

ASIAN LEGAL BUSINESS

亚洲法律杂志 - 中国版 CHINA

ALB

AUGUST 2019
CHINA EDITION

2019 ALB CHINA

CLIENT CHOICE

2019 ALB CHINA

客户首选律师



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As China grows richer,
wealth management lawyers
are in demand

随着中国逐渐富强，
对财富管理律师的需求也逐渐增加

Despite slowdown,
offshore lawyers continue
to find opportunities

尽管经济放缓，
离岸律师仍有市场机会

Shanghai-London
stock connect deepens
China-UK financial ties
沪伦通加深中英金融联系



ASIAN LEGAL BUSINESS



China M&A Forum

中国并购论坛

24 OCTOBER 2019 - BEIJING / 2019年10月24日 - 北京

Focusing on global major M&A topics, especially those in Asian and China market, the China M&A Forum to be held by ALB on 24 October in Beijing has invited the senior M&A experts who have long-term observation and practices in domestic and overseas M&A market to explore the latest development in the M&A field, as well as investment targets, landmark and other industry trends, sharing in-depth analysis and best practices in M&A legislation, regulatory policies and suggestions to investors.

ALB将于10月24日在北京举办中国并购论坛,通过紧扣全球特别是亚洲以及中国市场并购领域的重大问题,邀请长期观察和实践于国内及海外并购市场的资深并购专家讲解,详细介绍境内外并购领域的最新动态以及行业标的、投资地标等趋势,并就热点市场并购立法、监管政策、对投资者的建议等问题,展开深度剖析,分享最佳实践经验。

CONFERENCE HIGHLIGHTS INCLUDE 热点讨论话题包括

- Current trends on M&A market:
China and Global
并购市场的当前趋势:中国及全球
- Risk Management in cross-border mergers and acquisitions of asset-light companies
轻资产公司跨境并购的风险防范
- Merger Control in China:
New Trends
中国企业并购反垄断审查的新趋势
- Anti-corruption compliance risk identification and solution in enterprises' M&A transactions
企业并购交易中的反腐败合规风险识别及解决方案
- Opportunities and Challenges for China Outbound Investments in United States and Europe
中国对美国和欧洲投资的机遇与挑战
- Opportunities and Challenges for China Outbound Investments in SE Asia
中国对东南亚投资的机遇与挑战

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客户首选律师

For lawyers, it is the greatest honour to be recognized and praised by their clients. We surveyed more than 1500 clients and find that their ideas about good lawyers are quite multi-dimensional and in details. What makes the best lawyers from the perspective of their clients? What qualities and manners of lawyers make them attractive to their clients? With these questions in mind, Asian Legal Business (ALB) interviewed several of the ALB China Client Choice winners this year.

来自客户的褒奖与认可，是律师获得的最暖心殊荣。我们从1500余份调查问卷中发现，客户对律师的评价非常多维和细致，而且不吝美誉。是什么成就客户眼中的理想律师？服务好客户，最难或颇具挑战的方面是？带着这些问题，ALB采访了今年上榜的几位首选律师。客户首选律师。

28 A CONNECTED WORLD 深化“全球连接”

In June this year, China launched stock-connect schemes linking the Shanghai bourse with counterparts in London and Tokyo as it looks to accelerate the liberalisation of its capital markets. We take a closer look at the Shanghai-London Stock Connect (SLSC), and also the role that lawyers are expected to play.

今年6月，中国相继与英国和日本实现了资本市场的互联互通，标志着中国资本市场持续对外开放的决心与重大举措。在本专题中，我们将聚焦沪伦通这一互联互通创新模式，并关注律师在其中扮演的重要角色以及如何为确保该创新机制成功运行“保驾护航”。

34 A WEALTH OF OPPORTUNITIES 财富带来的机遇

With China now the fastest-growing wealth market in the world, wealth management lawyers are very much in demand, providing advice on succession planning, inheritance, trusts and more. As a result, Chinese law firms have begun to specialise in this fast-growing practice area, as well as beef up their wealth management teams.

随着中国成为世界上增长最快的财富市场，对财富管理律师的需求也逐渐增加，针对传承规划、继承、信托等方面的问题提供建议。因此，中国的律师事务所开始专注于这个快速增长的业务领域，并加强其财富管理团队的建设。

38 SILVER LININGS 一线希望

The world is facing a number of important economic challenges, including the distinct possibility of a no-deal Brexit, and a sharper slowdown in China as a result of the ongoing trade war with the U.S. However, for offshore law firms the outlook has remained bright, with work flowing in from both traditional and non-traditional sources.

全球经济面临着一系列重大的挑战，包括英国很可能会“无协议脱欧”，以及由于与美国持续的贸易战而导致中国经济进一步急剧放缓。然而，对于离岸律师事务所来说，前景仍然光明，来自传统和非传统行业的工作源源不断。

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FROM THE EDITOR



RANAJIT DAM
Managing Editor,
Asian Legal Business
Thomson Reuters

EXCEPTIONAL SERVICE

China is gradually re-orientating its role in the global economy, as it transitions from being a manufacturing powerhouse to focusing more on high-end goods and services. Amid this change, the professional services sector is increasingly coming under spotlight, and this includes China's still-growing legal sector. With Chinese companies experiencing international levels of service as they venture overseas, they are increasingly expecting the same from their lawyers, and it goes without saying that the same applies to international companies in China as well. Law firms (and the lawyers themselves) really need to up their game to compete in a more globalised industry.

The 20 lawyers profiled in ALB's Client Choice list for 2019 are feted for being ahead of the curve in this respect. They earn top marks for their solid legal skills as well as their heightened sense of professionalism, which allows them to ensure that their clients receive the highest levels of service. For these attributes alone, they are examples that their peers would do well to emulate. We congratulate the winners this year, and hope to see them again in the list when 2020 comes around.

卓越的服务

中国在世界经济中扮演的角色正逐渐转型：从制造工厂到更多地专注于高端产品和服务。转型过程中，服务业尤其像法律行业这种专业领域越来越受到关注。随着更多的中国公司走出去，他们在海外享受高端法律服务的同时对国内律所也有了更高的要求。当然，在中国的跨国公司对本地产律所的要求也在增加。律师事务所（和律师自身）需要在国际竞技场上大步向前。

ALB2019客户首选20强律师榜单就是我们在这样一个背景下精心选出的。这20名获奖律师因为夯实的法律基础和专业能力使客户正享受着尖端的法律服务。获奖律师用实际行动为同行树立了榜样。我们恭喜今年的获奖者，希望在2020年的榜单上再次看到他们。



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Venturing into Central Asia

As China and Central Asian countries continue to strengthen cooperation in areas of economy, trade and investment, an increasing number of Chinese law firms are choosing to set up shop in Central Asia.

BY INES YANG

Under the “Belt and Road Initiative” framework, Central Asian countries and China have scaled new heights in economic, trade, investment and financial cooperation. At present, more than 1,000 Chinese-funded enterprises are in Kazakhstan and Uzbekistan, while that figure exceeds 300 in Tajikistan.

The governments of Kazakhstan and China are forming 55 joint ventures worth a total of USD 28 billion. Astana, Kazakhstan’s capital, established the Astana International Financial Center in 2015 and is actively promoting the development of the first offshore RMB market in Central Asia. Further, Astana has set up the Astana International Exchange jointly with the Shanghai Stock Exchange, and the “Belt and Road” board is expected to come live at the end of this year.

“As China deepens cooperation with Russia, Kazakhstan, Uzbekistan and Tajikistan, to further facilitate corporate investment activities, more and more Chinese law firms are setting up offices in Central Asia,” said Zang Jiemei, managing partner of the Almaty Office

of DeHeng Law Offices.

William Wu, chairman of Duan & Duan, stressed that the most important reason for Chinese firms to venture into Central Asia is to follow the steps of Chinese businesses and “safeguard” their investment activities in countries along the “Belt and Road” route.

Both partners said that currently Chinese firms prefer Kazakhstan and Uzbekistan as the locations for their offices in Central Asia from which they can reach out to the entire region.

At present, Beijing Rus Law Firm, Dentons, DeHeng Law Offices are among the Chinese firms that have set up offices in Kazakhstan, while Duan & Duan and Yingke Law Firm are some of the firms that have opened branches in Uzbekistan. Grandall Law Firm has a special Central Asian Law Research Center. Last year, its lawyers went to Almaty for a field trip and established partnership with Kazakhstan’s Grata Law Firm. Based in Xinjiang, Grandall’s Urumqi office deals with matters relating to Central Asia.

SURGING DEMAND

An important economy in the Eurasian region, Kazakhstan has launched a series of policy measures aimed at revitalizing its economy, and is actively attracting foreign investment and working hard to expand exports. Since the establishment of diplomatic relations between China and Kazakhstan, the two countries have frequently exchanged high-level leadership visits, building deep mutual political trust and in-depth economic integration and expanding pragmatic cooperation in various fields. “In this context, law firms can effectively help Chinese companies expand their markets by entering Kazakhstan, so as to achieve a win-win outcome for both businesses and law firms,” said Zang.

As another cornerstone country of the “Belt and Road Initiative”, Uzbekistan has been the fastest growing economy in Central Asia since 2017. At present, Sino-Uzbekistan relations are also at their best, with efforts underway

DEALS 交易

\$3.8 BLN

FWD Group Financial Services’ acquisition of SCB Life Assurance

富卫集团金融服务公司收购SCB寿险业务

Deal Type: M&A
Firms: Linklaters;
Slaughter and May
Jurisdictions: Hong Kong; Thailand

交易类型：并购
参与律所：年利达律师事务所；
司力达律师事务所
管辖地：中国香港；泰国

\$1.58 BLN

Carrefour’s sale of its China operations to Suning.com
家乐福向苏宁易购出售其在华业务

Deal Type: M&A
Firms: Clifford Chance;
Linklaters
Jurisdictions: China; France;
Hong Kong

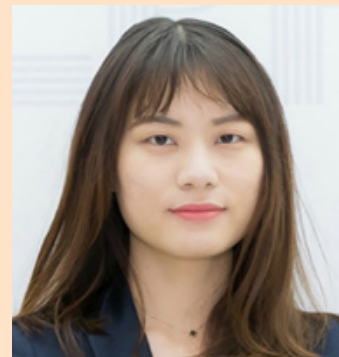
交易类型：并购
参与律所：高伟绅律师事务所；
年利达律师事务所
管辖地：中国大陆；
法国；中国香港

\$1.4 BLN

New Frontier Corp’s acquisition of United Family Healthcare from TPG and Shanghai Fosun Pharmaceutical Group
新风天域自TPG和上海复星医药集团收购United Family Healthcare

Deal Type: M&A
Firms: Cleary Gottlieb Steen & Hamilton; Fangda Partners;
Global Law Office; Hughes Hubbard & Reed; Kirkland & Ellis;
Paul Hastings; Simpson Thacher & Bartlett; Winston & Strawn;
Jurisdictions: China; U.S.

交易类型：并购
参与律所：佳利律师事务所；方达律师事务所；环球律师事务所；
Hughes Hubbard & Reed；凯易国际律师事务所；普衡律师事务所；
美国盛信律师事务所；温斯顿律师事务所
管辖地：中国大陆；美国



彭秀
北京国枫律师事务所律师 律师

浅析《证券公司股权管理规定》对证券公司差异化发展的引导

2019年7月5日，中国证券监督管理委员会（下称“中国证监会”）发布《证券公司股权管理规定》（以下简称“《股权规定》”）及《关于实施〈证券公司股权管理规定〉有关问题的规定》，在对证券公司实行分类管理的基础上，引导证券公司依据其管控水平及风险补偿能力进行差异化发展，以更好服务实体经济和市场客户。

一、《股权规定》的主要内容

（一）明确将证券公司划分为专业类与综合类，并允许不同类别的证券公司之间进行转换

《股权规定》根据证券公司从事业务的复杂程度，将证券公司分为专业类证券公司和综合类证券公司。其中，专业类证券公司指从事常规传统证券业务（如证券经纪、证券投资咨询、财务顾问、证券承销与保荐、证券自营等）的证券公司，综合类证券公司指从事的业务具有显著杠杆性质且多项业务之间存在交叉风险的（如股票期权做市、场外衍生品、股票质押回购等）证券公司。

同时，中国证监会有关负责人“就《证券公司股权管理规定》有关问题答记者问”中明确提到证券公司可以根据自身战略规划和风险管控能力，选择不同的发展路径。专业类证券公司在其控股股东、主要股东具备《股权规定》明确的资质条件后，可以依法申请各类创新复杂业务，转型为综合类证券公司。综合类证券公司也可以根据自身发展战略考虑，依法变更业务范围，转型为专业类证券公司。

（二）对专业类与综合类证券公司

主要股东及控股股东提出差异化管理要求

《股权规定》仅要求专业类证券公司主要股东和控股股东具备《证券法》、《证券公司监督管理条例》等规定的基本条件。

但针对综合类证券公司主要股东和控股股东，《股权规定》更注重其专业能力和风险管控经验：删除了中国证监会2018年3月30日发布的《证券公司股权管理规定》（征求意见稿）（以下简称“《征求意见稿》”）中对主要股东“近三年营业收入累计不低于人民币500亿元”、对控股股东“双千亿”（净资产不低于人民币1,000亿元、最近3年主营业务收入累计不低于人民币1,000亿元）及“主业净利润占净利润比例不低于50%”的要求，将综合类证券公司控股股东的资产规模要求调整为“总资产不低于500亿元人民币，净资产不低于200亿元人民币”。

（三）上调了单个非金融企业股东持股比例上限

《股权规定》调整了《征求意见稿》提出的“单个非金融企业实际控制证券公司股权的比例不得超过1/3”的规定，要求“单个非金融企业实际控制证券公司股权的比例原则上不得超过50%”。

（四）过渡期安排

因《股权规定》提出了新要求，且适用于存量的证券公司，为稳妥有序做好《股权规定》的实施工作，《关于实施〈证券公司股权管理规定〉有关问题的规定》要求综合类证券公司存量主要股东、控股股东在5年的过渡期内达到《股权规定》的要求。也就是说，若在过渡期内无法完成规范的，则该

综合类证券公司需转型为专业类证券公司。

二、《股权规定》对证券公司差异化发展的引导

《股权规定》加强对证券公司监管的同时重启了内资证券公司的设立审批，推动了证券行业的竞争，并有可能在加快证券行业集中度提升的同时推动证券公司差异化、专业化、专业化发展：资产规模大、创新业务能力强、管理规范、风险管控能力强、综合实力强的大型证券公司将获得先发优势，进一步做大做强；部分自身战略规划明晰和风险管控能力较强的中小型证券公司则进一步向差异化、专业化、特色化的方向发展以获取特定市场的份额；部分自身战略规划不明确、缺乏核心竞争力的证券公司的市场份额将逐步被侵蚀，面临被兼并收购的风险。

在证券行业本次变革中，中小型证券公司急需明确其自身定位及差异化业务发展方向，通过挖掘细分市场客户需求，销售更具专业化、特定化的产品及服务来获取市场份额，以谋求公司的生存及持续发展。

综上，《股权规定》对证券公司实行分类管理，将引导证券公司差异化、专业化、特色化发展，大型证券公司将进一步做大做强，中小型证券公司需调整业务发展方向以获取细分市场市场份额。

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to comprehensively promote mutually beneficial cooperation and strategic coordination. "China is also Uzbekistan's largest trading partner and the largest source of foreign investment. Chinese companies are increasingly coming to Uzbekistan to invest, which is bound to drive greater demand for higher quality legal services," commented Zang.

Do you have to set up an office in Central Asia in order to serve clients there? Wu believed that the answer was affirmative if one looks at the trend of internationalization of Chinese lawyers, the strategic positioning of his firm Duan & Duan, and the operating cost and revenue of its offices.

"In serving our clients, we have found that if we engage in 'peer-to-peer' cooperation with a local lawyer on a project basis, not only the personnel cost but also the cost of communication will be very high for each project. On the other hand, if we convert such cost into investment, establishing permanent presence locally is the most cost-effective solution," said Wu. "As business in the region continues to grow, the need to establish offices in Central Asia becomes more urgent."

For Chinese companies investing and trading in Central Asia, their usual legal service needs include investment and project development, cross-border acquisitions and mergers, establishment of companies, real estate, labor and employment, finance and financing, agency contracts, capital markets, etc.



CHALLENGES AHEAD

"Central Asian countries are very much like China in the early years of reform and opening up in the 1980s, with planned economy still playing a big role in many places," commented Wu. At present, Kazakhstan and China are actively aligning each other's new economic policy of "Bright Road Initiative" and "Belt and Road Initiative". However, at the economic level, Central Asian countries are still relatively behind, with a high level of arbitrariness in law enforcement and even corruption and local protectionism. "Compliance is the primary concern for Chinese companies investing in Central Asia."

With nearly 14 years of practice in Central Asia, Zang has a deep understanding of the differences in the legal, economic, political and cultural aspects between the countries of Central Asia and China. "The other risks that Chinese companies often face include: restricting market entry, setting up trade barriers, protecting the employment of the

host country, and protecting the natural ecological environment. The different focuses of laws and regulations have resulted in legal conflicts. Having an objective and comprehensive appreciation of these differences in cross-cultural management will help Chinese firms formulate reasonable development strategies to better safeguard the legitimate rights and interests of enterprises and the realization of their business goals," said Zang.

Language is another issue that Chinese lawyers have encountered in Central Asia. "There is still a shortage of top legal talents who understand Chinese law and speak both good Russian and English," shared Wu.

"The management of cross-cultural conflicts is not to be underestimated, such as national pride, differences in management philosophy, cross-cultural communication difficulties, business management and taboos etc." Zang also emphasized the leading role of Chinese lawyers in helping clients effectively avoid possible risks.. ALB

\$794 MLN

KKR's agreement to purchase NVC Lighting Holding's China lighting business

KKR与雷士照明达成协议收购其中国照明业务

Deal Type: M&A

Firms: Clifford Chance; Fangda Partners; Freshfields Bruckhaus Deringer; Kirkland & Ellis;

Paul, Weiss, Rifkind, Wharton & Garrison
Jurisdictions: China; U.S.

交易类型: 并购

参与律所: 方达律师事务所; 富而德律师事务所; 凯易国际律师事务所; 宝维斯律师事务所
管辖地: 中国大陆; 美国

\$775 MLN

DouYu International Holdings' NYSE IPO

斗鱼国际控股有限公司在纽约证券交易所上市

Deal Type: IPO

Firms: Davis Polk & Wardwell; Latham & Watkins; CM Law Firm; Han Kun Law Offices; Maples and Calder
Jurisdictions: China; U.S.

交易类型: 上市

参与律所: 达维律师事务所; 瑞生国际律师事务所; CM Law Firm; 汉坤律师事务所; 迈普达律师事务所;
管辖地: 中国大陆; 美国

\$490 MLN

CNOOC Energy Technology & Services' IPO

中海油能源发展股份有限公司上市

Deal Type: IPO

Firms: Commerce & Finance Law Offices; Haiwen & Partners
Jurisdictions: China

交易类型: 上市

参与律所: 通商律师事务所; 海问律师事务所
管辖地: 中国大陆

以搜索链接服务的新变化为视角探析网络服务提供者的共同侵权责任（上）



文静
阅文集团法律顾问

在今年世界知识产权日，国家版权局举办的“2019中国网络版权保护与发展大会”上，网文作家唐家三少提到，目前用搜索引擎搜索其作品，在数千万个搜索结果中，大约只有几千个是正版网页，建议“打击盗版应从根源上做起，比如可以和搜索引擎合作，减少盗版被搜索到的可能”。

事实上，这已经不是网络文学作者第一次呼吁联合搜索引擎共同保护著作权了，早在2012年，就有数百位网文作者发表联合声明，呼吁知名搜索引擎服务商正视社会责任，保护著作权人的合法权益，如降低搜索引擎中盗版网站权重、设置前置审核机制、及时响应并处理权利人的投诉等。

近年来，在各级行政主管部门和司法机关等的大力支持下，网络文学版权保护工作取得显著成效，据第三方统计，¹2018年中国网络文学整体盗版损失规模较2017年降低了21.6%，实现了连续两年的下降，且下降幅度不断加大。但同时报告数据还显示，无论在PC端还是移动端，浏览器、搜索引擎

都是用户阅读盗版小说的第一大渠道。搜索引擎作为网络文学盗版重灾区的表现依然明显。

在信息传播渠道如此丰富的今天，为何搜索引擎和浏览器依然是用户获取盗版内容的首选呢？笔者认为主要有两个方面的原因：首先，搜索引擎作为互联网基础类应用，拥有庞大的用户规模。据中国互联网络信息中心（CNNIC）统计，截至2018年12月，我国搜索引擎用户规模达6.81亿，占网民总人数的82.2%。²另一方面，近年来移动端的搜索引擎产品也出现了一些新的变化，给用户获取和阅读盗版内容提供了更多的便利，从而吸引了大批盗版用户。

近年来，随着互联网进入移动时代，我国搜索引擎服务商也不断对移动端产品服务进行优化升级。在数字阅读领域，移动端搜索链接服务的新变化主要有两点：其一是转码阅读服务的进一步优化，即在屏蔽原网页广告、图片，将文字进行重新排版的基础上，新增添加书架、翻页、目录、字体调节等阅读辅助功能，使得原本充斥弹窗广告和违

法广告的盗版网站的阅读体验得到了极大的提升；其二是针对点击量较高的文学作品，对其搜索结果中的免费阅读资源进行优化呈现，这一点也是本文重点讨论的内容。

笔者经试用发现，目前在中国搜索引擎市场份额占比前六位的搜索引擎产品中，³有三款移动端产品对搜索结果页面中的“三无”网站链接进行了优化呈现，且这三款产品的市场份额占比总和超过了90%。下面以其中一款产品为例，简要介绍这一行为的主要特征：

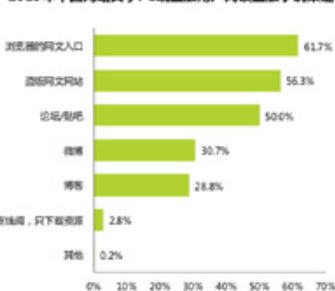
（一）将“三无”网站链接在搜索结果中置顶并作特殊展示

笔者使用该搜索引擎检索了数十部网文学作品，其中较为知名的作品的第一条搜索结果，均以明显区别于其他搜索结果的形式呈现。具体表现为：1、排版格式与其他搜索结果不同，增加了背景和标题颜色的特殊设计；2、链接描述中的信息更加详细，包括正版网站的作品封面图片、作者笔名、作品类型、更新情况、章节目录等。经浏览、核查，相关网站均为免费提供正版内容的“三无”网站。

（二）在搜索结果页和“三无”网站之间设置中转页面并投放广告

上述在搜索结果中被置顶的链接，并非直接指向对应的“三无”网站，而是指向该搜索引擎域下的另一个页面，该页面中提供了更加详细的作品信息和完整的章节目录，以及多条广告推广链接，用户需要在此页面再次点击阅读，方可跳转至“三无”网站进行在线阅读。此外，笔者还发现，该页面所载的部分作品信息，如封面图片、更新状态等，与“三无”网站不同。

2019年中国网络文学PC端盗版用户阅读盗版小说渠道



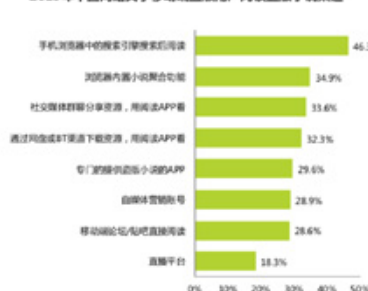
说明：A4 盗版渠道一个月内，您在网络上搜索并阅读过盗版网站上网络盗版小说？

样本：N=128，2019年4月中国网络文学版权保护调研数据。

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2019年中国网络文学移动端盗版用户阅读盗版小说渠道



说明：A7 盗版渠道一个月内，您在手机上搜索并阅读过盗版网站上网络盗版小说？

样本：N=168，2019年4月中国网络文学版权保护调研数据。

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¹ 艾瑞咨询：《2019中国网络文学版权保护报告》

² 中国互联网络信息中心：第43次《中国互联网络发展状况统计报告》，<http://www.cnnic.cn/hlwzfzyj/hlwzxbg/hlwjbg/201902/P020190318523029756345.pdf>

³ 数据来源：<http://gs.statcounter.com>

布局中亚

Ines Yang报道

“一带一路”倡议框架下，中亚国家与中国在经贸、投资、金融合作等领域展现新气象。目前，在哈萨克斯坦和乌兹别克斯坦的中资企业分别已有1000多家，在塔吉克斯坦则已超300家。

哈萨克斯坦与中国政府正在组建55家合资企业，总价值280亿美元。其首都阿斯塔纳在2015年成立阿斯塔纳国际金融中心，目前正积极推进中亚地区首个离岸人民币市场建设，并与上海证券交易所共同成立阿斯塔纳国际交易所，预计今年年底设立“一带一路”板。

“随着中国与俄哈乌吉合作日益密切，为进一步促进企业的投资活动，越来越多的中国律所选择到中亚设立办公室。”德恒律师事务所阿拉木图办公室管理合伙人臧洁妹律师指出。

段和段律师事务所总所主席吴坚律师强调，中国律所走进中亚的最关键原因是跟随中国企业的步伐，为中国企业在“一带一路”沿线国家的投资活动“保驾护航”。

两位合伙人均表示，哈萨克斯坦和乌兹别克斯坦是目前中国律所在中亚设办公室的首选，据此可辐射整个中亚地区。

目前，北京罗斯律师事务所、大成律师事务所、德恒律师事务所等中国律所在哈萨克斯坦设立办公室，段和段律师事务所、盈科律师事务所等在乌兹别克斯坦设立办公室。国浩律师事务所设有专门的中亚法律研究中心，去年曾到阿拉木图实地考察，也与哈萨克斯坦的格拉塔律师事务所建立合作关系，其乌鲁木齐办公室定位即立足新疆、辐射中亚。

随着中国与中亚国家在经贸、投资等领域合作不断加强，越来越多的中国律所选择到中亚设立办公室。

需求激增

作为欧亚地区重要经济体，哈萨克斯坦推出了一系列旨在振兴本国经济的政策措施，积极吸引外资，努力扩大出口。中哈建交以来两国高层频繁互访，政治高度互信、经济深度融合，各领域务实合作不断扩大——“在这样的背景下，律所进驻哈萨克斯坦，能有效帮助中国企业拓展市场，实现共赢合作，”臧洁妹律师指出。

乌兹别克斯坦作为“一带一路”建设另一重要基石国家，自2017年以来在中亚地区经济发展最快。目前，中乌关系也处于最好时期，互利合作、战略协调全面推进——“中国还是乌兹别克斯坦第一大贸易伙伴国和第一大投资来源国，越来越多的中资企业到乌兹别克斯坦投资，也必然催生更多和更高质量的法律服务需求，”臧洁妹律师谈到。

而服务中亚客户一定要在中亚国家设立办公室吗？吴坚律师分别从中国律师国际化发展趋势、段和段自身战略定位、以及办公室运营成本与产出比三方面对该问题予以肯定。

“在服务客户的过程中，我们发现与当地律师就某个项目进行‘点对点’的合作，不仅每个项目上产生的人员费用高、沟通成本也大，而如果将费用转化成投资，即在当地常设机构则是性价比最优的解决方案，”吴坚律师介绍到，“随着该地区业务的不断增多，在中亚设立分支机构的需求就越迫切。”

在中亚进行投资和商贸活动的中国企业，通常的法律服务需求涉及：投资及项目开发、跨境收购与兼并、公司设立、房

地产、劳动用工、金融融资、代理合同、资本市场等等。

存在挑战

“中亚国家很像80年代改革开放的中国，很多地方带有浓重的计划经济色彩。”吴坚律师感慨道。目前，哈中两国正积极对接新经济政策“光明之路”和“一带一路”倡议，但从经济层面上讲，中亚国家仍相对落后，法律执行层面上也通常带有很大随意性、甚至还有贪污腐败和地方保护主义现象发生，“合规性，是中国企业投资中亚的首要注意事项。”

臧洁妹律师在中亚地区从事法律执业已近14个年头，对中亚地区国家与我国在法律、经济、政治、文化等方面的差异感触颇深，“中国企业通常面临的风险还包括：限制市场准入、设置贸易壁垒、保护东道国劳工、保障自然环境——规制重点不同，存在法律冲突。客观、全面地认识这些跨文化管理差异，有利于中国律所制定合理的发展战略，更好地保障企业合法权益与商业目标的实现，”臧洁妹律师指出。

语言，是中国律师在中亚碰到的另一个难题。吴坚律师告诉ALB，“目前仍缺乏懂中国法律又会俄语、同时英语也好的高端法律人才。”

“跨文化冲突的管理也不容小觑，其中涵盖：民族优越感、管理思维差异、跨文化沟通困难、商务管理和禁忌差异等，”臧洁妹律师同时强调中资律师在其间发挥的主导作用，帮助客户切实避免可能存在的风险。

\$422 MLN

Jinshang Bank's Hong Kong IPO

晋商银行香港上市

Deal Type: IPO

Firms: Freshfields Bruckhaus Deringer;

Haiwen & Partners;

King & Wood Mallesons;

Paul Hastings

Jurisdictions: China; Hong Kong

交易类型：上市

参与律所：富而德律师事务所；海问律师事务所；

金杜律师事务所；普衡律师事务所

管辖地：中国大陆；

中国香港

\$420 MLN

Vipshop Holdings' acquisition of Shan Shan Commercial Group

唯品会收购杉杉商业集团

Deal Type: M&A

Firms: Han Kun Law Offices;

Latham & Watkins;

Tian Yuan Law Firm

Jurisdictions: China

交易类型：并购

参与律所：汉坤律师事务所；瑞生国际律师事

务所；天元律师事务所

管辖地：中国大陆

\$390 MLN

Zhenro Properties' high yield notes offering

锦欣生殖集团香港上市

Deal Type: IPO

Firms: Commerce and Finance Law Offices; Conyers

Dill & Pearman; Fangda & Partners; Paul Hastings;

Shearman & Sterling; Sheppard, Mullin, Richter &

Hampton; Tian Yuan Law Firm; William Ji & Co

Jurisdictions: China; Hong Kong

交易类型：上市

参与律所：通商律师事务所；康德明律师事务所；方达律

师事务所；普衡律师事务所；美国谢尔曼·思特灵律

师事务所；美国盛智律师事务所；天元律师事务所；

纪晓东律师行

管辖地：中国大陆；中国香港



段和段的“英式园林”规模化律所管理法

ALB：段和段律师事务所作为中国最具知名度的律所之一，由90年代初成立到现在，一路以来如何规模化并足迹遍布全国？

段祺华律师：留学美国后我先在美国律师事务所工作，代表大型美国公司到中国投资。1992年邓小平南巡讲话以后，越来越多的外资回到中国，在这种情况下，我看到了在中国的很多机会，所以回来创办了段和段律师事务所。在当时的法律环境下，个人合伙制事务所的成立也是经过千辛万苦，最后我们破例得到了国家教委和司法部的特批。所以说段和段的成立本身就是以改革为先导的一个突破。

我们出于两个原因开始考虑律所规模化：一个是政府鼓励律所做大做强，国内利益冲突和执业赔偿风险相对也比较小；另一个是涉外法律服务需求的增加日益明显。

随着中国越来越开放，不仅是外国企业进来越来越多，中国企业也开始走出去，这都需要律师的支持。我们决定在各个省会城市、重大沿海城市，如果它有涉外法律业务，或者有涉外法律业务发展前景的城市，我们都都要在那里设点，把我们的网络全面撒开。我们现在已经有了18个国内办公室和7个境外办公室，比如香港、美国、柬埔寨、乌兹别克斯坦、西班牙等等。

另外，随着一带一路国家在中国贸易往来国家里的比重越来越高，这些市场的重要性越来越明显，所以我们在考虑在更多的一带一路国家建立办公室。

ALB：随着中国律所的高度国际化，段和段在战略上有何考量以顺应中国“走出去”的趋势？

吴坚律师：段和段业务现已延伸到香港、纽约、西雅图、名古屋、金边、吉隆坡、曼谷、伦敦、马德里等境外地区。为了响应“一带一路”建设的倡议，段和段参与了国内涉外律师人才培养计划，有意吸引和培养跨学科复合型人才。同时，段和段长期的海外资源和合作关系，使它在国际同行中具有较高的知名度及美誉度，不乏深度合作的国际伙伴。

在实现了聚和优秀资源后，段和段要做到的是整合资源，建设一个全球性平台。而这也是对律所管理者的一个挑战。我通过多年经验总结出来的理念是：规模化律所管理一定要规整中透着自然，自然中有规整，就像英式园林。我们把这一理念运用到段和段的顶层设计、业务运营和人才培养等方面中。

“规整中透着自然”指管理层要善于调动律师的合伙人精神，带领团队共同建设、共同创造，加盟段和段的团队在



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williamjackson@duanduan.com

业务范围和组织管理上保持不变。而“自然中有规整”则侧重各地办公室在品牌宣传、管理制度、后台支持、风险控制等方面的一体化管理。两者结合，相得益彰。

在整合资源方面，段和段集中优势，成立业务中心，推动业务标准化、产品化。依托总部资源，帮助各地办公室共同竞标，做大增量业务。我们的原则是各地办公室的存量业务不动，大家共同开发做大平台的增量业务，各地办公室的资源共享和分工协作也就更加紧密。

另外，段和段还成立了法律研究院，一方面对于一些前瞻性的、新兴的业内趋势、课题进行专项研究和培训，另一方面使律所的各项培训更加系统化、专业化、常态化。2018年开始，事务所组织所内律师赴世界知名、历史悠久的剑桥大学耶稣学院进行封闭式法律专业知识学习。2019年，第二届剑桥培训即将成行，大家都非常期待。

ALB：段和段在拓展国际法律业务上有什么短期及长期的计划？

段祺华律师：我们现在考虑的是年轻人接班的问题，主要支持年轻一代的合伙人接班事务所的管理。与此同时，因为长期从事国际业务，我的精力将主要放在香港与美国业务的规划与拓展上。从个人角度来讲，我比较寄希望于香港的平台，因为它既是外国企业进入大陆的一个跳板，同时又是中国国有企业和民营企业走向世界的一个桥头堡。所以段和段想通过努力把香港平台做好来拓展我们的国际法律业务。并且，香港办公室的业务领域也是要拓展的——原来我们主要做涉外仲裁、涉外诉讼，接下来我们会扩展到收购兼并、资本市场、银行发债等等领域。

另外，从客户角度来说，我们也是要着重发展涉外连接平台的。现在我们全国有18个办公室，而每个省会城市都有一些明星企业需要与涉外业务相配套的法律服务，在当地律师事务所涉外经验不足的情况下，他们就会很自然地找到段和段寻求帮助。从这方面说，我们的香港和上海办公室都是很重要的、连接国内外业务的平台。

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APPOINTMENTS 律师转所信息

LATERAL HIRES



BAI XIANYUE

Leaving

Lantai Partners

Joining

Grandall Law Firm (Tianjin Office)

Practice

International Trade & Investment, Dispute Resolution, Corporate and M&A, PE/VC, Sports Law

Location

Tianjin

白显月

原就职律所

北京兰台(天津)律师事务所

现就职律所

国浩律师(天津)事务所

业务领域

国际贸易与投资、争议解决、并购、金融、体育法、

私募

地点

天津



LIU JIE

Leaving

Dentons

Joining

Grandall Law Firm (Shanghai Office)

Practice

Corporate Operation, International Trade & WTO, Dispute Resolution, Taxation

Location

Shanghai

刘杰

原就职律所

北京大成(上海)律师事务所

现就职律所

国浩律师(上海)事务所

业务领域

进出口企业关务、税务合规业务、税务争议解决、走私犯罪、税务犯罪辩护

地点

上海



XU YANXIU

Leaving

Weiheng Law Firm

Joining

Grandall Law Firm (Ningbo Office)

Practice

Capital Markets, Bankruptcy and Liquidation, Dispute Resolution, M&A

Location

Ningbo

徐衍修

原就职律所

北京炜衡(宁波)律师事务所

现就职律所

国浩律师(宁波)事务所

业务领域

民商事争议解决、并购重组、破产清算重整、资本市场

地点

宁波



FANG KUNFU

Leaving

Weiheng Law Firm

Joining

Grandall Law Firm (Ningbo Office)

Practice

Bankruptcy and Restructuring, Commercial Litigation, Capital Markets, Intellectual Property

Location

Ningbo

方坤富

原就职律所

北京炜衡(宁波)律师事务所

现就职律所

国浩律师(宁波)事务所

业务领域

破产与重组、商事诉讼、知识产权、资本市场

地点

宁波



SHI HAOJUN

Leaving

Jiangsu Tianhao

Joining

Grandall Law Firm (Nanjing Office)

Practice

Corporate, Investment, PE, Banking and Finance, Dispute Resolution

Location

Nanjing

史浩军

原就职律所

江苏天豪律师事务所

现就职律所

国浩律师(南京)事务所

业务领域

公司法、涉外投资法、私募基金、银行金融、商事争议解决

地点

南京



SUO MINGYU

Leaving

Jiangsu Tianhao

Joining

Grandall Law Firm (Nanjing Office)

Practice

Construction, Real Estate, Financial Asset Management

Location

Nanjing

索明瑜

原就职律所

江苏天豪律师事务所

现就职律所

国浩律师(南京)事务所

业务领域

建设工程及房地产领域、金融资产管理领域

法律服务

地点

南京



2019 ALB EAST & CONCORD GC WINNERS ROUNDTABLE SUCCESSFULLY CONCLUDED



Steven Wang, Head of China and Head of Greater China for Corporate segment, Thomson Reuters
汤森路透中国区总经理及大中华区企业事业部总经理王利先生致辞

On July 18, the 2019 ALB East & Concord Partners GC Winners Roundtable was successfully held at the Four Seasons Hotel in Beijing, attended by 2019 ALB China Top 15 GC winners and their team representatives. Steven Wang, Head of China and Head of Greater China for Corporate segment, Thomson Reuters, and Zhang Jiachun, Partner and Management Committee Member of East & Concord Partners, respectively delivered speeches at the event, congratulating the 15 winners and warmly welcoming all guests.

ALB has been paying close attention to top GCs in the legal market. Through its rankings

over the years, ALB has been presenting the industry with top GCs from all sectors, showcasing not only their superior legal skills, deep understanding of business strategies and forward thinking, but also their role in leading highly-competent in-house teams to support the development of their organizations. This March, ALB began the compilation of the 2019 ALB China Top 15 GC ranking which, after months of research by ALB's professional team, was unveiled in the June issue of the China Edition of Asian Legal Business.

The highlight of this Roundtable, the roundtable discussion, was chaired by Dorothy Xing, Partner and Management Committee Member of East & Concord Partners, with panelists including Zhang Weidong, General Counsel, Head of Compliance and Chief Risk Officer of China Pacific Insurance(group) Co.,Ltd.; Liu Zhong, General Counsel of China Resources Land Limited; Phoebe Tang, General Counsel of Danone Greater China; Shen Xiaoyu, Partner of East & Concord Partners and Shi Rui, Consultant of East & Concord Partners. The three GCs and Partner Shen Xiaoyu and Consultant Shi Rui of East & Concord Partners held an in-depth discussion on the topic of "how to establish trust and achieve efficient cooperation between in-house counsels and external lawyers" from the following perspectives: the current situation and future trend of legal demand



L: Tu Jianwei, Vice President of Ant Financial Services Group
R: Steven Wang, Head of China and Head of Greater China for Corporate segment, Thomson Reuters
左: 蚂蚁金服副总裁屠剑威先生
右: 汤森路透中国区总经理及大中华区企业事业部总经理王利先生



L: Gan Juan, Legal Director of JD Digits Group
R: Cindy Hu, Partner of Innovation and Development Group of East & Concord Partners
左: 京东数字科技集团法务总监甘娟女士
右: 天达共和律师事务所创新发展部合伙人胡晓华律师



Zhang Jiachun, Partner and Management Committee Member of East & Concord Partners
天达共和律师事务所管委会合伙人张佳春律师致辞

of companies; whether lawyers need to understand the company's business logic; how to effectively improve project management; how the conflicts in the process of cooperation arise, and how to establish an efficient and smooth communication mechanism. The panelists shared their brilliant insights from different angles and operational levels.

The exciting awards presentation ceremony followed the discussion. To enhance the exchanges and interactions among the legal counsels, besides the acceptance speeches, the winners and representatives also shared their views on one or more of the following three topics: in your opinion, what are the characteristics of the legal practices in your industry in the past two years? what qualities the law firms should have in your long-term cooperation with them? and in recent years, what kind of forums, summits or trainings, etc. in the legal industry can attract you to attend in person? The wonderful sharing of the winners and representatives lighted up the ceremony.

Finally, all guests enjoyed a gala dinner in a harmonious and pleasant atmosphere, toasting not only for past achievements but also for a better future, and wishing each other to work together under the guidance of independence, prudence and professionalism to forge ahead and achieve greater success. ALB



L: Guo Xiaozhou, General Manager of Fosun Legal Department
R: Cindy Hu, Partner of Innovation and Development Group of East & Concord Partners
左: 复星法律事务部总经理郭小舟先生
右: 天达共和律师事务所创新发展部合伙人胡晓华律师



L: Li Yuan, General Counsel of Autohome Inc
R: Guan Bing, Partner of Intellectual Property Group of East & Concord Partners
左：汽车之家法务总监李园女士
右：天达共和律师事务所知识产权部合伙人管冰律师



L: Ma Najuan, Senior Consultant of Matrix Partners China
R: Guan Bing, Partner of Intellectual Property Group of East & Concord Partners
左：经纬中国资深顾问马娜娟女士
右：天达共和律师事务所知识产权部合伙人管冰律师



L: Liu Zhong, General Counsel of China Resources Land Limited
R: Steven Wang, Head of China and Head of Greater China for Corporate segment, Thomson Reuters
左：华润置地有限公司总法律顾问刘中先生
右：汤森路透中国区总经理及大中华区企业事业部总经理王利先生



L: Shang Dongning, General Manager of Legal Department of Agile Group Holding Limited
R: Jennifer Zhang, Partner of Financing Group of East & Concord Partners
左：雅居乐集团控股有限公司法务部总经理尚东宁先生
右：天达共和律师事务所金融与融资部合伙人张璇律师



L: Aaron Shao, Area Lead Counsel, Greater China, Abbott Laboratory
R: Jennifer Zhang, Partner of Financing Group of East & Concord Partners
左：雅培公司大中华区法律总顾问邵明先生
右：天达共和律师事务所金融与融资部合伙人张璇律师



L: Song Zhe, General Counsel of Meituan Dianping
R: Liu Xiaoyan, Partner of Financing Group of East & Concord Partners
左：美团点评总法律顾问宋哲先生
右：天达共和律师事务所金融与融资部合伙人刘晓璇律师



L: Wei Ranying, Investment and Financing Management Director of Xiaomi Corporation
R: Liu Xiaoyan, Partner of Financing Group of East & Concord Partners
左：小米集团法务部投融资管理总监魏然女士
右：天达共和律师事务所金融与融资部合伙人刘晓璇律师



L: Phoebe Tang, General Counsel of Danone Greater China
R: Gong Xiaoyan, Partner of Entertainment and Sports Group of East & Concord Partners
左：达能集团大中华区总法律顾问唐斐女士
右：天达共和律师事务所文化体育部合伙人宫晓燕律师



L: Pan Hong, Legal Manager of China Literature Limited
R: Gong Xiaoyan, Partner of Entertainment and Sports Group of East & Concord Partners
左：阅文集团法务经理潘虹女士
右：天达共和律师事务所文化体育部合伙人宫晓燕律师



L: Luo Bin, Legal Director of adidas Greater China
R: Zhang Jiachun, Partner and Management Committee Member of East & Concord Partners
左：阿迪达斯法律总监罗斌先生
右：天达共和律师事务所管委会合伙人张佳春律师



L: Zhang Weidong, General Counsel, Head of Compliance and Chief Risk Officer of China Pacific Insurance(group) Co.,Ltd.
R: Dorothy Xing, Partner and Management Committee Member of East & Concord Partners
左：中国太平洋保险(集团)股份有限公司总法律顾问、合规负责人、首席风险官张卫东先生
右：天达共和律师事务所管委会合伙人邢冬梅律师



L: Yang Jingzhang, Legal Counsel of Qualcomm (China) Holding Co., Ltd
R: Steven Wang, Head of China and Head of Greater China for Corporate segment, Thomson Reuters
左：高通无线通信技术(中国)有限公司法律顾问杨景章先生
右：汤森路透中国区总经理及大中华区企业事业部总经理王利先生

2019 ALB天达共和十五佳总法律顾问圆桌会议 圆满落幕

7月18日，2019 ALB 天达共和十五佳总法律顾问圆桌会议在北京四季酒店成功举办。2019 ALB China十五佳总法律顾问的获奖者及其团队代表参加了此次盛会。汤森路透中国区总经理及大中华区企业事业部总经理王利先生、天达共和律师事务所管委会合伙人张佳春律师分别致辞，祝贺15位获奖者并热烈欢迎各位嘉宾的出席。

ALB持续关注法律市场上优秀的总法律顾问，通过历年的评选，ALB向业界呈现了来自各行各业顶尖的总法律顾问。他们拥有高超的法律技能、对商业战略的深刻理解以及前瞻性的思维，同时带领高质量的法务团队为公司的发展“保驾护航”。今年3月份，《亚洲法律杂志》启动了2019年ALB China十五佳总法律顾问的评选。经过ALB专业团队历时数月的调研，2019年ALB China十五佳总法律顾问的榜单最终在《亚洲

法律杂志》中国版6月刊隆重揭晓。

本次颁奖典礼重磅的圆桌讨论环节由天达共和律师事务所管委会合伙人邢冬梅律师主持，中国太平洋保险（集团）股份有限公司总法律顾问、合规负责人、首席风险官张卫东先生，华润置地有限公司总法律顾问刘中先生，达能集团大中华区总法律顾问唐斐女士与天达共和律师事务所合伙人申晓雨律师、顾问史锐共同参与讨论。三位总法及天达共和申晓雨律师、顾问史锐就“企业法务与外部律师如何建立信任并实现高效合作”的话题进行深入探讨，并从三个维度切入：企业法律需求的现状与趋势展望；律师是否需要理解公司的商业逻辑，如何有效提升项目管理；双方合作过程中的矛盾因何产生，如何建立高效顺畅的沟通机制。讨论嘉宾们分别从不同角度、不同操作层面，给出了精彩的回答。

接下来，到了令人激动的颁奖环节，为了增进各位法务专业人士的互相交流和互动，各位获奖嘉宾及代表在发表获奖感言之外，也就以下三个话题中的一个或几个，进行了一个简短的分享。这三个话题是：在您看来，近两年您所在行业的法务有哪些特点？在与外部法律顾问合作时，您长期合作的优质律所都有哪些特质？近年来，什么样的法律专业方面的论坛、峰会、培训等能吸引您亲自到场？获奖嘉宾和代表的精彩分享，使得现场气氛十分热烈。

最后，大家在和谐愉快的氛围下共享庆祝晚宴。为过去的成就举杯，也为更加美好的未来举杯。祝愿彼此在独立审慎的法律职业精神指引下，精诚合作，继续前行，再创佳绩。



L to R: Shi Rui, Consultant of Criminal Group of East & Concord Partners; Phoebe Tang, General Counsel of Danone Greater China; Liu Zhong, General Counsel of China Resources Land Limited; Shen Xiaoyu, Partner of Innovation and Development Group of East & Concord Partners; Zhang Weidong, General Counsel, Head of Compliance and Chief Risk Officer of China Pacific Insurance(group) Co.,Ltd.; Dorothy King, Partner and Management Committee Member of East & Concord Partners

左起：天达共和律师事务所刑事部顾问史锐，达能集团大中华区总法律顾问唐斐女士，华润置地有限公司总法律顾问刘中先生，天达共和律师事务所创新发展部合伙人申晓雨律师，中国太平洋保险（集团）股份有限公司总法律顾问、合规负责人、首席风险官张卫东先生，天达共和律师事务所管委会合伙人邢冬梅律师

2019 **ALB** CHINA

CLIENT CHOICE

By Ines Yang

客户首选律师

For lawyers, it is the greatest honor to be recognized and praised by their clients. We surveyed more than 1500 clients and find that their ideas about good lawyers are quite multi-dimensional and in details. What makes the best lawyers from the perspective of their clients? Do lawyers and their clients have the same definitions of good lawyers? What qualities and manners of lawyers make them attractive to their clients? What are the most difficult or challenging aspects in terms of serving clients well? With these questions in mind, Asian Legal Business (ALB) interviewed several of the ALB China Client Choice winners this year.

来自客户的褒奖与认可，是律师获得的最暖心殊荣。我们从1500余份调查问卷中发现，客户对律师的评价非常多维和细致，而且不吝美誉。是什么成就客户眼中的理想律师？律师对好律师的自定义，与客户眼中的好律师，大抵相当吗？律师哪些素养与待人接物之道，最暖客户？服务好客户，最难或颇具挑战的方面是？带着这些问题，ALB采访了今年上榜的几位首选律师。

METHODOLOGY

This May, ALB launched 2019 ALB China Client Choice survey, inviting in-house counsels, company management and third-party business consultants to nominate their preferred lawyers who must be based in Mainland China but may specialize in any field and be of any nationality. During the one-month survey period, over 800 responses were collected from in-house counsels and business professionals from various companies who each nominated top lawyers with whom they had worked and detailed the reasons for their recommendation. Ultimately 20 top Mainland-based lawyers specializing in a variety of fields stood out from the crowd and were crowned winners of the 2019 ALB China Client Choice ranking. Through this survey, ALB aimed to represent the voice of clients and present top-notch lawyers who are highly sought after. Winners are listed below in alphabetical order by their surname.

评选方法

ALB于今年5月启动了2019年ALB China客户首选律师调查，邀请参与问卷的人士是公司法务人员，管理人员或第三方商业顾问。被提名的律师可以是任何业务领域或国籍，但必须常驻在中国大陆工作。在为期1个月的调查期中，收集到800余份来自各公司法务及商务人士提供的调查反馈，每位参与者提名合作过的优秀律师，同时详细列举出了推荐理由。最终，20位来自中国大陆多个执业领域的顶尖律师脱颖而出，荣登2019 ALB China客户首选律师榜单。ALB旨在通过此次调查传达来自客户的声音，呈现备受客户青睐的一流律师。以下获奖名单按姓氏字母排序。

Winners are listed below in alphabetical order by their last names. 以下获奖名单按姓氏字母顺序。

WINNER 获奖律师	FIRM 律所
Li Lei 李磊	Sidley Austin 盛德国际律师事务所
Liu Xinyu 刘新宇	Zhong Lun Law Firm 中伦律师事务所
Liu Zhiqiang 刘志强	Tahota Law Firm 泰和泰律师事务所
Ma Hongji 马宏继	Jingtian & Gongchengt 竞天公诚律师事务所
Shen Jun 沈军	Commerce & Finance Law Offices 通商律师事务所
Sun Liqing 孙黎卿	Ronly & Tenwen Partners 融力天闻律师事务所
Katherine Wang 王凯玲	Ropes & Gray 瑞格律师事务所
Wang Mengjing 王梦静	Co-Effort Law Firm 协力律师事务所
Jason Wang 王悦	Global Law Office 环球律师事务所
Wu Jingjing 吴静静	Dentons 大成律师事务所
Wu Xiaoliang 吴小亮	CM Law上海澄明则正律师事务所
Xu Ling 徐玲	Guantao Law Firm 观韬中茂律师事务所
Yang Shuguang 杨曙光	Anli Partners 北京市安理律师事务所
Yao Kefeng 姚克枫	Guo Biao Law Firm 国标律师事务所
Annie Yin 尹歆昊	Duan & Duan 段和段律师事务所
Yu Shengxing 余盛兴	Hiways Law Firm 海华永泰律师事务所
Yue Yongping 岳永平	Grandall Law Firm 国浩律师事务所
Yun Dahui 云大慧	Hylands Law Firm 浩天信和律师事务所
Zhang Yunyan 张云燕	Jincheng Tongda & Neal Law Firm 金诚同达律师事务所
Zheng Yu 郑宇	JunHe LLP 君合律师事务所

STRONG EXPERTISE IS THE FOUNDATION

The survey shows that about 90 percent of the clients put “strong expertise” as the most important quality of a good lawyer. There is no doubt that having strong expertise is the foundation of everything; without that, anything else would be like castles in the air.

Similarly, when lawyers talked about how they perceive the best lawyers in the eyes of their clients, they also put “strong expertise” as the first key factor. It was equally important for good lawyers to look at things and see things from their clients’ angles, the lawyers added. “Imagine yourself as a client, put yourself in their shoes, and try to think what kind of lawyer you would want to work with,” says Zhang Yunyan, a senior partner at Jincheng Tongda & Neal. Zhang points out clients want their lawyers to connect with them in each case.

Zhang believes that in this way, lawyers could truly understand the real intentions of their clients, and then use their expertise to seize the opportunities and provide their clients with the best services. Zhang has been practicing law for 20 years. She compared the lawyer-client relationship to the doctor-patient relationship – lawyers should do their best to help their clients solve problems and get out troubles.

“In a nutshell, clients are the market demands, and the best lawyers are those who can meet the needs of their clients,” Yun Dahui told ALB. Yun is a senior partner at Hylands Law Firm.

Wang Yue (Jason) is a partner at Global Law Office. He believes that no matter in non-litigation or litigation business, having solid and strong expertise is the foundation, and high efficiency and timely feedback are also very important. He believes that an in-depth understanding of clients’ business helps to tackle with clients’ pain points. As a lawyer who has been deeply involved in the hotel industry and finance disputes, Wang knows what it means to look at things and see things from the client’s point of view. “I treat my clients as my friends – communicating with clients via documents and email is a bit rigid; it helps to clarify matters when you talk with them on the phone or have meetings with them.”

TACKLING CHALLENGES

To be able to provide the best and most appropriate solutions for their clients is one the goals lawyers strive to achieve. We invited several of the ALB China Client Choice winners to share their experiences and ideas of continuously providing better services for their clients – the difficulties and challenges they have and how they deal with them.

“Helping our clients to successfully implement and advance the legal solutions we propose is often the most difficult part of our job,” Ma Hongji told ALB. Ma is a partner at Jingtian & Gongcheng. The first step is helping them to understand what we suggest. “Clients need to understand the reasons for the legal solutions we have proposed, and their feasibility. Legal provisions use special terms which are rather difficult for clients to understand. Our job is to use the language our clients could understand to help them to learn about the meanings of those legal provisions,” Ma explained. The second step is even more important. “To put our suggestions or solutions into implementation, it needs our clients to work together with us, requiring us to have in-depth communication with our clients, and see things and do things from the perspectives of our clients,” says Ma.

In the past, Yun Dahui found it the most difficult to communicate and deal with people, and she felt that communicating with all parties involved in cases

专业性是一切根基

调 查问卷显示，90%左右的客户反馈都把律师的专业性放在首位。这点毋庸置疑，专业性是一切根基，否则成了无水之源、无本之木。

接受访谈的律师们在谈及如何成为客户眼中的理想律师时，均将专业性列为第一，同时强调拥有客户视角同等重要。“把自己当成客户，完全站在客户角度考虑客户需要一个怎样的律师”，金诚同达律师事务所高级合伙人张云燕律师指出，在每个案件中都进行角色互换，就是想客户所想的同理心。

张云燕律师认为这样才有助真正了解客户的实质意图，进而运用自身专业把握好时间和时机，达到服务客户的最佳效果。执业20年的张云燕律师思考这个问题时，做出一个比喻，说律师不能仅和客户作为一种合同关系，而要像类似医患之间的竭尽全力、为客户排除万难。

“简言之，客户就是市场需求，理想律师就是成为客户的需要”，浩天信和律师事务所高级合伙人云大慧律师告诉ALB。

环球律师事务所合伙人王悦律师认为，无论做非诉还是诉讼业务，专业及高效是基础，理解所涉业务商业本质将更有利于理解客户痛点，为客户服好务。作为一名深耕酒店行业和金融争议的律师，王悦律师对客户相处有更进一步体会，“我会把客户当做朋友对待，除了文件外，我还会在电话或面会中用平时的语言把我们的周全考虑告诉客户，让服务更“鲜活”，也让客户更理解服务背后的价值。”

迎“难”而上

成为客户心目中的理想律师、让客户满意，是律师们的努力目标之一。我们在与几位首选律师对话过程中，希望了解他们在服务好客户的过程中，哪些方面的工作其实是蛮难的或是最挑战的。律师们谈了不同体会，也分享了各自如何应对挑战的思考。

竞天公诚律师事务所合伙人马宏继律师告诉ALB，“如何协助客户将我们提出的法律解决建议/方案顺利实施和推进对我们来说往往是最难的。”马宏继律师解释道，第一步是在认知上，“客户需要理解我们提出的法律解决建议/方案的原因、可行性，而法律的专业性往往会让客户有晦涩感，这就需要以客户可接受的语言和方式来表达与沟通”，第二步更为重要，“建议/方案的实施需要我们协助客户一起推进，这需要深入客户、从客户角度来沟通和执行。”

云大慧律师感觉，过去最难的是与人的沟通和关系的相处，因为工作中往往消耗时间最多的是与各方的沟通上。“经历了这么多年，我终于看懂了，原来这需要在自身上下功夫。现在，这个问题对我来



多做一点，给出别人的需要

— ALB专访浩天信和合伙人云大慧律师

Interview with Ms. Dahui Yun, Partner of Hyland Law Firm



云大慧律师 / Dahui Yun
合伙人 / Partner

ALB: 您拥有二十年以上的法律从业经验，也累积了很多重要的客户，可否从您的角度来分享如何与客户建立和维系良好的关系？

云律师: 作为法律服务的律师行业，客户利益永远放在第一位，这是基本原则。特别是与自身利益冲突时，始终坚守客户利益为大，是我从业开始给自己定下的原则。当每项工作完成后，总是再想一想看看是否还可以做些什么，能让结果更好一些。当遇到别人无法解决的难题时，是否可以更用心、迎难而上。因为我们就是来解决问题的。一路走来，在不断为客户创造更大、更长远价值中，自己也在一个个难题解决中成长和磨练。

ALB: 近年，法律服务市场竞争愈加激烈，律师如何面对多选择多挑战的市场，您有什么秘诀可以分享？

云律师: 也没有什么秘诀。无论哪个行业，无论处于什么样的经济形势，始终在自身努力上下功夫，给出别人的需要。就如我目前专注的家族财富传承与管理业务，切实为客户利益着想，从客户的需求端出发，不是用方法去销售产品。我想，这样我们的服务始终不会被市场影响较多。还有每一次的法律服务，都要征求客户意见，看看我们哪些做得还需要改进和修正，让我们的服务做得一次要比一次更好。

ALB: 您的客户遍布全球，文化差异、法系不同、制度相悖等因素都可能在您提供法律服务的过程中成为阻碍，您是如何克服这些困难的？

云律师: 律师职业要求我们始终在不断学习和进步中。除了不断发展中的专业知识，还需要了解过更多的不同行业领域、不同经济生态、文化背景、交易习惯等情形。

在不断提升专业和其他领域知识外，我始终在生命宽度和深度上不懈追求，希望可以从更高、更广的视角看待世界和眼下的问题，希望遇到我的客户不但问题可以得到解决，事业和生活可以变得更好。

ALB: 您获得了由ALB发起的最受客户欢迎律师奖项，您有什么感悟想分享给大家？

云律师: 非常感谢客户给予的信任与认可，感谢我钟爱的律师业，感谢我所在的浩天信和律师事务所，感谢团队和所有相伴的同仁。其实这一切都是我应该做到的，也是我的本分。感谢我有机会为大家服务。

ALB: You have had over 20 years of experience in the legal business, and have a lot of important clients. From your perspective, would you please share with us on how to establish and maintain good relationship with clients?

Y: As a lawyer, we provide legal services. The basic principle is, and should always be, putting the clients' interests first. I insist that the clients' interests should always be more important, especially when such interests have conflicts with mine. It is a principle I set up when I started my career in the business. Every time I finish my case, I always try to see if there is anything more I could do to make the results better. When encountering difficulties, I would always put more efforts and find ways to break through, as problem-solving is the lawyers' job. From striving to create more and longer-term values for my clients, I have been growing and developing my skill sets as a lawyer.

ALB: In recent years, the competition in legal service market has been rising rapidly. Can you share your secret on how to face the more and more challenging market as a lawyer?

Y: There isn't really a secret. Regardless of the circumstances and businesses environments, work on oneself to improve and provide what clients need should always be the priority. Take my current focus, family wealth management business as an example: instead of applying methods to sell products, we try to focus on the benefits and wellbeing of our clients by setting the clients' needs as the start point. I think this essentially makes our service not to be affected by the market too much. Furthermore, we ask our clients whenever our service is provided, and try to see if there is still anything we can do to improve, so our service can be better and better.

ALB: Since you have clients from all over the world, the differences of cultures, legal infrastructures, and rules etc. would cause many challenges. How do you overcome these challenges?

Y: Being lawyers requires us to constantly learn and improve. Other than the ever-evolving professional knowledge, we also have to learn from different businesses, economy systems, cultural backgrounds, and trade habits, etc. Furthermore, I also keep seeking to expand the width and depth of my own life, in order to see the world and solve the problems from a higher and wider perspective. I hope that I can not only help my clients to have their problem solved, but also to help them to make their businesses and lives better.

ALB: You got the Award of Clients' Favorite Lawyer by ALB, do you have anything to share with everyone?

Y: I really appreciate my clients' trust and acknowledgment, and I want to thank the career that I have committed, my Hylands Law Firm, my team and everyone who accompanied me throughout the years. Actually, everything I have accomplished is simply my part and my duty. I want to thank everyone who give me the opportunities to serve.

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was the most time-consuming work when trying to get things done. “After years of practice, now I have learnt that I am the one who needs to work hard to change. Communication now is no longer the biggest challenge for me,” says Yun.

“I would say that to achieve the best understanding with clients is most challenging but also most rewarding,” says Zhang Yunyan. “Clients usually focus more on the goals they want to achieve, but tend to ignore or find it difficult to understand the problems and obstacles in the process of achieving the goals.” Zhang’s remarks highlighted a substantial role of lawyers in providing legal services – how to help clients to truly understand and see the problems in the process of achieving goals, thus reach an agreement with their lawyers on the methods and steps to be taken in solving those problems. “It means a lot more than just making your clients happy or satisfied,” Zhang added.

Wang Yue is engaged in both non-litigation and litigation practice. In his opinion, challenges could come from different aspects. Having accumulated solid and rich experience in hotel and real estate sectors, Wang found that his rich experience could be a “double-edged sword” in the face of clients – they could have very high initial expectations for you. Wang admitted that his biggest challenge is when he has to remind his clients that “lawyers are not super-heroes or have super power.” Wang believes that a lawyer should use his practicing experiences to help clients to obtain enough “transparency” and to be of equal standing in terms of information accessed, so as to help them avoid incurring losses; it is not realistic for clients to hope that lawyers could help them to get the cooperation conditions far exceeding the project’s own value. “After all, it is beyond lawyers’ capability to change the value of a business project,” says Wang.

In the dispute resolution practice area, Wang Yue handled quite a few cases involving disputes over financial and asset management matters in recent years. In those cases, he usually represented the creditors. The main demand of creditors is to realize creditor’s rights as soon as possible, which is essentially a “race” with other creditors – they hope that their lawyers could help to accelerate all processes involved: fast filing, fast preservation, fast judgment and fast execution. “When handling cases involving litigation, the biggest challenge for lawyers is how to cooperate with different judges,” says Wang. “To understand judges and collaborate efficiently with judges is the key to overcoming the challenges.”

Wu Jingjing, a senior partner at Dentons, believes that the biggest challenge is to truly understanding clients and their industries, which requires lawyers to keep up with the development of the industries, understand the competitive factors, and be familiar with the operation patterns and value orientations of their clients. “In a word, to comprehensively understand the key sectors of the clients, to improve the relevant knowledge and information related to finance, taxation, accounting, etc., and to always grasp the latest regulatory policies, I believe that in order to provide all-round services to clients and to serve them better, these are the premise conditions.”

BREAKING THROUGH IN CONFLICTS

The survey shows some interesting feedback. Many of the evaluations of or expectations for their preferred lawyers seem to be “self-contradictory”. For example, the clients would like their lawyers to give them quick but well-established responses, to provide high-level services at low costs, to interpret laws and regulations using professional but simple languages, to help clients to comply with laws and regulations but it is better not to increase the cost.

How clients feel and their demands are understandable. But as lawyers, it is really not easy to provide professional legal services while giving clients the “greatest user experience”. In our conversations with the lawyers, we found that lawyers with excellent user experience management do not necessarily mean that they have high EQs, but they usually have a quality that enables them to be acutely aware of what is going on around them and reflect on the problems or conflicts in their daily work, and then endeavor to make positive changes.

说已经不是最大的挑战了。”

“能跟客户达到最好的默契，是法律服务的最高境界。”张云燕律师这样解释，“客户对于想要达到的目的关注度会更高，而对于实现目的过程中存在的问题和障碍，往往会忽略或者难以理解。”张云燕律师的这番话，凸现了律师角色的强解释功能——如何实质性地让客户理解过程中存在的问题和在共同解决问题的方法与步骤上达成共识，“而不只是实现客户感性上的满意”。

既做非诉也做诉讼业务的王悦律师感受到的挑战来自不同方面。在酒店房地产交易领域已积攒多年丰富经验在面对客户时很可能是把“双刃剑”——客户初始期待会很高。王悦律师坦言他的最大挑战是要告诉客户“律师不是神通广大的”。王悦律师一直认为，律师的行业经验最主要应是帮助客户获取足够的“透明度”，避免由于信息不对称而吃亏，但希望通过律师拿到远超项目自身价值的合作条件恐怕就不太现实了，“毕竟不管律师怎样出奇招，商业项目的自身价值不会改变。”

在争议解决领域，王悦律师近年来从事了不少金融资管类争议，并在此类案件中多代表债权人一方。债权人的主要诉求是尽快实现债权，实质是与其他债权人“赛跑”，具体体现就是希望律师能做到：快立案、快保全、快判决、快执行。“诉讼领域，律师与不同法官的配合堪为最大挑战点，如何读懂法官、实现与法官间的高效协同工作是克服挑战的关键。”

大成律师事务所高级合伙人吴静静律师则认为，最大的挑战来自真正了解客户、了解客户所在行业，这就要求律师不断跟进行业发展、理解竞争要素、熟稔客户作业模式、以及客户的价值追求，“一言以蔽之，全面掌握客户关注的重点领域，精进金融、税务、会计等相关知识与信息，时刻把握最新监管政策，我想这是全方位服务好客户的基本前提。”

矛盾中突围

调查问卷里很多对首选律师的评价或期待看似是“自相矛盾”的，比如：律师答复要又快又好；提供的服务要性价比最高；解释法律时要既专业又通俗；帮助客户做到合规但最好别增加成本……

客户的心情与要求都被理解，但作为律师，在提供专业法律服务的同时还让客户有非常棒的“用户体验”真的不是件易事。我们在与律师们对谈中发现，用户体验管理非常棒的律师，并不是他们情商有多高，但至少他们随时处于一种觉知的状态，有意识地消理解日常工作

“We are often seen as firefighters by our clients; regardless whether it is within business hours or on work days or holidays, we might be required to work at any time, and to get things done quickly and with high quality,” says Yun Dahui frankly. “It is inevitable that we sometimes are in low spirits, especially when there are too many things to be dealt with and when we get tired.” But when she is not in a cheerful mood, Yun tries to calm down and find out what actually makes her feel that way. She gradually learnt how to manage her emotions. “When I regard my job as a responsibility, the work process and results would be very different,” says Yun.

If you spend too much time and energy struggling in a conflict, you probably cannot solve the problem. Sometimes if you step back and look at things from a new perspective, you would gain a bigger view and see things differently, which would actually help you solve the problems you have been struggling with. Yun also emphasized that “in the course of working with clients, full communication and honesty are essential. To serve clients well does not mean to simply meet specific requirements of clients. It often needs us to look at things from new angles in order to find the best solutions to difficult problems.”

Furthermore, the best way to solve the conflicts between time and quality is teamwork and appropriate division of work. Wu Jingjing and Zhang Yunyan both point out the important role of teamwork. “When handling complex non-litigation cases, finding “high quality” or “the most suitable” solution for clients is the ultimate goal; meanwhile we need to communicate fully with clients about time issues, such as the time limit or deadline. Anything done in haste would eventually lead to a greater potential risk,” Wu warns.

场景中出现的或产生的冲突，进而反观自己，做出积极的改变。

“我们常常被客户当成消防队员，不分上下班、节假日，有可能随时被要求工作并需要又快又好，”云大慧律师坦言，“有情绪是难免的，特别是事情多、人疲惫的时候。”但当情绪来的时候，云大慧律师会尝试觉察情绪背后的东西。这样一次次经历过后，逐渐习得管理情绪的技能。云大慧律师感触最深的是，“当我把事情当成一份责任时，工作过程和结果会大不相同。”

所以，执着在某一对矛盾中，是无解的。有时候，跳出那个视角、重新理解一件事，会获得更大的视野与思考——这是云大慧律师的分享带给我们的感受。云大慧律师同时强调，“在和客户相处过程中，充分沟通与坦诚相待自不待言，服务好客户并非简单满足客户某个具体要求；面对问题时，尝试转换视角往往柳暗花明、问题迎刃而解。”

另外，解决时间和质量各方面产生的冲突的最好办法，是团队协作和专业分工。吴静静律师和张云燕律师均指出要发挥团队的力量。“当遇到复杂的非诉业务时，还是要以‘好’作为最终目的，而如何



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Zhang Yunyan emphasized that when serving clients, we should not put our own interests first; the interests of the clients and the entrusted matters should be our top concerns. "In the end, it is still a matter of communication. For example, we should explain to our clients what it means to provide fast and quality services, thereby asking the clients to give reasonable time limit for handling the relevant matters and meanwhile helping them to comprehensively understand the content of the lawyer's work," says Zhang.

"Cost-effectiveness" is another term often appears on the client's request list. But it should not mean "the cheaper the better". Zhang suggested that law firms should choose clients and cases carefully to make sure clients and law firms could reach mutual agreements in terms of time limit for handling cases, types of cases, and attorney fees. "We sometimes would rather giving up a case than taking it blindly if we cannot reach an agreement with the client," Zhang added.

"You get what you pay for, the quality of services increases as the prices increase. Highly competent lawyers get paid better," says Wang Yue. "But I would not blame my clients at this point, especially those companies that are still in the developing phase. They have the needs for legal services, but they can't afford too-high attorney fees." Wang's solution is to provide clients with "incremental" services which are truly worth of the money paid by the clients.

To be specific, before accepting the entrustment, Wang would conduct an internal evaluation of the possible results of the project. If the evaluation shows that a project would be significantly beneficial to the client, Wang would make further quotations and discuss the agency plan with the client. Where the evaluation shows the client would not benefit from greatly from an agency plan, instead of lowering the quotation, Wang would speak to the client honestly that he would not be able to give much help in the case, (and let the client decide whether to proceed with the entrustment plan.)

"To tackle with seemingly contradictory client demands, we could work from three major aspects: accumulating and mastering knowledge in the related practicing areas, providing professional and thorough legal analysis on specific issues, and carrying out effective communication," Ma Hongji concluded.

WHAT A LAWYER SEES AS A GOOD LAWYER

"Strong expertise", "excellent execution capacity", "diligence and strong sense of responsibility", "good logical thinking", "very experienced", and "timely feedback", our survey shows that clients often use these words to describe their preferred lawyers. These are the required and basic qualities of lawyers, the winners told ALB. And they added that good lawyers should be trustworthy and able to provide client with value-added services, to name a few qualities: "proposing creative and constructive solutions", "profound insights on the market and industry", "becoming an expert consultant lawyer", "offering advice to government administration", and "making contributions to economic development".

Nowadays, economic development is changing more rapidly than ever, with the emerging of new economic models. Lawyers, serving the economic development community and the society, should keep pace with the times, and meanwhile should remain committed to original intention of the legal profession, says Wu Jingjing. She believes that lawyers should, by "exploring the legal logic behind the new economic phenomenon," assist the government and regulators in ensuring the long-term robust economic and social development.

"When P2P (peer-to-peer) network lending entered China, it boomed like wildfire in an environment with little constraining regulation, resulting in a serious deviation from inclusive finance because of the failure in disintermediation," Wu told ALB, "The business model of P2P is very

解决时间问题, 则要跟客户做好充分沟通, 否则任何草率行为都会埋下更大风险隐患,"吴静静律师提醒道。

张云燕律师则强调, 服务客户时不能考虑律师自身利益第一, 而要考虑客户的利益和委托的事项, "说到底还是沟通问题, 比如要向客户说明又快又好的定义, 请客户给与合理的时间, 让客户充分了解律师工作的内容。"

除了又快又好, 客户还往往希望越便宜越好。这种情况下, 张云燕律师建议首先在选择客户和案件时就确定选择与事务所在时间、类型、律师费用上相互接受与认可的客户, "如果不能契合, 我们宁可和客户说清楚情况放弃该客户, 也不盲目地、不负责任地接受。"

"作为律师考虑的是一分价钱一分货, 高水平的律师自然价格更高,"王悦律师谈到, "但我其实也很理解客户, 特别针对一些尚处于发展期的企业, 他们既有法务需求, 但确实又难给出特别高的律师费。"王悦律师的解决方案是, 要做客户的"增量"——真正让客户物有所值。

具体做法是, 接受委托前, 王悦律师会先对项目完成可能取得的结果进行内部评估, 对于那些评估后认为在提供完成法律服务后、确实能给客户带来明显收益的项目, 王悦律师会进一步报价并与客户讨论代理方案。反之, 如评估不会给客户带来明显收益, 王悦律师通常不会降低报价, 而是坦诚告知客户自己在这个项目中代理的帮助并不大。

"解决看似矛盾的客户要求, 关键从三方面着手: 拥有丰富的专业领域知识储备、对具体问题给出专业并深入透彻的法律分析、开展有效的沟通,"马宏继律师总结道。

律师眼中的好律师

"专业性强"、"高效执行力"、"认真负责"、"逻辑清晰"、"经验丰富"、"反馈及时"等在客户对首选律师的评价中高频出现, 而律师们认为这些是每个执业多年法律人应具备的基本素养, 而诸如"提出创造性解决方案"、"对市场和行业具有精深见解"、"成为专家顾问型律师"、"为政府管理献计献策"、"为经济发展保驾护航"等更是能够带给客户附加值、值得客户信赖的好律师的应有之义。

当下, 经济发展实践日新月异、新的经济模式层出不穷, 吴静静律师认为作为一名为经济发展和社会服务的律师来讲, 一方面要与时俱进, 另一方面要保有法律人的初心, "深入探究新经济现象背后的法律逻辑本源", 助力政府和监管机构确保经济和社会长期稳健发展。

"P2P网络借贷刚进入中国时, 因实际不脱媒而造成与普惠金融的严重背离, 而正是在缺乏监管的环境下P2P在中国野蛮生长,"吴静静律师告诉ALB, 透过P2P复杂的业务模式, 绝大多数是违规操作。"吴静静律师在2014年《国际金融报》的观点嗣后都被一一证明。"

吴静静律师指出, 当政府和监管机构对新型业务模式缺乏深刻理解的情况下, 律师作为专业人士是有义务去

競天公誠律師事務所
JINGTIAN & GONGCHENG

競天公誠合伙人马宏继律师谈资本市场 中创新性项目的开展

Jingtian & Gongcheng's Ma Hongji on the innovative legal projects in China's capital market



马宏继 / Ma Hongji
合伙人 / Partner
ma.hongji@jingtian.com

ALB: 马律师之前是中国国航法律部的企业律师，请问现在觉得律所律师的工作和之前有什么同与不同？之前的经历对现在的工作有何帮助？

马律师: 公司法务和外部律师具有共同的目标和责任，即为公司提供有价值的法律解决建议和方案并付诸实施，两者相辅相成。不同在于，公司法务更需从业务及管理角度判断法律合规性问题对公司业务发展的影响以及通过管理减少公司法务风险。外部律师更加具有独立性，为多行业不同领域的客户提供法律服务，具有专业法律领域的深度和广度，可以结合客户行业及具体情况提供有建设性的专业法律服务解决方案。之前公司法务工作经历有助于我更好地理解公司法律服务需求，以提供切合公司实际情况的法律解决方案。

ALB: 马律师专注证券资本市场，承办了诸多首发上市（IPO）、并购重组、融资、股权激励等项目，其中不乏颇具创新意义的项目，请问您觉得应如何开展创新性的项目？

马律师: 证券资本市场是强监管领域，同时经济活动、法律法规又在不时发展、变化，在从事业务时就会遇到一些无先例可循的项目，诸如新行业中第一家公司上市、并购重组中新的交易结构、新法规下第一例项目实施等。对于该等类型项目，需要在进行大量研究、分析，理解透彻项目自身情况、所涉法律法规、行业背景等方面因素后，确定监管的逻辑和边界以及项目自身需求，形成合规合理和可操作的方案，以获得相关方认可，方可顺利实施。

ALB: 请问您观察到的资本市场近期趋势有哪些，有何建议？

马律师: 近几年来，境内证券市场一直在推进以信息披露为中心的新股发行制度改革，今年科创板也如期推出并迎来第一批科创板上市公司，IPO活动频繁，为拟首发上市的企业创造了良好的政策及市场环境，拟上市公司应对自身尽早评估和筹划，一旦决策则有力实施。同时，上市公司和标的公司近年来估值下降趋于合理，为上市公司收购和实施重大资产重组创造了有利机会，并购重组中需要考虑的因素纷繁复杂，除关注投资成本、业务协同、合作和管理模式等因素外，还应格外关注交易对方的法律和财务合规风险，对上述因素全面评估后再决策实施。

ALB: You worked for Air China's legal department before, how is your current job different from back then? How has this previous experience helped you with your current work?

Ma: In-house legal department and external lawyers share a common goal and responsibility: provide valuable legal advice and solutions to a company and implement them. The two complement each other. The difference is that a in-house counsel needs to judge the impact of legal compliance issues on the company's business development from the perspective of business and management, and reduce the company's legal risks through management. External lawyers are more independent. Having provided legal services to clients in many different industries, they can come up with constructive legal service solutions based on the depth and breadth of their professional knowledge and experience, combined with the consideration of their clients' specific situations. My previous work experience has helped me better understand a company's legal service needs so that I can provide solutions tailored to the company's actual situation.

ALB: You mainly focus on the capital market and have undertaken many innovative projects related to IPO, mergers and acquisitions, financing, equity incentives, etc. How do you think lawyers should carry out innovative projects?

Ma: The security capital market is strictly regulated. However, at the same time, economic activities, laws and regulations are constantly developing and changing. Lawyers are bound to encounter some unprecedented cases in this field, such as the listing of the first company in a new industry, new transaction structure in a merger and acquisition deal, and the implementation of the first project under a set of new regulations. For these types of projects, it is necessary to determine the logics and boundaries of the supervision and the needs of the project itself after a large amount of research, analysis and thorough understanding of the project. Then a reasonable and practical solution that conforms with the laws and regulations will be formed and approved by relevant parties, which will ensure the smooth implementation of that solution.

ALB: What are the recent trends in the capital market that you have observed, and what are your insights?

Ma: In recent years, the domestic securities market has been advancing the reform of the new share issuance system centred on information disclosure. This year, the newly launched science and technology board has also welcomed the first batch of listed companies. There is an increasing amount of IPO activities which has created a good regulatory and market environment for companies planning their IPOs. These companies should evaluate and plan for themselves as soon as possible, and once they make all the decisions for their IPO, they should vigorously pursue it. At the same time, the evaluation of listed companies and target companies has become more reasonable in recent years, which is a boon for acquisitions and major asset restructuring. There are many complex factors to be considered in mergers and acquisitions, besides investment costs, business synergies, cooperation and management model, we should also pay special attention to the legal and financial compliance risks of the counterparty, and make a comprehensive assessment of all the above factors before making any decisions.

complicated and most of them are non-compliant.” Wu published an article on P2P at International Financial News in 2014. Her observations on P2P turned out to be a foresight.

Wu further points out that when the government and the regulators lack a deep understanding of the new business models, legal professionals are obliged to clarify matters and take things back to basics. “We should not just look at the superficial phenomenon, but explore its legal origin and find out the legal logic behind it. Of course, the responsibility of lawyers is not only to ‘step on the brakes’, but more often we should give some important reference when the government formulates rules and regulations.”

In Wang Yue’ opinion, a good lawyer should have in-depth understanding and business acumen concerning the industries involved. “In the field of dispute resolution, in particular those complicated finance innovation cases, there is one thing that is particularly easy to be overlooked – having in-depth understanding of the business background of cases – which in fact would help us to make claims from a more favorable perspective, and to assist judges and arbitrators to explore the nature of the transactions involved, and is ultimately conducive to the protection of the interests of clients.”

Wang also finds it a valuable quality of a good lawyer, which is having a strong sense of empathy. In non-litigation cases, it helps lawyers to understand client needs, and in litigation and arbitration cases, it enables lawyers to help clients not only winning the case but also winning the understanding from a moral perspective thus obtaining support from judges and arbitrators. “When clients come to us for help, they must be in some difficult situations. I would try my best to understand what they have experienced and find out where the problems are, and use my expertise to find the best solutions for them.”

Zhang Yunyan believes that good lawyers should be dedicated and committed, and should also have comprehensive knowledge and acute sense of business. “Keep learning new things and equip myself with knowledge of related business areas, to ensure that the business interests of clients, as well as their legitimate benefits, are maximized in an integrated way.”

正本清源的，“可能就不是光看一个表面的现象，而要探究其法律本源，真正把脉其背后的法律逻辑。当然，律师的责任不止于‘踩刹车’，更多时候也是政府制定规章制度时的重要参考。”

王悦律师在这个问题上的分享是，律师要对所涉行业有深入的商业理解，“特别容易忽略的是在争议解决领域，尤以复杂的金融创新类案件为甚，对于案件商业背景的深入了解，将有助于我们从更有利的角度提出主张，并协助法官及仲裁员探究交易背后的本质，最终有利于客户利益的保护。”

此外，王悦律师还看重律师一定要具备很强的同理心——在非诉案件中用同理心理解客户需求，在诉讼/仲裁中不但帮助客户成为法律上的正义方，也用同理心帮助客户成为道义上的正义方，获得法官和仲裁员的认同，“客户向律师求助，都是遇到了困难。我会尽力理解、体会客户的困难，以同理心换位客户的感受、发掘客户的问题，并以专业精神思考最优解决方案。”

尽职尽责、具有综合知识储备与敏感商业尺度，则是张云燕律师认为好律师该具备的关键素质，“为了保证实现客户商业利益最大化和合法利益最大化两者的高效结合，一直以来配合着自身所涉猎的商业领域，我一直持续不断学习、汲取不同的知识。”



CLIENT QUOTES 客户评价

ZHANG YUNYAN

Senior Partner at Jincheng Tongda & Neal

Ms. Zhang Yunyan is widely recognized as a legal expert in dispute resolution in the industry. Her rich international and domestic dispute resolution experience enables her to provide more targeted solutions for her clients in negotiations, and provide her clients with legal opinions or suggestions of significance, effectively avoiding future potential disputes for clients. She also has long-term cooperation with many well-known companies at home and abroad.

MA HONGJI

Partner at Jingtian & Gongcheng

Mr. Ma knows his profession. He is very dedicated and diligent. He always gives us timely responses and handles matters efficiently. He has been a great help to our company.

张云燕

金诚同达律师事务所高级合伙人

张云燕律师是业界公认的从事争议解决的法律专家，国际国内争议解决经验使其在谈判中更有针对性，并能为客户提供关键的法律意见或建议，有效地为客户避免之后的潜在争端。她同时也为国内外多家知名公司提供常年法律服务。

马宏继

竞天公诚律师事务所合伙人

马律师对专业知识非常了解，且非常敬业、勤奋，对公司的业务处理也非常及时，给公司提供了很大的帮助。

The advertisement features a blue-toned background with a 3D maze. A red line traces a path through the maze, ending in an arrow. In the bottom right corner, a silhouette of a person stands with their back to the viewer, looking at the maze. The text is in both English and Chinese.

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WANG MENGJING

Partner at Co-effort Law Firm

Ms. Wang is a lawyer with great professionalism, and she is very experienced in the financial field. She is conscientious and responsible, and pays attention to details.

ANNIE YIN

Partner at Duan & Duan

Very experienced, great personality, trustworthy

YANG SHUGUANG

Partner at Anli Partners

Mr. Yang Shuguang has excellent industry knowledge and strong legal skills. He is down-to-earth, creative and responsive. He has an extensive business network, and leads a high-level team; it is a pleasant experience working with him. Mr. Yang also has excellent lawyers' professional thinking with a lively mind, and great logical analysis ability. He is hardworking, professional and efficient and has excellent execution capacity.

ZHENG YU

Partner at JunHe LLP

Mr. Zheng Yu is very professional and highly competent. He always actively solves problems for clients and provides good customer experience. He has strong coordination ability, mobilizing law firm's resources to help clients with various problems. Mr. Zheng is also good at communication and can accurately grasp customer's requirements and then provide targeted solutions.

JEFFREY LIU

Partner at Zhong Lun Law Firm

Mr. Liu Xinyu has excellent professional competency, rich practicing experience and strong skills. He is dedicated and diligent, and well received by clients.

WU XIAOLIANG

Managing Partner at CM Law

Ms. Wu Xiaoliang is not only a legal professional with strong expertise, but also a business partner or even a business mentor. With her outstanding legal expertise and her keen insight into business rules, she has been widely recognized in the industry as one of the most active and representative lawyers in China's capital markets in recent years, and has gained the deep trust of many clients.

SUN LIQING

Senior Partner at Ronly & Tenwen Partners

Mr. Sun has rich and solid practicing experience, which enables him to accurately capture the legal risks that our company needs to pay attention to during the operation process. He helped us build a sound intellectual property operation management system. In the course of litigation, with his strong expertise, Mr. Sun is able to grasp the main points of litigation, and successfully protects the rights and interests of our company.

王梦静

协力律师事务所合伙人

王律师对金融领域的法律业务非常专业，经验丰富，并且工作认真负责，服务周到。

尹歆昊

段和段律师事务所合伙人

有丰富的经验，人品好，值得信赖。

杨曙光

北京市安理律师事务所合伙人

杨曙光律师拥有出色的行业知识和法律技能，务实、富有创造力且反应迅速，拥有广泛的业务网络和高水准的团队，与他的合作是令人愉快的经历。具有优秀律师的职业思维，反应敏捷，逻辑缜密，拥有扎实的法律基础，深厚的法律素养。严谨、专业、高效、执行力强。

郑宇

君合律师事务所合伙人

专业、业务能力强；积极解决客户的问题，客户体验好；协调能力强，能够调动律所资源为客户各种问题提供帮助；善于沟通，能够准确把握客户的要求并能有针对性的提出法律意见。

刘新宇

中伦律师事务所合伙人

刘新宇律师具有优秀的专业素养、丰富的执业经验、娴熟的操作技能和勤勉的敬业精神，深受客户认可。

吴小亮

上海澄明则正律师事务所管理合伙人

吴小亮律师不仅是一名专业的法律服务者，同时也是创业伙伴、甚至创业导师的角色。凭借她卓越的法律专业能力、以及对商业规则的敏锐洞察，在业界被广泛公认为近年来中国资本市场中最活跃，且最有代表性的律师之一，并赢得众多客户的深度信任。

孙黎卿

融力天闻律师事务所高级合伙人

孙律师具有丰富的从业经验以及扎实的法律功底，能够准确捕捉我司在运营过程中需要注意的法律风险并能够为我司搭建健全的知识产权运营管理体系。在诉讼的过程中，孙律师同样具有高超的职业素养，能够把握诉讼要点，达到我司维权的目的。

大成 DENTONS

专访大成航天航空领域的牵头人吴静静律师

An Interview with Wu Jingjing, Dentons' Senior Partner and Leader in Aviation Finance



吴静静律师 / Wu Jingjing
 合伙人 / Senior Partner
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吴静静律师2009年进入航空金融法律服务领域，成功由一名传统房地产金融民商事律师转型为一名优秀的航空金融专业律师。

大成航天航空领域的牵头人

吴律师和她的团队在航空法务领域已经取得了诸多亮眼的成绩，得到了业界的高度认可。

她曾为中航租赁及东疆SPV子公司和Export Development Canada (“EDC”)、庞巴迪公司、华夏航空的跨境购机融资及飞机租赁项目提供全程中方法律服务，并先后参与了民生金租及其爱尔兰SPV与多国银行关于飞机租赁、融资及跨境再融资项目，是当之无愧的专家与行业先驱。

因为吴律师早已对经营性租赁领域进行了深入的研究，并与国内外同仁和大成Dentons境外同事开展过深入的探讨，吸收了行业的智力成果，她在为境内客户提供这类的服务的伊始，就可迅速地获得客户的信任。

“我时常保持对行业内新法律服务产品、新趋势的关注，把握新型的交易结构和法律关系，凭借我自身法律知识沉淀和丰富法律服务实践，更好地为客户提供相应的服务”，吴律师说道。

从业多年来，吴律师已经为各位客户的超过150架次的飞机提供过相关法律服务，服务涉及境内外预付款融资、交机融资、再融资、飞机买卖、融资租赁、预付款融资租赁、经营租赁、跨境担保、保险办理及权益转让、飞机抵押及抵押权益转让、股权质押、回购担保、第三方担保等多个服务环节。

产业趋势和法律服务的相应调整

我国飞机租赁市场正积极地向国际一流标准靠拢，跨境交易数量日趋增长。在法律服务实践中，吴律师观察到，境内租赁公司在不断加大国际化布局步伐，且中国商飞正逐渐成为飞机制造业除空客和波音之外的第三极。

吴律师说：“提供大量跨国交易的法律服务经验让我对服务中国租赁企业参与跨境交易具有充足的信心。同时，作为中国商飞的法律服务提供商之一，我也积极辅助中国商飞获得更多的商业机会和市场前景。”

培养航天领域法律人才

对于航天领域法律人才培养，吴律师认为应主要着眼于两方面：积极扩大航天国际法律视野，以及补充航天专业知识。

“在法律行业不断专业化、深入化发展的今天，切实了解一定的航天行业知识有助于在提供法律服务时避免走一些弯路”，吴律师最后说道。

Wu Jingjing has successfully transformed herself from a traditional civil and commercial lawyer in real estate finance into an expert in aviation finance since she entered the field in 2009.

Dentons' leader in aviation finance

Wu and her team have had many achievements in aviation finance and are widely recognized among peers.

She represented and provided legal service to AVIC International Leasing and its Dongjiang-incorporated SPV throughout their cross-border aircraft financing and leasing projects with Export Development Canada, Bombardier, and China Express Airline. She also took part in many aircraft leasing, financing and cross-border refinancing projects and during her representation of Minsheng Financial Leasing and its Irish SPV, she frequently worked with banks from various countries. These experiences earned her a reputation as an expert and a pioneer in the sector.

She can gain the clients' trust quickly from the beginning of their relationships because of her thorough research on operating lease as well as the insights she gathered from working with colleagues at Denton's global offices and discussing the matter with peers at home and abroad.

“I always keep an eye on the new legal products and trends in the industry and learn about the new transaction structures and legal matters. I provide my clients with relevant services to serve them better with my extensive legal knowledge and hands-on experience,” Wu says.

Over the years, Wu has offered her legal expertise to her clients over 150 aircrafts, covering pre-delivery payment financing, down payment financing, refinancing, aircraft sales and purchase, financial leasing, pre-delivery payment financing lease, operating lease, cross-border security, insurance processing and equity transfer, aircraft mortgage and mortgage interests transfer, equity pledge, repurchase guarantee, third-party guarantees and other areas at home and abroad.

Adjusting legal services according to industry trends

China is actively aligning its aircraft leasing market with international standards. As a result, the number of cross-border transactions is rising. From her observation, Wu notices that domestic leasing companies are going global actively and China's state-owned aerospace manufacturer COMAC is becoming another industry giant alongside Airbus and Boeing.

“After providing my legal expertise in many cross-border transactions, I'm confident in serving Chinese leasing companies in this area. And as one of the legal advisers for COMAC, I help the company grasp more business opportunities for better market prospects,” Wu says.

Fostering aviation legal talent

As for fostering legal talent for the aerospace industry, Wu believes there are two areas to focus on: broadening their knowledge in international aviation law and in the aerospace industry.

“As the legal industry is becoming more specialized nowadays, some in-depth understanding of the aerospace industry will help you serve your clients more efficiently,” Wu concludes.

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KATHERINE WANG

Partner at Ropes & Gray LLP

Katherine has very solid knowledge in healthcare industry especially in area of regulatory affair, government policies/ initiatives and local laws. As she also has many years of working experience in MNC, she understands how the company internal system works. The advice he gave is usually down to the earth, practical and appropriate. I really enjoy working with her.

JASON WANG

Partner at Global Law Office

Mr. Wang has extensive practical experience in related fields, and has in-depth insights into the Chinese market. His professionalism and high sense of responsibility make him my preferred lawyer in this field.

WU JINGJING

Senior Partner at Dentons

Ms. Wu Jingjing has long-term cooperation with our company. Her working attitude is careful and responsible, and she always delivers high quality work efficiently. She has been our trustworthy partner. In each project, Ms. Wu always provides us with efficient legal services in going over the transaction structure, and reviewing and revising transaction documents. In transactions with complex structures, Ms. Wu represented us in negotiations with foreign lawyers, made efforts to protect our rights and interests, worked hard to gain more benefits for our company, and contributed greatly to making the projects successful.

YUE YONGPING

Partner at Grandall Law Firm

Mr. Yue is professional and dedicated. He always provides high-quality and efficient legal services. He is an expert in many practice areas, to name a few: domestic and overseas listing, corporate M&A, private equity investment, bonds issuing, foreign investment, and corporate matters.

王凯玲

瑞格律师事务所合伙人

王凯玲律师在医疗行业拥有非常扎实的知识，尤其是在监管事务，政府政策及举措以及地方法律方面。由于她在跨国公司有多年的工作经验，她了解公司内部系统的运作方式。她给出的建议往往非常务实，既实用又适当。我非常喜欢和她一起工作。

王悦

环球律师事务所合伙人

王律师在相关领域有丰富的实战经验，且对中国市场有深入见解，其专业精神和高度责任心，令其成为我在该领域的首选律师。

吴静静

大成律师事务所高级合伙人

吴静静律师作为与我司长期合作的律师，秉承认真负责的工作态度，提供高效的工作效率和优质的工作质量，一直是我们值得信赖的合作伙伴。每次项目合作中，吴律师都能在为项目梳理交易结构、审阅和修改交易文件等环节都提供高效的法律服务，面对复杂的交易结构和与外方律师数次谈判也能从容应对，为我方尽力争取权益，促成项目的圆满完成。

岳永平

国浩律师事务所合伙人

专业、用心，提供高品质、高效率、高质量的法律服务。擅长企业境内外发行上市、公司重组与收购兼并、私募股权投资、债券发行、外商投资、公司商务等法律事务。



YU SHENGXING**Senior Partner at Hiways Law Firm**

Our company cooperated with Mr. Yu in many trade friction cases as well as in the USITC (The United States International Trade Commission) Section 337 investigation against Chinese steel companies. Mr. Yu handled those cases conscientiously and efficiently. He also obtained satisfactory results for our company in many other cases.

XU LING**Executive Partner at Guantao Law Firm**

Ms. Xu Ling has performed exceptionally well in her practice areas. She always gives us timely feed-back and provides us with a variety of solutions. She impresses me with her professionalism, meticulous working attitude and patience. In a word, she is my "client choice" lawyer.

LIU ZHIQIANG**Senior Partner at Tahota Law Firm**

Mr. Liu has outstanding comprehensive capabilities. He is good at combining legal and accounting, taxation and financial methods to design an overall solution framework and specific solutions that can be effectively implemented. With extensive knowledge, rich experience and high competency, Mr. Liu is one of the most outstanding lawyers in China's capital market and investment M&A field. He is a trustworthy partner to work with.

LI LEI**Partner at Sidley Austin LLP**

Good knowledge and experience in the healthcare industry.


YUN DAHUI**Senior Partner at Hylands Law Firm**

Ms. Yun gives timely and professional guidance to our company in debt financing and equity financing projects, the equity transfer of the project subsidiaries, and the financing disputes, helping our company successfully accomplish the related business and avoid the possible losses. We have developed a deep trust in the professional competence and services of Ms. Yun.

YAO KEFENG**Executive Partner at Guo Biao Law Firm**

Mr. Yao Kefeng has in-depth knowledge reserves and experiences in the professional sector. He is keen in studying the complicated cases and skilled at summarizing experiences. He wins not only high recognition from industry experts but also praises from all customers. As the outstanding talent in the legal industry, Mrs. Yao deserves the praises.

SHEN JUN**Partner at Commerce & Finance Law Offices**

During serving as the legal counsel of us, Mr. Shen Jun provides effective legal supports to our daily operation and management. He responds quickly in the consultation works and services, with high quality work and good attitude. 

余盛兴**海华永泰律师事务所高级合伙人**

我司曾在多起贸易摩擦案件，及中国钢铁337案件中与余律师合作。在这些案件中，余律师认真尽责并且高效的处理案件，并为我司在各类案件中获得了满意的结果。

徐玲**观韬中茂律师事务所执行合伙人**

徐玲律师在她的专业领域表现得异常出色，我们在遇到问题向徐律师咨询时总能得到她及时的反馈，并且她能够提供给我们多种解决问题的思路。另外，她对待工作一丝不苟的精神和耐心的态度也让我记忆犹新。我认为用“客户首选律师”来形容她是再恰当不过的了。

刘志强**泰和泰律师事务所高级合伙人**

刘律师综合能力突出，擅长于将法律与财会、税务、金融方法相结合，设计出整体性的解决框架和具体方案，并能得以有效执行。刘律师知识渊博，经验丰富，综合素质高，是中国资本市场和投资并购领域最杰出律师之一，是值得信任的合作伙伴。

李磊**盛德国际律师事务所合伙人**

在医疗行业拥有丰富的知识和经验。


云大慧**浩天信和律师事务所高级合伙人**

云律师在我司债权融资和股权融资、项目子公司的股权转让、及发生融资纠纷时给予了及时和专业的指导，使我司的相关业务得以顺利完成，避免了可能发生的损失。我司对云律师的专业能力和服务水准深为信赖。国标律师事务所执行合伙人 姚克枫

姚克枫**国标律师事务所执行合伙人**

姚克枫律师在专业领域有着深厚的储备与积淀，他乐于钻研业内疑难案例，善于总结经验，不仅赢得业内专家的高度认可，更赢得了客户的一致好评。作为行业难得之翘楚，姚克枫律师值得褒奖。通商律师事务所合伙人 沈军

沈军**通商律师事务所合伙人**

沈军律师在担任本单位法律顾问期间，为本单位的日常经营管理提供了有效的法律支持，顾问工作及服务的响应速度迅速、工作成果质量高、服务态度好。 

A CONNECTED WORLD

In June this year, China launched stock-connect schemes linking the Shanghai bourse with counterparts in London and Tokyo as it looks to accelerate the liberalisation of its capital markets. We take a closer look at the Shanghai-London Stock Connect (SLSC), and also the role that lawyers are expected to play.

By Ines Yang

深化“全球连接”

今年6月，中国相继与英国和日本实现了资本市场的互联互通，标志着中国资本市场持续对外开放的决心与重大举措。在本专题中，我们将聚焦沪伦通这一互联互通创新模式，并关注律师在其中扮演的重要角色以及如何为确保该创新机制成功运行“保驾护航”。

作者：Ines Yang

On June 17, 2019, after four years of preparation, the Shanghai-London Stock Connect (SLSC) was officially launched. The China Securities Regulatory Commission (CSRC) and the UK Financial Conduct Authority issued a joint announcement to approve the implementation of the SLSC's business.

The SLSC is a landmark project that not only brings significant benefits to both issuers and investors, but also symbolizes the deepened collaboration between China and UK in the finance sector and the only continual opening up of China's capital market.

"Since joining the WTO in 2001, the opening up of China's capital market has never ceased," said Yang Yuhua, Partner at Llinks Law Offices, "With the rapid growth of China's capital

volume, the degree and depth of internationalization is increasing – these developments go hand in hand."

"For lawyers, it brings the opportunity to help their blue-chip clients broaden their exposure to global capital markets and to guide them through the many challenges of cross-border regulation," said Delphine Currie, Partner and Co-Chair of the Global Corporate Group at Reed Smith.

"We believe that the capital markets, especially the equity capital market, in China will become more globalized, and there will be increased connectivity with European and global capital markets," said Tim Wang, Co-Managing Partner of Clifford Chance in China, "this initiative is also intended to aid the

2019年6月17日，筹备历时四年的沪伦通终于正式启动。中国证券监督管理委员会与英国金融行为监管局发布联合公告，原则批准开展沪伦通业务。

沪伦通是一个具有里程碑意义的项目，不仅给双方的发行人和投资者带来重大利好，也是深化中英两国金融合作、进一步开放中国资本市场的重要一步。

"从2001年入世后，中国资本市场对外开放的脚步就从未停止过，"通力律师事务所合伙人杨玉华律师谈到，"伴随中国资本体量规模的快速增长，国际化程度和深度与日俱增，这是一个正相关过程。"

"对于律师来说，沪伦通能够帮助其蓝筹客户的投资视野扩展至全球资本市场，在这个资本全球流动过程中，律师能够帮助客户克服跨境监管带来的诸多挑战，"礼德律师事务所合伙人Delphine Currie指出。

"我们相信，沪伦通将大大提升中国资本市场、特别是股权资本市场的国际化程度，也将进一步加强

of “firsts”: 1. Chinese investors have the opportunity to invest directly in international stocks in China without being subject to domestic capital control restrictions; 2. Eligible Chinese companies listed on the Shanghai Stock Exchange (SSE) can issue GDRs and apply for their listings on the Main Market of the London Stock Exchange (LSE); 3. The SSE will be open to foreign issuers; and 4. international investors are allowed to enter the Chinese A share market directly from outside Greater China through international transactions and settlement operations.

Prior to this, investors will generally need to qualify as a Qualified Foreign Institutional Investor (QFII) or Renminbi Qualified Foreign Institutional Investor (RQFII) to invest directly in A shares. Wang pointed out that “the instrument of Global Depository Receipt (GDR) makes it easier for international investors outside of the QFII and RQFII regime to access the growing Chinese economy and build up their China-themed investment portfolio.”

“The instrument of China Depository Receipt (CDR) can help inject liquidity and increase valuation for blue-chip London listed companies and allows PRC investors easy access to high-quality enterprises listed on the UK markets without concerns over foreign exchange controls,” Wang said, “It also increases a London listed company’s brand recognition in China and helps it build a closer relationship to its customer and investor bases in China who are more focused on the company’s China growth strategy ahead.”

What are the benefits to a Chinese company of obtaining a listing of GDRs on the London Stock Exchange? According to Currie, international institutional investors are familiar with London DRs (GDRs) and, as such, despite the current climate, for the right investment proposition, a listing of GDRs in London has the potential to unlock a very large pool of additional investors. Currie also stressed that

中国与欧洲乃至全球资本市场的互联互通，同时使中国企业有机会进入到全球最成熟、最有影响力的资本市场之一，借鉴其先进做法，”高伟绅律师事务所中国区联席管理合伙人王彦峰律师谈到。

但由于中国仍执行资本项下的外汇管制，杨玉华律师在此指出，“资本市场的开放也一定是一个逐步的、存在博弈制衡的渐进过程。”

互联互通互利

与沪港通和深港通不同，由于伦敦和上海时差在7/8小时，几乎没有交易重合时间，所以沪伦通的独特之处在于通过双向存托凭证机制实现上海和伦敦资本市场的互联互通。

沪伦通还创造了诸多“第一”：首次使中国投资者在中国境内即可有机会直接投资国际股票而不需受制于国内资本管制限制；首次使得上海证券交易所上市的中国公司能够通过以国内A股上市股票作为基础证券的GDR进行海外融资；首次允许外国公司能够在中国大陆上市；首次允许国际投资者能够通过国际交易和结算操作，从大中华区以外直接进入中国A股市场。

在此之前，外国投资者直接投资A股一般需要取得合格境外机构投资者或人民币合格境外机构投资者资格。王彦峰律师指出，“全球存托凭证的机制让国际投资者不再受该资格的限制而能直接参与到中国经济快速发展的红利中，从而构建其中国主题的投资组合。”

而中国公司申请在伦交所发行全球存托凭证的好处有哪些？据Delphine Currie介绍，国际机构投资者熟悉全球存托凭证，即使在大环境不景气的前提下，中国公司一旦在伦交所发行全球存托凭证挂牌上市，都意味着将会撬开吸引大量潜在额外投资者的可能性。Delphine Currie同时强调，“如要确保上市成功，公司上市后要严格履行的一个义务就是持续向当地市场更新公司的业务情况与发展动态。”

“此外，发行全球存托凭证还能提升中国本土上市公司的公众形象，吸引国际研究分析师和媒体报道，扩大公司的全球影响力。特别是，在伦敦上市的全球存托凭证可以出售给美国境内的合格机构投资者以及美国境外的机构投资者，这为中国公司的海外扩张提供了充足便利的资金来源，”高伟绅律师事务所伦敦办公室合伙人Iain Hunter律师补充道。

沪伦通包括西向业务和东向业务两个部分。西向业务目前只有华泰证券一家，英国的汇丰集团据悉将成为首个在中国A股上市的英国公司。

起步阶段的东向业务目前暂不允许伦交所上市公司在中国境内市场通过新增股份发行中国存托凭证的方式直接融资，“这成为英国上市公司评估东向发行中国存托凭证商业合理性和必要性考虑中的一个重要影响因素，”杨玉华律师认为这是很多市场参与方仍在审慎观察的一个原因。

PRC market’s desire to ‘go global’ and adopt the best international practice.”

As China still enforces foreign exchange controls on capital, Yang added that “the opening of the capital market will be a step by step process, one of gradual progress of relevant checks and balances.”

INCREASED CONNECTIVITY

Unlike the Shanghai-Hong Kong Stock Connect and Shenzhen-Hong Kong Stock Connect, since the time difference between London and Shanghai varies between 7 to 8 hours there is almost no transaction overlap time, the SLSC is unusual as it involves a mechanism that connects the capital pools that exist in Shanghai and London via a two-way depository receipt programme.

The SLSC has also created a number

“to ensure the listing is successful, a company will need to accompany it with an ongoing campaign to develop and maintain their profile in the London market.”

Iain Hunter, a partner at Clifford Chance in London, added, “It also improves a Chinese listed company’s ability to raise their international profile, enhance media and research coverage. In particular, London-listed GDRs can be sold to qualified institutional buyers in the U.S. as well as institutional investors outside of the U.S., which may be more easily used for offshore expansion.”

The SLSC is a two-way mechanism with westbound and eastbound business. The westbound business comprises solely of Huatai Securities currently, and the British HSBC Group is reported to be the first UK company to list in China.

In the early stage of eastbound business, LSE Listed Companies are not allowed to directly raise funds in the Chinese domestic market through the issuance of CDRs by new shares as the underlying securities. “This is an important commercial consideration for UK listed companies when evaluating the issuance of CDRs,” Yang believes that this is one reason why many market participants are still cautiously observing on the sidelines.

FIRST “A+H+G” LISTED COMPANY

Huatai Securities is the first A-share listed company listed on the LSE under the SLSC mechanism and became the first listed company in China with “A+H+G”. Clifford Chance acted for Huatai Securities and Wang told ALB that “although the transaction was eventually completed in June, the work was actually undertaken on a very accelerated timetable as compared to other similar transactions, particularly ground-breaking transactions such as this.”

What is particularly innovative about the scheme is that it enables fungibility across both markets. Wang revealed to ALB that the rules around the mechanism were still in



the process of being finalized during the course of the transaction, “As such, how we described this mechanism and explained the possible risks in the prospectus and other offering documents were challenging.”

The different regulatory regimes, time difference and trading hours across markets, each bring many challenges to a lawyer’s work. The opening of the SLSC does not involve investors crossing the border.

As Huatai Securities was already listed on both the SSE and the HKSE before the GDR listing, Clifford Chance also advised on the appropriate procedures to enable the Company to effectively meet its regulatory obligations across China, the UK, and Hong Kong.

For example, in the UK, the requirement is to disclose as soon as possible after the information arises, whereas in China and Hong Kong inside information is generally disclosed outside of trading hours. “To facilitate information disclosure, trading on the SLSC segment of the London Stock Exchange (LSE) is pushed back to 9 a.m., rather than 8.00 a.m., thus providing a short time window between the end of trading on the Shanghai and Hong Kong markets and the start of trading in London when disclosures can be made,” said Hunter.

Currie cautioned that “for companies, many of the legal and regulatory challenges are likely to

诞生首家“A+H+G”上市公司

华泰证券是第一家按沪伦通业务规则在伦交所挂牌的A股上市公司，成为国内首家“A+H+G”股上市公司。高伟绅律师事务所在该项目中担任华泰证券的法律顾问。王彦峰律师告诉ALB，虽然项目最终在2019年6月大功告成，“但与行业内同类型的里程碑项目相比，华泰证券此次全球存托凭证的伦交所上市项目时间表定得非常紧凑。”

沪伦通独特的创新机制在于两个市场之间的跨境转换。据王彦峰律师透露，在沪伦通首单交易进展过程中，围绕该机制的创设规则仍未最终敲定，“我们该如何定义这个机制？如何在招股书和其他法律文件中对该机制可能涉及的风险予以清晰阐释，在当时是非常具有挑战性的问题。”

不同的监管要求、较大的时差、几乎没有交易重合时间，这其中的每一点给律师的工作都带来了不小的挑战。

华泰证券登陆伦交所之前，已在上海和香港两地上市。高伟绅还要就适当的程序提供建议，确保华泰证券能够严格遵守其在中国大陆、英国和香港地区的监管义务。

举例来说，英国规定内幕信息产生后应尽快披露（即无论是否是交易时间），而在中国大陆和香港地区一般而言内幕信息是在非交易时间披露。Hunter律师介绍说：“为了方便信息披露，伦交所的沪伦通板块将于上午9点（而非8点）开市，从而在上海和香港交易所收市和伦敦开市之间提供一个短暂窗口以便于披露信息。”

Delphine Currie提醒道“其实很多法律和监管方面的挑战都来自两地上市的需要，因为要满足不同的监管要求、也要严格遵守两地的上市要求及持续的上市后义务，” Delphine Currie坦言，确保让董事会和投资者及时知悉两地市场在不同规定上的差异性，比如公司治理结构的不同，对律师来说也是一项充满挑战

derive from those associated with any dual-listing, including having to meet the requirements of two different rule books, as all participating companies will be required to meet the listing and ongoing obligations specific to each market". Currie admits, "there will also be other challenges in ensuring that both boards and investors are properly briefed about these and other differences between the two markets, such as approaches to corporate governance."

"Listing documents will need to disclose these distinctions clearly to enable informed investment in companies on the platform and reduce the risk of misunderstandings further down the line," Currie adds.

RISING NEEDS AND CHALLENGES

For A shares that have been included in the MSCI index and whose weight has increased, the demand for international investors has increased sharply. The market demand for active and passive investment has made SLSC attract much attention in the eyes of international investors, Yang observed.

Other than language and investment culture differences, the SLSC truly connects two highly regulated markets – in terms of eligibility, listing process, prospectus/disclosure liability, and ongoing compliance obligations, relevant laws and regulations, regulatory requirements – there are many differences in market practices, the specific regulatory styles and methods of the various regulatory layers are all different.

"The SLSC brings together the world's two important capital markets. The many benefits and challenges brought about by internationalization are self-evident, but some commercial and market environment challenges cannot be solely solved by lawyers, Chinese and foreign issuers and investors must also face them", Yang stressed that "the learning curve is very steep."

According to Yang, for international investors, they need to be familiar with the trading mechanism as soon as possible, organize

investment analysis team resources, understand the characteristics of information disclosure, adapt their international investment strategy to the Chinese market, etc., so as to ensure successful participation in the Chinese market and benefit from its rapid growth.

"But there are some aspects where Chinese and English lawyers can play a key role," explains Yang, "on the SLSC project, if both the Chinese and British lawyers of relevant market participants (such as issuer, sponsor, depository, custodian, investor, cross-border conversion agency) can work closely together this will help Chinese and foreign clients truly understand the legal environment, regulatory requirements, reasonable industry and market practices of each other's markets, and will certainly provide high value-added professional services and support to market participants."

Forward-looking, international law firms with robust and integrated UK, US, and China practices and close relationships with PRC law firms will stand to benefit as the deal execution requires seamless collaboration among legal teams from different jurisdictions, according to Wang. "These law firms can diversify their product offering into advising on GDR and CDR transactions and continue to provide comprehensive legal services to existing and potential clients in China and the UK, which include the key issues for clients to consider after listing, such as when to exercise the green-shoe option to stabilize stock price, etc."

The London Stock Exchange lays claim to being one of the oldest exchanges in the world and, like many mature markets, has a high proportion of institutional investors. It is also one of the most international of exchanges, with over half of investors based overseas, and non-UK companies representing over 35% of market value.

"The difference between Chinese and British investment cultures is also an unavoidable issue in the SLSC project," Currie observed.

"While willing and able to

的工作。

"上市文件需要清晰地披露这些差别，以便投资者在充分知情的前提下做出投资决策，降低未来因误解产生的潜在风险，"Delphine Currie补充道。

陡增的需求与挑战

对已纳入MSCI且权重增加了的A股而言，国际投资者配置需求陡增，主动投资和被动投资汇总的市场需求使沪伦通在国际投资者眼中备受瞩目，杨玉华律师观察到。

除了语言和投资文化差异，沪伦通真正联通的是两个强监管的市场——在资格要求、上市过程、招股书/披露责任、持续合规义务等方面，相关法律法规、监管要求、市场惯例均有很多差异，监管层的具体监管风格、方式方法也不一样。

"世界上两个重要的资本市场得以联通，国际化带来的诸多益处和挑战不言而喻，但有些商业和市场环境挑战不是律师单方面可以协助解决的，中外发行人、投资者面对的学习曲线都很陡峭。"

杨玉华律师认为，对于国际投资者来说，他们需要尽快熟悉交易机制，组织投资分析团队资源，了解信息披露特点，将其国际投资战略适配到中国市场等等，从而确保成功参与中国市场并从中快速增长中获益。

"但有些方面正是中英律师可以发挥关键作用的地方，"杨玉华律师解释道，"沪伦通项目上，如果发行人、保荐人、存托人、托管人、投资人、跨境转换机构等市场参与主体的中英双方律师都能密切合作，协助中外客户真正理解彼此市场的法律环境、监管要求、合理的行业和市场惯例，则一定会为市场主体提供高附加值的专业服务与支持。"

由于交易的执行需要来自不同司法辖区法律团队的无缝合作，王彦峰律师指出，在英国、美国和中国均具备强大执业能力且与中国律师事务所合作密切的国际律师事务所将会迎来更多业务机会——"律所应该尽量让服务类别多样化，为客户提供全球存托凭证和中国存托凭证的双向服务，同时继续为现有及潜在的中国和英国客户提供包括上市后需要考虑的重要事项在内的全方位法律服务，比如什么时间点需要启动绿鞋机制帮助稳住股价等等。"

众所周知，伦敦证交所是世界上最老牌的证交所之一，与其他成熟市场一样，伦交所拥有相当大比例的机构投资者。伦交所同时也很国际化，一半以上投资者来自英国境外；上市公司中，非英国本土公司的市值占到总市值的35%以上。

"中英投资文化差异，也是沪伦通项目中一个不可回避的问题，"Delphine Currie指出。

"尽管投资者愿意并能够考虑更复杂的投资建议，但通过投资伦交所的上市公司，投资者对严格遵守高标准的公司治理是充满期待的，这包括适用的监管要求，也包括机构投资者团体自己制定的非正式的指导

consider more sophisticated and complex investment propositions, by investing in London Stock Exchange-listed companies, investors expect adherence to high standards of corporate governance. This includes applicable regulatory requirements, but also less formal guidelines and standards set by institutional investor groups themselves. Institutional investors also expect to be able to have greater dialogue with the companies in which they invest (with high expectations set for this by the UK corporate governance codes applying to both listed companies and institutional investors)."

Curries said lawyers and other professional advisers can help companies navigate this environment and provide guidance on how to meet investor expectations. Reed Smith has lawyers who have listed more than 250 Chinese companies in HK, the UK and the USA. "Our teams on the ground in China and Hong Kong are perfectly placed to bridge any cultural differences," Currie said.

DEEPENING CONNECTIONS

The launch of the SLSC, even though it has its unique international political and economic background and geopolitical relationship, is also the result of the two-way choice of London's international mainstream capital and financial markets and the Chinese market. In the long run, Chinese investors will gradually leave the investment concept of the highest return rate, focus on the more stable investment income provided by developed markets, and more mature asset allocation, and then realize sustainable return, according to Yang.

Recently, FTSE Russell has officially incorporated A shares into its global stock index system, which not only brings incremental funds to A shares, but also brings value investment ideas. There are indications that the international investment community supports and trusts China's long-term economic development and capital market reform and opening up.

The current international trade tensions continue to create a challenging environment for Chinese companies seeking to attract

international investment. The new platform provides a new route to access the London market, one of the deepest pools of capital in the world, but it is not open to all companies – there are various criteria which a Chinese company will need to satisfy in order for GDRs representing its shares to be eligible for admission to the UK Official List and the SLSC segment of the Main Market of the LSE. "The RMB 20 billion (\$ 2.8 billion) market cap requirement alone will preclude all but the largest," Currie pointed out.

The qualification requirements for the issuance of GDRs on the LSE determine that the size of the transactions on the SLSC is limited and will not dilute the existing shares in the domestic market to a large extent.

Wang pointed out that the SLSC is not a "shortcut" for domestic enterprises to list on the LSE, but creates a new "path" for them to enter the overseas capital market, "Not all sectors or companies listed on the SSE are equally appealing to the UK and global investors. Nor does it mean that with the SLSC all the other listing avenues are eclipsed. Listings in China, Hong Kong, London, and the US have their own advantages and suitability. At the current stage, listed blue-chip companies in specific sectors and with global expansion strategy have a higher chance of following the lead of Huatai Securities and completing a GDR offering."

In addition, the CSRC and the FCA have entered into a memorandum of understanding whereby they have agreed to cooperate with regards to the supervision of companies listed under the Shanghai-London Stock Connect, "which includes with regards to undertaking enforcement actions for any market misconduct, such as insider dealing or market abuse," Wang continued, "while there are some regulatory differences between the two jurisdictions, the key concerns of the two regulators are the same – protecting investors and maintaining the orderly functioning of the financial markets." ^{A19}

意见与标准。机构投资者也希望能够与他们投资的公司有更多的对话（适用于上市公司和机构投资者的《英国公司治理准则》对此做出了规定）。"

Delphine Currie表示，律师及其他专业机构人士可以很好地帮助公司符合投资者的高期待值。礼德帮助250多家公司在香港地区、英国、美国成功上市，“特别是我们的大中华区团队，配合非常紧密，能有效克服项目中间涉及的中英投资文化差异问题。”

深化连接

沪伦通的开通纵然有其特有的国际政治经济背景和地缘政治关系影响，也是伦敦这一国际主流资本和金融市场与中国市场联通之市场需求的双向选择结果。长远看，中国投资者会逐渐摒弃最高回报率至上的投资理念，注重发达市场更多提供的稳定投资收益，更为成熟地进行资产配置，进而实质收益，杨玉华律师指出。

近期，富时罗素也正式将A股纳入其全球股票指数体系，不仅给A股带来增量资金，也同样带来价值投资理念。种种迹象表明，国际投资界对中国经济长期向好和资本市场改革开放的支持与信任。

而当前中美贸易加剧与监管趋严的态势，持续为寻求吸引全球投资的中国企业创造了一个具有挑战性的环境。沪伦通虽然有利于丰富境内企业融资渠道，但境内企业想要发行全球存托凭证、进入上市名单并在伦交所主板沪伦通板块上市需要满足多项标准，“公司市值不低于人民币200亿元（28亿美元），仅市值门槛一项就筛出了很多规模有限的公司，”Delphine Currie指出。

发行全球存托凭证在伦交所上市的资质要求决定了沪伦通的交易规模有限，不会在很大程度上稀释境内市场现有的股份。

王彦峰律师指出，沪伦通不是中国境内企业在伦交所上市的“捷径”，而是为他们进入海外资本市场创建了一个新的“路径”。“所以不代表在上交所上市的所有公司和行业都会同样吸引英国和全球投资者的兴趣。也不代表有了沪伦通，其他上市通道就会失去光芒。选择在中国大陆、香港地区、伦敦或美国的交易所上市各有其优势和适宜性。现阶段而言，那些具备全球发展战略的特定行业领域上市蓝筹公司更有可能跟进华泰证券的步伐，发行全球存托凭证在伦交所主板上市。”

此外，中国证监会和英国金融行为监管局(Financial Conduct Authority)还签署了《上海与伦敦市场互联互通机制监管合作谅解备忘录》，将就沪伦通跨境证券监管执法开展合作。“其中就包括将对任何市场失当行为（例如内幕交易或滥用市场）采取执法行动，”王彦峰律师提醒道，“中英两国虽在监管方面存在差异，但两国监管机构的共同目标都是保护投资者的合法权益，维护市场秩序，促进两地证券市场的健康发展。” ^{A19}

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A WEALTH OF OPPORTUNITIES

财富带来的机遇

With China now being the fastest-growing wealth market in the world, wealth management lawyers are very much in demand, providing advice on succession planning, inheritance, trusts and more. As a result, Chinese law firms have begun to specialise in this fast-growing practice area, as well as beef up their wealth management teams.

By **Asian Legal Business**

随着中国成为世界上增长最快的财富市场，对财富管理律师的需求也逐渐增加，针对传承规划、继承、信托等方面的问题提供建议。因此，中国的律师事务所开始专注于这个快速增长的业务领域，并加强其财富管理团队的建设。

作者：《亚洲法律杂志》

There are an increasing number of wealthy people in China now who require professional assistance to manage their sizeable resources, and the legal industry is gearing up to fulfill this growing need.

The total amount of individual wealth in China exceeded 146 trillion yuan (\$21 trillion) last year, according to a report by digital wealth management platform Yiren Wealth.

And that number has maintained an impressive average annual growth rate of 20 percent in the past decade. Though times have become more volatile of late due to various tensions, the growth in the last 10 years bodes well for the wealth management industry.

There are now 30 million individuals in the “mass affluent” category, which refers to those in the wealthier end of the mass market. And as for the fabulously wealthy, the number of high-net-worth individuals (HNWIs) reached 1.67 million last year.

According to the China Private Banking Report 2019 released by China

现 在中国有越来越多的富人需要专业人士来帮助他们管理其可观的资源；法律行业看到了这种趋势，因此准备好满足这种日益增长的需求。

根据数字财富管理平台宜人财富的一份报告显示，去年中国个人财富的总额超过了146万亿元（约合21万亿美元）。

在过去的十年里，这一数字保持了惊人的年均增长率，高达20%。尽管近来由于各种紧张局势，但过去10年的增长预示着财富管理行业良好的发展势头。

目前大约有3000万人处于“大众富裕”的群体类别，即大众市场中较为富裕的人群。而关于非常富有的人群，去年高资产净值人士的数量达到了167万。

根据中国建设银行和波士顿咨询公司发布的《中国私人银行2019》报告称，这167万高净值人士人均拥有600万元及以上的个人可投资金融资产。



“Hot areas these days include the top-down structural design for foreign tax residents, simultaneous planning for domestic and foreign equity trust, ownership restructuring for family business, compliant tax planning, foreign grantor trusts under U.S. laws, non-resident trusts under Canada laws and offshore ‘Granny’ trusts.”

- Zhang Jun, Dentons

“目前的热点领域包括：外国税收居民总体结构设计，国内外股权信托的同步规划，家族企业的所有权重组，合规税收筹划，美国法律规定的外国委托人信托，加拿大法律规定的非居民信托，以及离岸‘祖母信托’。”

- 张钧，大成律师事务所

Construction Bank and Boston Consulting Group, each of these 1.67 million people has individual investable financial assets of 6 million yuan and above.

CLEAR TRENDS

Zhang Jun, senior partner at Dentons, believes that the wealth management market is changing rapidly, and the trends are clear.

“What clients need are lawyers who can understand wealth management needs, who have studied this matter in depth and can execute the plans, and who can integrate service resources,” says Zhang.

Clients need services beyond private wealth management. “They also need legal services for families to grow their wealth and manage their businesses with a top-down structural design. Hot areas these days include the top-down structural design for foreign tax residents, simultaneous planning for domestic and foreign equity trust, ownership restructuring for family business, compliant tax planning, foreign grantor trusts under U.S. laws, non-resident trusts under Canada laws and offshore ‘Granny’ trusts,” says Zhang.

Zhu Tengfei, partner at Tian Yuan Law Firm, sees wealth succession and tax planning as particularly important areas for the wealthy.

“The wealth of these cross-border high-net-worth individuals has become more transparent, which makes wealth succession and tax planning important for them. The planning we emphasize is not the one in traditional sense. It comes with two levels based on the current trends: first is compliance, second are measures to reduce risks and avoid double taxation,” says Zhu.

But almost all the high-net-worth individuals are exposed to wealth management risks.

Xiao Wei, founding partner at Junhe, thinks some of it could be tricky with so much at stake.

“There’s a lot to consider, such as how to get succession done, how the children’s marriage impact the family, how to pass the wealth across generations. If it involves shareholding of a family business or a listed company, they need to think about how to control and distribute the shares. Offshore assets also involve laws and regulations of different jurisdictions,” says Xiao.

Another related trend is the protection of their wealth.

“What I mean here is protection of the ownership of their wealth, but not protection from investment risks,” says Xiao.

He says factors to consider include if the risks are separated. For example, if the entrepreneur has separated the risks of his/her family asset from his/her corporation and if the assets were acquired legally, such as tax compliance to reduce risks from non-compliance.

“The third trend is that more families and individuals are willing to donate part of their wealth to charities. This requires lawyers to make planning in terms of structure and operation,” explains Xiao.

CHALLENGES FOR LAWYERS

Dentons’ Zhang sees the service model as the biggest challenge in wealth management for lawyers and clients.

趋势清晰

大成律师事务所高级合伙人张钧认为，财富管理市场正在发生着快速变化，其趋势亦很清晰。

“客户需要的是能够理解其财富管理需求的律师。这些律师已经对这一课题进行了深入的研究，并且有能力执行财富管理计划，同时能够整合服务资源，”张律师表示。

客户需要的服务不仅仅是个人财富管理。“他们还需要服务于家族的法律服务，通过总体结构设计来增加其财富和管理其业务。目前的热点领域包括：外国税收居民总体结构设计，国内外股权信托的同步规划，家族企业的所有权重组，合规税收筹划，美国法律规定的外国委托人信托，加拿大法律规定的非居民信托，以及离岸‘祖母信托’，”张律师说。

天元律师事务所的合伙人朱腾飞认为，财富传承和税收筹划等领域对富人来说尤其重要。

“这些跨境高净值人士的财富变得更加透明，因此财富传承和税收筹划对他们来说变得非常重要。我们所强调的筹划不是传统意义上的规划，而是基于当前的趋势分为两个层次：首先是合规，其次是降低风险和避免双重征税的措施，”朱律师说。

但几乎所有高净值人士都面临财富管理的风险。

君合律师事务所的创始合伙人肖微认为，因为面临的风险很多，其中一些可能会非常棘手。

“需要考虑很多方面的问题，例如如何完成传承，孩子的婚姻会给家族带来哪些影响，代际财富传承的问题等。如果涉及家族企业或上市公司的股份，他们还需要考虑如何控制和分配股份。离岸资产还涉及不同司法管辖区的法律法规问题，”肖律师说。

另一个相关趋势是对于他们财富的保护。

“我的意思是保护他们财富的所有权，而不是保护他们免受投资风险，”肖律师解释说。

他表示，要考虑的因素包括风险是否隔离。例如，企业家是否将其家族资产的风险与其公司隔离，以及资产是否是合法获得的，包括税务合规，以降低违规风险。

“第三个趋势是，越来越多的家族和个人愿意将他们的部分财富捐赠给慈善机构。这就要求律师在结构和运作方面进行规划，”肖律师解释说。



“There needs to be highly professional lawyers with a high standard of ethical conduct who are dedicated to serving the clients, to keeping clients’ information confidential and to providing clients with an integrated solution by combining resources at home and abroad.”

- Xiao Wei, JunHe

“需要一些高度专业的律师，他们具有高标准道德操守，致力于为客户服务，对客户信息保密，并通过整合国内外资源为客户提供综合性解决方案。”

- 肖微，君合律师事务所

“There is a mismatch between a lawyer’s practice area and a client’s need for an integrated solution. It is thus essential for lawyers to combine resources and capabilities to serve the clients,” he says.

Another major challenge is the ability to provide cross-border services regarding the clients’ business development, asset allocation and residency status, and simultaneous planning is always needed.

“What is more important is that such cross-border services involve multiple jurisdictions. How to solve the legal differences among the jurisdictions to ensure compliance is undoubtedly a big challenge for lawyers,” says Zhang.

Tian Yuan’s Zhu points out that when asset allocation is put in a global context, wealth management lawyers are required to have a high level of proficiency in foreign languages. Not only that, equity adjustment could mean corporate restructuring and merger and acquisition.

Additionally, the mix of personal and professional matters that is commonplace amongst the wealthy can also prove challenging.

“A direct challenge is how to gain your clients’ trust. As family and individual wealth is often kept as a secret, it is different from working as an external lawyer to solve legal matters. So trust is the first and the biggest challenge,” says Xiao from Junhe.

A lot of the wealth management lawyers started with practicing marital and family law. To close this gap could be difficult for them.

“Combining commercial law and family law is the strongest legal protection for ensuring wealth succession and planning. It is expected that some competent foreign-focused commercial lawyers and family law lawyers will form the best group in the wealth management sector in just a few years,” says Zhu.

He feels this could prove to be a lucrative career path for foreign-focused commercial lawyers.

China’s regulatory framework for wealth management is still taking shape. And Zhu observes that although the regulatory is still being improved upon, it is possible to use the necessary legal tools to achieve wealth management goals under the current legal system.

“With that said, China still needs legislation for laws such as the trust law. The lack of legislation has to do with the failure to solve certain theoretical issues regarding the trust law and the legislature’s understanding of the social values of these laws,” says Zhu.

He suggested drawing from various wealth management tools such as banking, insurance, trusts, tax planning and wills to offer the best service for clients.

“Wealth management lawyers must have capabilities to learn as the legal framework in this regard is still being developed and improved. They also need to think about how to coordinate the laws and legal framework of other countries with China’s, which will require forward-looking thinking,” says Xiao.

“Only in this way can they help clients solve not just today’s problems but also tomorrow’s.”

LOOKING TO THE FUTURE

The development of the wealth management industry will inevitably promote and advance legal services in this area. Zhang says it is an industry consensus

律师们面临的挑战

大成律师事务所的张律师认为，服务模式是律师及其客户在财富管理中的最大挑战。

“如果律师的执业领域与客户对综合解决方案的需求不匹配，就要求律师必须将资源和能力结合起来为客户服务，”他说。

另一个重大挑战是要有能力提供与客户业务发展、资产分配和居住状态相关的跨境服务，并且能够进行同步规划。

“更为重要的是，这种跨境服务涉及多个司法管辖区。如何解决不同司法管辖区之间的法律差异以确保合规性，这无疑是律师们所面临的一大挑战，”张律师表示。

天元的朱律师指出，如果在全球范围内进行资产配置，财富管理律师必须具备较高的外语水平。不仅如此，股权调整可能还意味着企业重组和并购。

此外，富人中普遍存在的个人事务与职业问题混合在一起的情况，这也会是相当棘手的问题。

“一个直接的挑战就是如何赢得客户的信任。由于家族财富和个人财富往往被视为是秘密，因此与解决法律问题的外部律师不同。如何赢得信任是首要的、也是最大的挑战，”君合的肖律师说。

许多财富管理律师的执业起点是婚姻法和家庭法。要缩小其间的差距对他们来说可能会相当困难。

“将商法和家庭法相结合是确保财富传承和规划的最有力的法律保障。预计在今后的短短几年内，一些有实力的外国商业律师和家庭法律师将成为财富管理领域的顶尖群体，”朱律师说。

他感觉，这对于以国外业务为重点的商业律师来说可能是一条利润丰厚的职业道路。

中国的财富管理监管框架仍处于成型阶段。朱律师认为，尽管监管体系仍处于不断完善中，但在现行法律制度下，利用必要的法律工具可以实现财富管理的目标。

“尽管如此，中国仍然需要制定信托法等相关法律。由于未能解决有关信托法的某些理论问题以及立法机关尚未充分认识到这些法律的社会价值，导致了相关立法的缺失，”朱律师表示。

他建议借鉴银行、保险、信托、税务筹划和遗嘱等各种财富管理工具，为客户提供最好的服务。

“财富管理律师必须具备学习能力，因为这方面的法律框架仍在发展和完善中。他们还需要考虑如何协调其他国家与中国的法律及法律框架，这需要具有前瞻性的思维，”肖律师表示。

“只有这样，他们才能够帮助客户解决眼前和将来的问题。”

“Combining commercial law and family law is the strongest legal protection for ensuring wealth succession and planning. It is expected that some competent foreign-focused commercial lawyers and family law lawyers will form the best group in the wealth management sector in just a few years.”

- Zhu Tengfei, Tian Yuan Law Firm

“将商法和家庭法相结合是确保财富传承和规划的最有力的法律保障。预计在今后的短短几年内，一些有实力的外国商业律师和家庭法律师将成为财富管理领域的顶尖群体。”

- 朱腾飞, 天元律师事务所

that wealth management will be a regular business with great potential.

And he foresees that the breadth and depth of wealth management will eventually lead to segmentation of legal services.

“Law firms vary in terms of their brand image, management model and business. The most effective way to stand out is to find your position based on your resources and capabilities and to establish a system for this business,” says Zhang.

And after establishing your tools and resources, the best strategy is to be specialized in one area to expand your market in this legal industry ecosystem.

“A better approach is to lead the market segment and stay competitive overall,” says Zhang. “The knowledge management skills and the ability to combine services of the lawyers are keys to developing your business.”

And of course, no single lawyer or law firm would have all the things necessary at all times. To this end, Zhu suggests looking at the big picture and seeking partnerships.

“Private wealth management is a complicated task that involves the overlapping of different business areas and collaboration with clients and partners. To offer quality legal service, we must uphold the concept of win-win cooperation and work with lawyers from first-tier cities to maximize the clients’ interests,” says Zhu.

“We can cooperate with other outstanding private wealth management teams that have a big platform, resources and reputation to satisfy the clients’ needs for cross-border and multidisciplinary services.”

And it is a capable pool to draw from. Wealth management lawyers are a group of professionals who are fluent in foreign languages, specialized in commercial and family law and capable of using various legal tools to offer family businesses a one-stop solution to wealth protection and succession. Zhu stressed that lawyers in wealth management cannot afford to be operating solo.

“The competition will be on your ability to improve your reputation, integrate your resources, become more specialized and build your team and core values,” he emphasized.

Zhang says wealth management lawyers must look at four areas to stay competitive, namely: their professionalism, perspective, organization and technology.

“Professionalism of course is the fundamental requirement. Perspective means they need to think from the family’s perspective and prioritize their needs in wealth management, as balancing the family business and the family is a key requirement,” says Zhang.

“As good actions come from good organization, it is a core requirement to establish a ‘small organization’ that can integrate into the wealth management ecosystem. Meanwhile, knowledge management skills and the ability to apply technology in your services are requirements under the current trends.”

Some say Chinese families’ demand for wealth management lawyers is still in an initial stage and there is room for more development.

As Xiao sums it up: “Overall, there needs to be highly professional lawyers with a high standard of ethical conduct who are dedicated to serving the clients, to keeping clients’ information confidential and to providing clients with an integrated solution by combining resources at home and abroad.”

展望未来

财富管理行业的发展必然会促进和推动这一领域的法律服务。张律师表示，业界一致认为，财富管理将成为具有巨大潜力的常规业务。

他预计，财富管理的广度和深度最终将带来法律服务的细分。

“律师事务所的品牌形象、管理模式和业务各不相同。最有效的方法是根据自身的资源和能力找准自己的定位，并针对该项业务建立起一套体系，”张律师建议道。

创建好自己的工具和资源之后，最好的策略是专注于某一个领域，在法律行业的生态体系中经营和拓展你的市场。

“还有一个更好的方法，就是引领细分市场，保持整体竞争力，”张律师说。“知识管理技能结合律师服务能力是发展业务的关键。”

当然，没有任何一个律师或律师事务所能够随时拥有所有必需的东西。为此，朱律师建议着眼大局，寻求建立合作伙伴关系。

“私人财富管理是一项复杂的工作，涉及不同的业务领域的重叠以及与客户和合作伙伴之间的协作。为了提供优质的法律服务，我们必须坚持合作共赢的理念，与一线城市的律师合作，使客户的利益最大化，”朱律师说。

“我们可以与其他优秀的私人财富管理团队合作，这些团队拥有大型的平台、资源和声誉，从而满足客户对跨境服务和多领域服务的需求。”

这就像一群有能力的人聚集在一起。财富管理律师是一批精通外语的专业人士，他们专注于商业法律和家庭法律，能够使用各种法律工具为家族企业提供财富保护和传承方面的“一站式”解决方案。朱律师强调，财富管理领域的律师无法独自运营。

“竞争力取决于你提高声誉、整合资源、更加专业化以及建立团队和核心价值观的能力，”他强调说。

张律师表示，财富管理律师要保持竞争力必须着眼于四个方面：专业化，视角，组织架构和技术力量。

“专业化当然是基本要求。视角是指律师们需要从家族的角度看待问题，并优先考虑客户在财富管理方面的需求，在家族企业和家族之间找到平衡点是一个关键性的要求，”张律师解释道。

“良好的行动来自良好的组织，因此建立一个能够融入财富管理生态系统的‘小型组织架构’是一项核心要求。此外，知识管理技能和在服务中应用技术的能力也是当前趋势下的要求。”

有些人表示，中国家庭对财富管理律师的需求仍处于起步阶段，还有进一步发展的空间。

正如肖律师总结的那样：“总的来说，需要一些高度专业的律师，他们具有高标准的道德操守，致力于为客户提供服务，对客户信息保密，并通过整合国内外资源为客户提供综合性解决方案。”

SILVER LININGS

一线希望



The world is facing a number of important economic challenges, including the distinct possibility of a no-deal Brexit, and a sharper slowdown in China as a result of the ongoing trade war with the U.S. However, for offshore law firms, the outlook has remained bright, with work flowing in from both traditional and non-traditional sources.

By **Asian Legal Business**

全球经济面临着一系列重大的挑战，包括英国很可能会“无协议脱欧”，以及由于与美国持续的贸易战而导致中国经济进一步急剧放缓。然而，对于离岸律师事务所来说，前景仍然光明，来自传统和非传统行业的工作源源不断。

作者：《亚洲法律杂志》

“In APAC, we are seeing healthy growth in fund launches in both the fintech and blockchain space. A handful of cash-rich and sovereign-backed asset managers and fintech specialists in the region have, in a short space of time, been occupying themselves with setting up their investment fund platforms to allow interested participants to tap into their expertise and technology.”

- Maggie Kwok, Harneys

“在亚太地区，我们看到金融科技和区块链领域的基金发行量健康增长。该地区少数现金充裕且有主权支持的资产管理公司和金融科技专家在短时间内搭建起自己的投资基金平台，以便感兴趣的参与者能够利用他们的专业知识和技术。”

- Maggie Kwok, 衡力斯律师事务所

The global economy is not in a good state right now. While economic growth remains sluggish worldwide, businesses and industries have several other challenges to contend with. These include the spectre of Britain crashing out of Europe without a deal, and the ongoing trade war between the U.S. and China. However, it is not all doom and gloom from the perspective of offshore law firms, who see a steady influx of work from more established industries, as well as fast-growing new sectors in Asia.

SURGING SECTORS

Fiona Chan, partner in offshore law firm Appleby's Hong Kong office, notes a marked increase throughout various sectors.

“In particular, banking, (re)insurance, medical, pharmaceutical and biotech. These resulted in a marked increase in our offshore activities relating to different practice areas, such as banking & finance, corporate, IPOs, funds, insurance, private client and trusts and technology & innovation,” says Chan.

Lishi Fong, partner in the banking and finance practice of Harneys' Singapore office, sees an increase in activity in the funds space. In particular, there has been a growth in several credit funds and commodities funds, which she thinks is the result of Singaporean government introducing stimuli for foreign investment.

“Over the years, the government has introduced many policies to attract foreign direct investments (according to a report produced by the Economic Development Board of Singapore, foreign direct investments jumped from \$62 billion in 2017 to \$77 billion in 2018) and Singapore is seen to be politically stable with a reliable legal and regulatory system,” says Fong.

“In 2018, Singapore introduced the Variable Capital Companies Act, which is aimed at providing fund managers with an alternative form of corporate vehicle for use as a collective investment scheme. With the variable capital companies (VCC) framework, more fund managers may look to Singapore when establishing their fund,” Fong adds.

Maggie Kwok, her colleague in Hong Kong, shares similar observations.

“In APAC, we are seeing healthy growth in fund launches in both the fintech and blockchain space. A handful of cash-rich and sovereign-backed asset managers and fintech specialists in the region have, in a short space of time, been occupying themselves with setting up their investment fund platforms to allow interested participants to tap into their expertise and technology,” says Kwok, a partner in the investment funds and regulatory practice of Harneys' Hong Kong office.

Philip Graham, partner in the investment funds and regulatory practice in Harneys' BVI office, is aware of “a boom over the last three years” in three specific areas within the crypto-asset space, namely: (i) crypto-asset focused fund launches; (ii) initial coin offerings (ICOs) and in more recent times, initial exchange offering (IEOs) and security token offerings (STOs); and (iii) the establishment of digital currency exchanges.

He's certainly not alone in his view. Geoffrey Tang, senior legal manager in

当前全球的经济状况不佳。全球经济增长仍然乏力，而与此同时，企业和行业还面临着其他的挑战；其中包括由于英国可能强行“无协议脱欧”而引发的市场恐慌情绪，以及中美之间持续的贸易战。但从离岸律师事务所的角度来看，并非所有人都感到悲观和沮丧，他们看到不断有工作稳步涌入，有来自相对成熟的行业，也有来自亚洲快速增长的新兴行业。

高速增长的行业

毅柏律师事务所是一间离岸律师事务所，其香港办事处合伙人Fiona Chan指出，各个行业均有显著增长。

“尤其是银行、（再）保险、医疗、制药和生物技术等行业。这些使我们的离岸活动显著增加，涉及不同的实务领域，如银行和金融、企业、IPO、基金、保险、私人客户和信托以及技术与创新，”Chan说。

衡力斯律师事务所新加坡办事处银行和金融业务合伙人Lishi Fong则看到基金领域的活动有所增加；特别值得一提的是，几家信贷基金和商品基金有所增长，她认为这是新加坡政府出台了外商投资激励政策的结果。

“近年来，新加坡政府出台了許多吸引外商直接投资的政策（根据新加坡经济发展局的一份报告，外商直接投资从2017年的620亿美元跃升至2018年的770亿美元）。新加坡一向被视为拥有稳定的政治环境和可靠的法律法规体系，”Fong说。

“2018年，新加坡推出了可变资本公司法案，旨在为基金经理提供一种替代形式的公司工具作为集体投资计划。凭借可变资本公司（VCC）框架，更多的基金经理在设立基金时可能会关注新加坡，”Fong补充道。

她在香港的同事Maggie Kwok也持类似的观点。

“在亚太地区，我们看到金融科技和区块链领域的基金发行量健康增长。该地区少数现金充裕且有主权支持的资产管理公司和金融科技专家在短时间内搭建起自己的投资基金平台，以便感兴趣的参与者能够利用他们的专业知识和技术，”Kwok说。Maggie Kwok是衡力斯香港办事处投资基金和监管业务合伙人。

衡力斯英属维尔京群岛办事处投资基金和监管业务合伙人Philip Graham注意到，加密资产领域的三个特定领域“在过去三年里蓬勃发展”，即：（i）专注于加密资产的基金发行；（ii）首次代币发行（ICOs）以及最近出现的ICOs新的替代方案，首次交易发行（IEO）和证券型代币发行（STOs）；以及（iii）建立数字货币交易所。

Ogier's Hong Kong corporate team, notes the cryptocurrency and blockchain-based technology sectors are seeing a lot of interest in the region and particularly in Singapore.

The general fascination with blockchain alone is enough to drive the growth. However, there remains much accompanying nervousness about it.

"Anecdotally, most people accept that in certain ways, the rise of blockchain will fundamentally change every industry on the planet. Digital currencies are just a small part of it, but with the general awareness of Bitcoin and other altcoins, they lead the charge for the blossoming disruptive force," Graham explains.

"Clearly, growth is also driven by valuation and with the wildly fluctuating cryptocurrency prices, investors remain fascinated by this space, if not slightly terrified."

Besides blockchain, Ian Mann, Harneys' Asia managing partner and the long-term head of its litigation and restructuring practice group in Hong Kong, thinks e-commerce has been a big driver of fintech in the region. However, it might be slowing down now.

"In Asia, basic e-commerce payment gateways combining direct-to-market customer participation with fully branded or 'white-label' full-service delivery has driven early fintech innovation. The market is probably slowing after initial low barrier to entry participation saturation," he says.

CHALLENGES

Despite the interest, Tang says regulators have been adopting a more cautious approach given the perceived volatility of the crypto/blockchain sector.

Graham is even more vocal, naming "regulation, regulation, regulation" as the key hurdle in this area.

"As with any new industry, the global regulatory bodies are desperately trying to bend and flex their existing laws to try and meet the relevant requirements in this space. But largely failing miserably. This will be a constantly evolving story through time, but at the moment, they simply cannot keep up with the evolutionary process, which means they constantly over or under regulate the area," says Graham.

"This leads to a lot of the protagonists regularly "jurisdiction shopping" to find the most suitable home for their product. Some wish to operate entirely without regulation and there are jurisdictions which offer that. Some wish to operate squarely within a regulatory framework, but need those laws to be carefully thought through and allow enough flexibility for their product to flourish," he adds.

To allow space for growth but to maintain enough control, regulators have created testing grounds via sandboxes, particularly for the fintech industry.

"Regulators in APAC have demonstrated their commitment and drive for innovation by adopting regulatory sandboxes, which are formal programs

他肯定不是唯一注意到这些情况的人。奥杰律师事务所香港企业团队的高级法律经理Geoffrey Tang指出,加密货币和基于区块链的技术行业在该地区尤其是新加坡引起了(投资者们)很大的兴趣。

仅仅对区块链的普遍关注就足以推动增长。但随之而来的还伴随着很多紧张情绪。

"有趣的是,大多数人都认为,从某些方面来讲,区块链的兴起将从根本上改变地球上的每一个行业。数字货币只是其中的一小部分,但随着人们对比特币和其他类似竞争币(Altcoins)的普遍认识,它们引领了这股蓬勃发展的颠覆性力量,"Graham解释道。

"显然,增长也受到由估值和加密货币价格大幅波动的推动,投资者们仍然对这个领域着迷,如果不是感到有点害怕的话。"

衡力斯亚洲管理合伙人兼香港诉讼及重组业务部门主管Ian Mann认为,除区块链以外,电子商务一直是该地区金融科技的重要推动力。但现在可能会有所放缓。

"在亚洲,基本的电子商务支付网关将直接面向市场的客户参与与全品牌或'白标'全方位服务交付相结合,推动了金融科技的早期创新。在最初的低门槛参与达到饱和后,市场增长可能正在放缓,"他说。

挑战

Tang表示,虽然感兴趣,但鉴于加密/区块链行业的波动性,监管机构一直采取更加谨慎的做法。

Graham则更加直截了当,他表示"监管,监管,还是监管"是该领域的主要障碍。

"像对待任何一个新行业一样,全球监管机构正在拼命试图变通或修改现有法律,试图满足这一领域的相关要求。但大部分都以惨败收场。随着时间的推移,情况将会不断演变;但目前,他们根本无法跟上发展进程,这意味着他们现在的做法不是对该领域监管过度就是监管不足,"Graham说道。

"这导致很多发行方定期到不同的司法管辖区'逛逛',为他们的产品寻找最合适的家。有些人希望完全没有监管地运作,有些司法管辖区提供了这种服务;而有些人则希望在监管框架内正常运作,但需要监管机构对相关法律进行认真考量并给予足够的灵活性,使他们的产品得以蓬勃发展,"他补充道。

在留出增长空间的同时保持足够的控制,监管机构利用沙盒建立了测试场,特别是针对金融科技行业。

"Although the reform of regulatory regimes in Asia to facilitate capital raisings by companies in emerging and innovative industries is a welcome one, most of these expanded regimes in Asia have only been in place for a short time."

- Geoffrey Tang, Ogier

"尽管亚洲监管制度改革促进了新兴和创新产业公司的资本筹集活动,是一项受欢迎的改革,但大多数亚洲这些扩大的监管制度都刚刚开始实施不久。"

- Geoffrey Tang, 奥杰律师事务所

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designed to test financial services and business models with actual customers, subject to certain safeguards and oversight," notes Kwok.

Regulatory sandboxes have been launched in various jurisdictions in the region including Hong Kong Securities and Futures Commission's Regulatory Sandbox, Singapore's Fintech Regulatory Sandbox and Japan's Fintech Proof of Concept Hub.

However, regulators have been more accommodating with other industries.

"As the number of listed companies from more established sectors increases, a number of jurisdictions in Asia have been expanding their listing regimes to facilitate the listing of companies from emerging and innovative sectors," says Tang.

"The growth of the biotech, fintech and blockchain-based technology sectors in Asia broadly dovetail with the growth of these sectors globally as investors seek higher potential returns and to diversify their investments. The acknowledgement by regulators in Asia of the need to adapt their regulatory regimes to facilitate capital raisings by companies in these sectors to remain globally competitive has also served to drive this growth."

Examples of this include the expanded listing regime for biotechnology companies in Hong Kong, who have traditionally had difficulty meeting the financial eligibility tests for listing. And companies with dual-class share structures with weighted voting rights in Hong Kong and Singapore, who have traditionally not been able to list without collapsing such structures.

"Although the reform of regulatory regimes in Asia to facilitate capital raisings by companies in emerging and innovative industries is a welcome one, most of these expanded regimes in Asia have only been in place for a short time," says Tang.

Thus, he says some companies are reluctant to be the "first mover" to list under the expanded regimes and are waiting for market practice to settle and develop first.

Regulatory development is a key topic in the challenges of other booming sectors too.

Fong says the VCC is new and has not been tried and tested. Although the legal framework for setting up the VCC is in place, there may be practical issues which will only be known when one is setting up the VCC.

Prabha Sasidharan, senior associate at Appleby, says the legal hurdles for any new industries are often linked to the development of the legal and regulatory regimes of any relevant country.

For instance, the SFC in Hong Kong had only issued guidelines to regulate digital assets towards the end of 2018 by imposing licensing conditions on intermediaries who manage or distribute funds investing in virtual assets of more than 10 percent of their portfolio, irrespective of whether virtual assets meet the definition of "securities" or "futures contracts."

These include guidance on custody requirements, portfolio valuation and risk management. The issuance of eight digital bank licenses by the Hong Kong Monetary Authority only occurred in 2019, after years of discussions.

"All these proactive steps are welcoming signs that the jurisdiction is positively defining the regulatory framework within which businesses may operate, but further development and refinement are required for such frameworks to become mature," says Sasidharan.

ADVANTAGES AND OPPORTUNITIES

But Fong believes that Cayman funds will co-exist with VCCs, given the



Kwok指出：“通过采用监管沙盒，亚太地区的监管机构展示了他们的决心和创新动力。监管沙盒是一些正式的计划，旨在测试金融服务和商业模式与实际客户之间的关系，并受到一定的保障和监督。”

亚太地区的各个司法管辖区都已推出了监管沙盒，包括香港证券及期货事务监察委员会的监管沙盒，新加坡的金融科技监管沙盒和日本的金融科技概念验证中心。

然而，监管架构对其他行业表现得更为宽容。

“随着来自更成熟行业的上市公司数量的增加，亚洲的一些司法管辖区一直在扩大其上市制度，以促进新兴和创新行业的公司上市，”Tang说道。

“随着投资者们寻求更高的潜在回报并实现投资多元化，亚洲地区的生物技术、金融科技和区块链技术行业的增长与这些行业在全球范围内的增长大致相吻合。亚洲监管机构承认需要调整其监管制度，以促进这些行业的公司提高筹集资金的能力以保持其全球竞争力，这也有助于推动增长。”

这方面的例子包括香港扩大了生物科技公司的上市制度，以往这些公司很难满足上市的财务资格测试；再比如拥有加权投票权的双重股权结构的公司现在可以在香港和新加坡上市了，以往这类公司如果想在香港或新加坡上市，必须打破这类股权结构。

“尽管亚洲监管制度改革促进了新兴和创新产业公司的资本筹集活动，是一项受欢迎的改革，但大多数亚洲这些扩大的监管制度都刚刚开始实施不久，”Tang说道。

因此，他表示，一些公司不愿意成为在扩大制度下上市的“先行者”，而是选择先等待市场形成惯例并稳定之后。

监管发展也是其他新兴行业面临挑战的一个关键议题。

Fong表示，VCC是一种新的形式，尚未经过试验和测试。尽管建立VCC的法律框架已经到位，但可能仍存在一些实际的问题，只有在建立VCC时才能发现。

毅柏的资深律师Prabha Sasidharan表示，任何新行业的法律障碍往往与相关国家的法律和监管制度的发展息息相关。

举例来说，香港证监会于2018年年底才发布了指引对数字资产进行监管，投资于其投资组合中超过10%的虚拟资产的基金，对管理或分配此类基金的中介机构进行许可条件管理，不论是否有虚拟资产符合“证券”或“期货合同”的定义。

其中包括托管要求、投资组合估值和风险管理方面的指导。经过多年的讨论之后，直至2019年，香港金融管理局才发出了8份数字银行牌照。

“In 2018 Bermuda introduced a new legal and regulatory framework designed to govern and regulate initial coin/token offerings and the digital asset business and InsurTech sectors. The Cayman Islands and the BVI both have flexible systems and are well placed to become an attractive destination for technology entrepreneurs.”

- Prabha Sasidharan, Appleby

“2018年，百慕大推出了一个新的法律和监管框架，旨在管理和监管首次代币发行以及数字资产业务和保险科技领域。开曼群岛和英属维尔京群岛都拥有灵活的体系，并且有能力成为对科技企业具有吸引力的目的地。”

- Prabha Sasidharan, 毅柏律师事务所

familiarity international investors have with the Cayman fund structure. Therein lies the opportunity for offshore firms.

“There will be more cross-selling opportunities between offshore firms and onshore firms as we will have clients wanting to explore the VCC structure and clients of onshore law firms may want to explore the Cayman or Luxembourg fund structure. We play a supporting counsel role in the funds formation space and we will continue to work closely with the onshore counsel to support our clients and provide them with innovative and practical solutions,” says Fong.

In comparison with Asian jurisdictions, Sasidharan says there are less legal hurdles in Bermuda, the Cayman Islands and the BVI.

“In 2018 Bermuda introduced a new legal and regulatory framework designed to govern and regulate initial coin/token offerings and the digital asset business and InsurTech sectors. The Cayman Islands and the BVI both have flexible systems and are well placed to become an attractive destination for technology entrepreneurs,” says Sasidharan.

Her colleague Chan expands on other features of offshore jurisdictions.

“Based on the attractiveness of BVI corporate vehicles for international businesses, asset holding and investments, there has been a steady increase in the use of BVI companies as holding and operating companies across the technology industry. The BVI had also introduced flexible know-your-customer rules that allow digital verification of identities rather than the traditional “wet-ink” paper-based system,” says Chan.

“The regulators in the Cayman Islands and the BVI have both developed initiatives for establishing a technology-neutral regulatory sandbox to encourage, foster and incubate companies operating in the fast-moving sector of fintech. The legal framework in these jurisdictions is more mature and developed than most Asian countries.”

Ogier’s Tang describes the use of offshore jurisdictions by companies in the fintech and blockchain-based technology-based sectors as “exceedingly popular.”

“Many of the established offshore jurisdictions (for example, the Cayman Islands and the BVI) combine tax neutrality with a stable and internationally recognised legal platform,” says Tang.

For those companies from other emerging and innovative sectors that wish to come to market, the traditional advantages of using an offshore jurisdiction remain, including the flexible nature of offshore company law to facilitate the compliance with listing and ongoing requirements for listed companies; speed and efficiency in setting up new offshore entities; and robust common law legal system based on English law.

Therefore, offshore law firms are well placed to advise companies from these sectors on the advantages of using offshore jurisdictions for their businesses and navigating the relevant regulatory and legal requirements from early stage

“所有这些积极主动的措施都表明，各司法管辖区正在积极地界定企业可以在其中运营的监管框架，但需要进一步发展和完善才能使这些框架逐渐成熟，”Sasidharan说。

优势与机遇

但Fong认为，鉴于国际投资者对开曼基金结构的熟悉程度，开曼基金将与VCC共存。这是离岸律所的机会。

“离岸律所和在岸律所之间将有更多的交叉销售机会，因为我们（作为离岸律所），我们的一些客户可能希望探索VCC结构，而在岸律所的一些客户可能希望探索开曼或卢森堡基金结构。我们在基金形成领域发挥着支持律师的作用，我们将继续与在岸律师密切合作，为我们的客户提供支持，并为他们提供创新和实用的解决方案，”Fong表示。

Sasidharan说，与亚洲司法管辖区相比，百慕大、开曼群岛和英属维尔京群岛的法律障碍相对较少。

“2018年，百慕大推出了一个新的法律和监管框架，旨在管理和监管首次代币发行以及数字资产业务和保险科技领域。开曼群岛和英属维尔京群岛都拥有灵活的体系，并且有能力成为对科技企业具有吸引力的目的地，”Sasidharan说。

她的同事Chan详细介绍了离岸司法管辖区的其他特点。

“基于英属维尔京群岛公司工具对国际业务、资产持有和投资的吸引力，有越来越多科技行业的企业用英属维尔京群岛公司作为其控股和运营公司。英属维尔京群岛还引入了灵活的“了解你的客户”规则，允许对身份进行数字验证，而不是传统的纸质系统，”Chan说。

“开曼群岛和英属维尔京群岛的监管机构都制定了有关建立技术中立监管沙盒的举措，以鼓励、培育和孵化正在快速发展的金融科技领域运营的公司。这些司法管辖区的法律框架比大多数亚洲国家更加成熟和先进。”

谈到金融科技和基于区块链技术的行业中公司对离岸司法管辖区的使用时，奥杰的Tang将之描述为是“非常受欢迎的”。

“许多成熟的离岸司法管辖区（例如开曼群岛和英属维尔京群岛）将税收中性与稳定且国际公认的法律平台相结合，”Tang说道。

对于其他新兴和创新行业希望上市的公司而言，利用离岸司法管辖区的传统优势仍然存在，包括离岸公司法的灵活性，以促进上市的合规性以及符合上市公司的持续要求；建立新的离岸实体的速度和效率；以及基于英国法律的健全的普通法法律体系。

因此，离岸律师事务所具备充分的条件为这些行业的公司提供建议，说明利用离岸司法管辖区开展业务的优势，以及从早期到上市（或上市后）的相关监管和法律要求。

根据衡力斯的说法，事实证明，英属维尔京群岛和开曼群岛的司法管辖区非常欢迎这一业务线，因此，离岸律所已经在该领域看到了大量的工作。

to when they come to market (and beyond).

According to Harneys, the jurisdictions of the BVI and the Cayman Islands have proved exceptionally welcoming to this line of business and as a result, offshore firms have seen a huge amount of the work in this area.

“Harneys took a pioneering role in the cryptocurrency space back in 2016 with several exceptionally talented clients from the west coast of the US, whilst all of our competitors initially took a backseat. Since then, we have launched over 100 crypto-asset focused funds across both jurisdictions with clients based all over the world,” says Graham.

The firm has also claimed to be involved with some of “the truly premier ICOs,” including the world’s largest (at the time) in 2017 when a client raised \$1.7 billion using a BVI domiciled vehicle.

“Both jurisdictions have regulators who are keen to get the relevant laws in this area exactly right and private sectors who have genuine expertise with this unique type of work. We find clients continue to come to us directly and so offshore law firms are truly at the coal-face of this industry,” says Graham.

WINNING, RETAINING CLIENTS

While the benefits of tapping an offshore legal firm are clear, the path to winning and retaining the clients is another artform of its own. Many of those that Asian Legal Business spoke to have a view on how to do it.

“As many companies from the emerging and innovative sectors are still early-stage companies and may not have a clearly delineated legal function, it is important for offshore firms to build relationships early, be pro-active in considering alternative legal structures that enable their clients to achieve their commercial aims and become trusted advisers to these companies on an ongoing basis (rather than on a project to project basis),” says Tang.

Tang also cites flexibility in pricing as important as these companies may be operating under stringent budget constraints as they seek to grow their businesses.

Graham thinks showing a willingness to understand their client’s business and needs is key.


“Besides that, having dedicated teams on the ground with local network and expertise in the various regions working with the onshore regulators to ensure that the laws are suitable and appropriate. We are still at a very embryonic stage and so being nimble and pragmatic as the evolutionary process unfolds will also be crucial,” he says.

Appleby’s Sasidharan believes it to be imperative for offshore firms to develop a clear strategy both globally and locally and provide an all-round service covering key offshore jurisdictions.

In preparation, she says that the firm has for the past few years developed a global Technology & Innovation group with a sizable Hong Kong team focusing on China, Hong Kong and Singapore.

Language skills are also a winning factor.

“Our language capabilities allow us a considerable advantage in assisting clients with a Chinese background,” says Chan. She adds that her firm can provide advice from the initial set up of corporate structures right through to complex legal analysis. And in a fast-moving sector, informing and updating clients is highly beneficial.

“Our service to the clients does not end with the completion of our legal work – we continue to update clients as the law and regulation evolve, which is essential given these fast-changing industries,” she says. 

“早在2016年，衡力斯就在加密货币领域发挥了先锋作用，拥有几位来自美国西海岸的优秀客户，而我们所有的竞争对手在最初阶段都处于次要地位。从那时起，我们已经在这两个（离岸）司法管辖区推出了100多只专注于加密资产的基金，在全球各地都有我们的客户，”Graham说。

该律所还声称参与了一些“真正成功的ICO”，其中包括2017年（当时）全球最大的ICO，客户使用英属维尔京群岛注册的工具筹集了17亿美元。

“这两个司法管辖区都有监管机构，他们热衷于在这一领域实施完全正确的相关法律，而这两个司法管辖区的私营部门对这一独特类型的工作拥有真正的专业知识。总是有客户直接找到我们代理业务，所以该行业的离岸律师事务所绝对有很多实际的工作要做，”Graham说。

赢得并留住客户

虽然开拓离岸律师事务所的好处显而易见，但关于如何赢得并留住客户，各个律所都有自己的窍门。《亚洲法律杂志》采访了许多法律界人士，他们对此有各自不同的看法。

“由于许多新兴和创新行业的公司仍然处于早期发展阶段，可能还没有明确界定法律职能；因此离岸律所必须尽早建立关系，积极主动地考虑帮助其客户建立替代法律结构，从而帮助他们实现其商业目标；通过这种方式与这些公司建立持续的合作关系，成为这些公司值得信赖的长期法律顾问，而不仅仅提供基于项目的法律服务，”Tang表示。

Tang还提到定价的灵活性。由于这些公司正处于寻求业务增长的阶段，因此可能受到严格的预算限制。

Graham认为，明确表达愿意了解客户的业务和需求，这一点很关键。


“除此以外，在当地建立具备专业知识的专门团队，与当地各部门建立联络，并与在岸监管机构合作，以确保法律适用和适当。我们仍然处于萌芽阶段，因此随着发展过程的推进，保持灵活、务实也是至关重要的，”他说。

毅柏的Sasidharan认为，离岸律所必须在全球和本地制定明确的战略，并提供覆盖主要离岸司法管辖区的全方位服务。

她表示，在筹备过程中，毅柏在过去几年里建立起了一个全球技术与创新部门，拥有一支具有相当规模的香港团队，专注于中国、香港和新加坡的业务。

语言能力也是取得成功的一个因素。

Chan表示：“我们的语言能力使我们在帮助具有中国背景的客户方面具有相当大的优势。”她们律所可以提供全面的法律建议，包括从最初建立公司结构到复杂的法律分析。在快速发展的行业中，与客户保持沟通，帮助客户了解最新的进展情况是非常有益处的做法，Chan补充道。

“我们对客户的服务并不是随着我们法律工作的完成就结束了。我们会不断为客户提供法律法规的发展和更新情况，这对于处于快速变化行业的企业来说是非常重要的，”她说。 

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