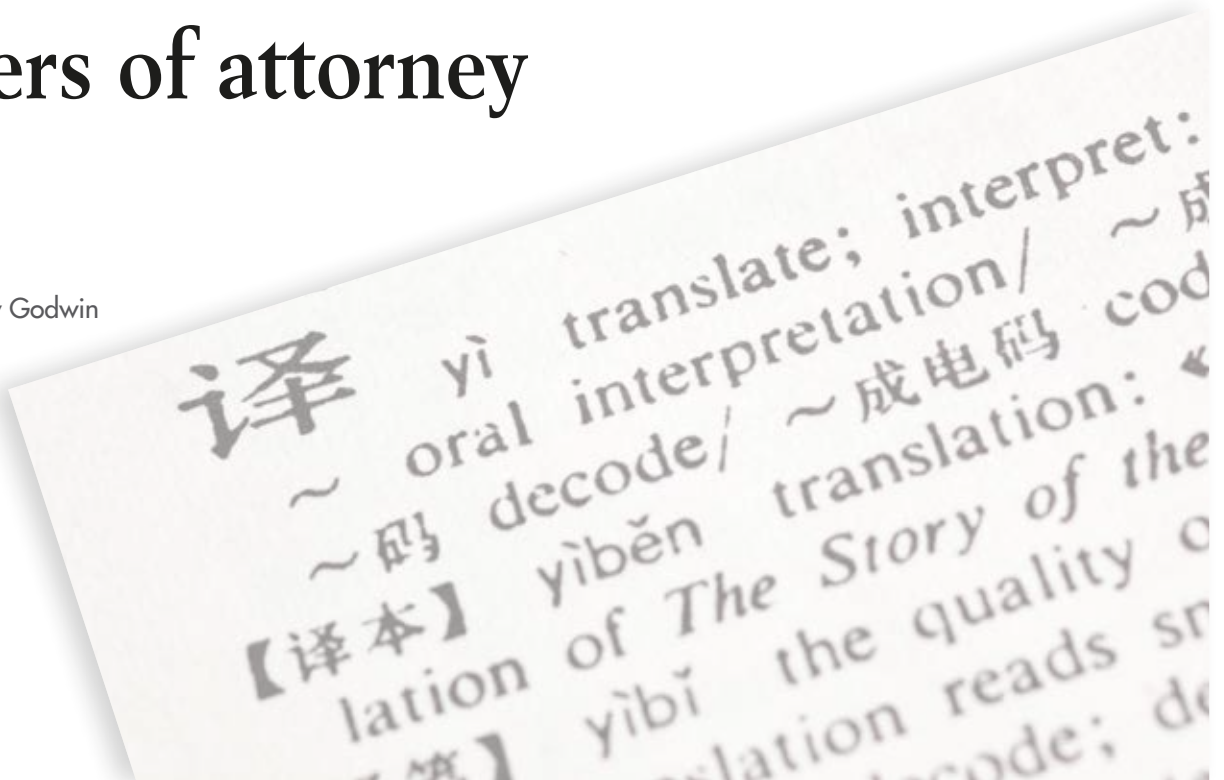
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授权委托书

Powers of attorney

葛安德 Andrew Godwin



本文将探讨一人经授权代表另一人的情况。虽然在大多数法域中，这种情况是受到代理法（即合同法）约束的，本文将重点关注普通法法域的一种特别代理方式，即 power of attorney（授权委托书）。首先，本文将探讨授权委托书的运作方式，其所受到的法律对待在某些方面如何不同于合同法下的代理关系，并简要介绍可以授予代理人的不同授权。随后，本文将分析律师是否可以并应当作为授权委托书下的受托人。最后，本文将分析中国法律下是否可能存在类似安排。

普通法法域

在普通法法域，普通法（即判例法）和成文法均认可授权委托书。根据判例法，授权委托书是指一方（委托人）授权另一方（受托人）代表自己行使权利的契约形式的文件。个人或公司均可以出具授权委托书，个人或公司也均可以担任受托人。

授权委托书可以在许多情况和交易中使用。比如，企业或公司股份的收购方可以委托代理人代表自己签署企业或股份收购协议。或者，在担保贷款交易中，借款人可以向贷款人出具授权委托书，使得贷款人可以登记和执行借款人提供的担保，以保证贷款下义务的履行。

首先我需要解释一些术语。术语 deed（契约）是指以非常正式的形式签订的文书（即书面文件），也就是 under seal（盖印合同）。{ 有关 instruments（文书）和 deeds（契约）

This article examines the situation where a person is authorized to act on behalf of another person. Although this situation is largely governed by the law of agency (i.e. contract law) in most jurisdictions, this article focuses on a special type of agency in common law jurisdictions, namely, a power of attorney. It first explains how a power of attorney operates – and how it is treated differently from the law of agency in certain respects – and outlines the different types of power that can be granted to an attorney. It then considers whether lawyers can and should act as attorneys under a power of attorney. Finally, it considers whether similar arrangements are possible under Chinese law.

Common law jurisdictions

In common law jurisdictions, powers of attorney are recognized under both general law (i.e. case law) and also statute. Under case law, a power of attorney is defined as an instrument in the form of a deed by which one person (the principal) gives authorization to another person (the attorney) to act on behalf of the principal. A power of attorney may be granted either by an individual or by a company. In addition, either an individual or a company may act as an attorney.

A power of attorney may be granted in a broad range of circumstances and transactions. For example, a purchaser of a business or shares in a company may appoint an attorney to sign the business or share purchase agreement on its behalf. Alternatively, in a secured loan transaction, the borrower may grant a power of attorney in favour of the lender to enable the lender to register and enforce security that is provided by the borrower to secure its obligations under the loan.

Let me first clarify some terminology. The term “deed” describes an instrument – i.e. a written document – that is executed in a very formal manner, namely, “under seal”. (For a discussion about instruments and deeds, see “Contract or agreement: which is correct”, *China Business*

的讨论, 请见《商法》2011年2月号文章《“合同”抑或“协议孰是孰非》》。此处及以下注明的参考文章皆已汇编于《商法词汇》一书中出版。]

术语 attorney 是指一个代表另一人行为的人。在这种情形下, 这种人通常被称为代理人 (attorney-in-fact), 以避免与律师 (attorney-at-law) 相混淆。(有关律师称谓的讨论, 请见《商法》2010年6月号文章《律师的多重称谓》。) 当然, 律师会经常担任客户的代理人。不过, 根据授权委托书被另一人授权的人不需要是律师。

虽然授权委托书在委托人和代理人之间建立了法律关系并受到代理法的约束, 但是授权委托书在某些方面具有特殊性, 跟合同法下的代理关系存在不同。比如, 法律要求严格解释授权委托书, 这意味着只能将对代理人权力的解释限定于其合理行使权力的必要程度。此外, 出具授权委托书通常是委托人的单方行为, 而不是通过合同。通常代理人是通过合同进行委托的, 并要求委托人和代理人支付对价, 除非签订契约。(有关普通法法域对价的讨论, 请见《商法》2013年12月/2014年1月号文章《对价》。)

另一个不同之处在于: 授权委托书必须是书面形式; 而委托代理人的协议可以以口头形式达成。此外, 授权委托书必须遵守所有正式的法定要求, 并以契约形式出具。这符合普通法法域的原则, 如果一人经另一人授权代表他签署契约, 那么该授权本身必须是契约。

另一个区别是在普通法即判例法下, 传统上要求代理人表明其是以委托人的名义行动, 并且在签署法律文件时, 要求代理人签署委托人的名字而非代理人自己的名字。如今的法律规定代理人可以签署自己的名字, 而不需要以委托人的名字签字。

不同类型的授权委托书

授权委托书在以下三个方面可能会有所不同: (1) 范围; (2) 期限; 及 (3) 授权生效时间。

就授权范围来说, 授权委托书分为一般授权委托书和特殊授权委托书。一般授权委托书授权代理人从事委托人可以做的任何事情。特别授权委托书授权代理人仅进行特定行为或特定类型的行为。

就授权期限而言, 授权委托书分为可撤销的授权委托, 以及不可撤销的授权委托——即除非取得代理人的同意, 否则委托人不可以撤销授权委托。不可撤销的授权委托可以通过担保方式授予, 比如使代理人能够实行向其提供的抵押等物权, 或者通过委托人与代理人之间的合同授予, 也就是保证代理人能够享受其在合同之下的利益。

就授权生效时间, 授权委托书可以分为立即生效或由特定事件触发生效。在后一种情况下的授权委托书通常被称为“触发性授权书”, 也就是说授权仅在特定事项发生后生效。

持久授权书 (enduring power of attorney) (目前在英国被称为 lasting power of attorney) 就是一种触发性授权,

Law Journal, February 2011. These and other articles referenced below are also compiled in *China Lexicon*.) The term “attorney” describes a person who acts on behalf of another person. In this context, the person is often referred to as an “attorney-in-fact” to avoid confusion with a lawyer or an “attorney-at-law”. (For a discussion about these and other terms, see “Terms used for describing lawyers and why they matter”, *China Business Law Journal*, June 2010.) Of course, lawyers often act as agents for their clients. However, a person who is authorized to act as an attorney under a power of attorney does not need to be a lawyer.

Although a power of attorney creates a relationship of principal and agent and is subject to the law of agency, there are various respects in which a power of attorney is special and is treated differently from the law of agency. For example, the law requires a power of attorney to be construed strictly. What this means is that the interpretation of the attorney’s powers is limited to what is necessary for their proper execution. In addition, the grant of a power of attorney is often a unilateral act by the principal and is not created by a contract, the basis on which agents are usually appointed and which requires consideration from both the principal and the agent except where the contract is executed as a deed. (For a discussion about the concept of consideration in common law jurisdictions, see “Consideration”, *China Business Law Journal*, December/January 2014.)

A related distinction is that a power of attorney must be in writing, whereas an agreement to appoint an agent can occur orally. In addition, it must comply with any formal statutory requirements and be in the form of a deed. This is consistent with the principle in common law jurisdictions that if a person is authorized to sign a deed on behalf of another person, the authorization must itself be in the form of a deed.

A further distinction is that under the general law – i.e. case law – an attorney was traditionally required to state that he or she was acting “in the name of” the principal and, when signing a legal document, was required to sign the principal’s name instead of the attorney’s own signature. Statute now provides that the attorney may sign their own signature and does not need to sign in the name of the principal.

Different types of power of attorney

Powers of attorney may differ in the following three ways: (1) scope; (2) term; and (3) when the power comes into effect.

In relation to scope, a power of attorney may take either the form of a general power of attorney or a special power of attorney. A general power of attorney authorizes the attorney to do anything that the principal is able to do. A special power of attorney authorizes the attorney to do a specified act or class of act only.

In relation to term, a power of attorney may either be a revocable power or an irrevocable power – i.e. one that cannot be revoked by the principal except with the consent of the attorney. An irrevocable power of attorney may either be granted “by way of security” – for example, to secure a proprietary interest such as a mortgage that is granted in favour of the attorney – or be “coupled with an interest” – namely, to secure the performance of an obligation owed to the attorney in a contract between the principal and the attorney.

In relation to when the power comes into effect, a power of attorney may either come into effect immediately or be triggered by a specified event. In the latter case, the power is often known as a “springing power” – i.e. the power springs into effect upon the occurrence of the specified event.

An example of a power that is triggered by a specified event is an enduring power of attorney (now known in England as a lasting power

该等授权书在委托人出现精神障碍时生效。持久授权书的签署者通常是患有绝症并希望委托代理人在他们丧失做决定能力之后代表他们做决定的人。

以前,普通法并不认可持久授权书,这是因为代理法的一项基本原则是代理人只能在委托人可以行动的范围之内行动;如果委托人丧失心智能力,那么代理人的授权必须停止。

如今这个问题已经因为成文法承认了持久授权书而得到了解决。这些成文法规定了持久授权必须满足的条件,并明确规定该等授权并不因为委托人丧失心智能力而撤销。

律师是否可以担任委托授权书下的代理人?

当律师受到客户指示时,通常会因为律师代表客户处理与其他人的事宜而形成默示的委托人-代理人关系。在普通法法域,律师也可以根据客户或第三方出具的授权委托书担任代理人。

不过,当律师作为代理人代表客户签署文件的时候,他们通常只愿意根据特别授权委托书行事,该等授权委托书明确规定律师被授权签署哪些文件以及何时获得授权签署这些文件。换句话说,律师纯粹只是具有执行能力,并不会就是否签署合同或授权特定行为(比如在买卖交易中向卖方付款)行使任何自由裁量权。这是因为律师可能需要行使应当由客户自己合理行使的自由裁量权,并可能因此产生责任。

中国法律是否允许类似的安排?

中国使用不同的术语描述授权一人代表另一人的文件,包括授权书、委托书以及授权委托书。虽然对于这些术语的准确含义存在一些争议(以下“委托书”指“委托合同”),普遍接受的观点似乎是“委托书”通常是指委托人和代理人之间签署的文件,该等文件约定委托人指定代理人,“授权书”通常是指委托人向第三方出具的证明代理人代表自己的文件。

在中国,该等安排受《合同法》约束;具体来说是在《合同法》第21章“委托合同”。“委托合同”的定义如下:

第三百九十六条

Article 396

委托合同是委托人和受托人约定,由受托人处理委托人事务的合同。

An entrustment contract is a contract where the principal and the agent agree that the agent will handle the principal's affairs.

of attorney), which comes into effect upon the mental incapacity of the principal. It is often granted by people who are terminally ill and who want to appoint an attorney to make decisions on their behalf after they lose the ability to make decisions for themselves.

An enduring power of attorney previously was not recognized by the general law. This is because a fundamental principle of agency law is that an agent can only act to the extent that the principal is able to act; if the principal loses mental capacity, the agent's authority must cease. This problem has now been overcome by the recognition of enduring powers of attorney by statutes. These statutes set out the formalities that must be satisfied to create an enduring power of attorney and provide expressly that the power will not be revoked as a result of the mental incapacity of the principal.

Can lawyers act as attorneys under a power of attorney?

When a lawyer is instructed by a client, an implied principal-agent relationship usually arises by virtue of the fact that the lawyer represents the client in dealings with other parties. In common law jurisdictions, it is also possible for a lawyer to act as an attorney-in-fact under a power of attorney that is granted by a client or a third party.

However, when lawyers sign documents on behalf of clients as attorneys-in-fact, they are usually only willing to act under a special power of attorney, which specifies exactly what documents they are authorized to sign and when they are authorized to sign them. In other words, the lawyer acts only in a purely administrative capacity and is not expected to exercise any discretion in terms of deciding whether to sign a contract or authorize a particular action – e.g. to release money to the vendor in a sale transaction. This is because the lawyer may need to exercise a discretion that should properly be exercised by the client itself and may incur liability as a result.

Are similar arrangements possible under Chinese law?

Chinese uses various terms to describe a document that authorizes a person to act on behalf of another person, including “shouquanshu” [授权书] (literally, a document of authorization), “weituoshu” [委托书] (literally, a document of entrustment) and also “shouquan weituoshu” [授权委托书] (literally, a document of authorization entrustment). Although there is some debate about the exact definition for each of these terms, it appears to be commonly accepted that a weituoshu or shouquan weituoshu normally is the document between the principal and the agent, under which the agent is appointed by the principal, and a shouquanshu normally is the document issued by the principal to indicate to third parties that the agent has been authorized to act on its behalf.

In China, such an arrangement is governed by the Contract Law; specifically, chapter 21 of the Contract Law entitled “Entrustment Contracts” (translated from weituoshu [委托书] above). An entrustment contract is defined as follows:

与普通法域一样,《合同法》规定可以特别委托或者一般性委托受托人:

As in common law jurisdictions, the Contract Law recognizes that an agent may be appointed on a general or specific basis:

第三百九十七条

Article 397

委托人可以特别委托受托人处理一项或者数项事务,也可以概括委托受托人处理一切事务。

The principal may specifically appoint the agent to handle one or more of its affairs, or generally appoint the agent to handle all of its affairs.

就委托期限而言,能否签订不可撤销的委托合同还存在疑问。这是因为以下规定:

In relation to term, there is some doubt as to whether an entrustment contract can be entered into on an irrevocable basis. This is because of the following provision:

第四百一十条

Article 410

委托人或者受托人可以随时解除委托合同。因解除合同给对方造成损失的,除不可归责于该当事人的事由以外,应当赔偿损失。

Either the principal or the agent may terminate the entrustment contract at any time. Where termination of the contract causes loss to the other party, the loss shall be compensated by the terminating party, unless it is due to a reason not attributable to the terminating party.

当事人是否可以明确表示委托合同不可撤销,并通过合同约定排除上述条款的适用,这点尚不清楚。

It is not clear whether the parties may contract out of the above provision by stating expressly that the entrustment contract is irrevocable.

最后,中国法律似乎承认与普通法域中持久委托类似的安排:

Finally, Chinese law appears to recognize arrangements that are similar to an enduring power of attorney in common law jurisdictions:

第四百一十一条

Article 411

委托人或者受托人死亡、丧失民事行为能力或者破产的,委托合同终止,但当事人另有约定或者根据委托事务的性质不宜终止的除外。

An entrustment contract terminates when either the principal or the agent is deceased or incapacitated or enters into bankruptcy, except where the parties have agreed otherwise, or where termination is inappropriate in light of the nature of the entrusted affair.



葛安德曾是年利达律师事务所上海代表处合伙人,现在墨尔本法学院教授法律,担任该法学院亚洲法研究中心的副主任。葛安德的新书《商法词汇:法律概念的翻译和诠释》重新汇编了其在本刊“商法词汇”专栏撰写的所有文章。该书由Vantage Asia出版。如欲订购,请即登录 www.vantageasia.com

A former partner of Linklaters Shanghai, Andrew Godwin teaches law at Melbourne Law School in Australia, where he is an associate director of its Asian Law Centre. Andrew's new book is a compilation of China Business Law Journal's popular Lexicon series, entitled China Lexicon: Defining and translating legal terms. The book is published by Vantage Asia and available at www.vantageasia.com.

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Five Media Channels

1

FOCUS MAGAZINE

FOCUS remains the only national journal about business in China published in the UK. First published in 1964 FOCUS is distributed to **4,000** executives in the UK and **4,000** in China. A CBBC survey showed that on average every copy of the magazine is read by three to four senior business decision-makers within an organisation, making an estimated readership of **20,000**.



2

CBBC WEBSITE

With **12,000** unique users each month, the CBBC website attracts thousands of British companies planning to set up in China, or with business in China already. The CBBC website is therefore an excellent marketing tool for service providers targeting British companies that want to do business in or with China.



3

BRITCHAM WEBSITE

The BritCham website attracts thousands of visitors from British companies that are already in China. With lots of informative content, the homepage, event page and minisites are great channels for promoting your business.



4

BRITCHAM NEWSLETTER

Every Wednesday, **6,000** recipients in China receive the BritCham newsletter, making it an effective way to reach British companies based in China, especially those in Beijing.



5

BRITCHAM CORPORATE MINISITES

Corporate minisites are a unique advertising platform allowing companies to promote their products and services through a series of web pages within the BritCham website. Unlike other advertising platforms, minisites let a company directly manage their featured content, which is then automatically promoted in other areas of the BritCham website and featured in our weekly newsletter – increasing the number of links to your website and helping to lift your search engine ranking.



CONTACT US

If you would like us to promote your business, please contact Fiona Huo, Business Development Manager by **(86 10) 85251111-ext313** and fiona.huo@cbbc.org.cn.

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