



HERBERT
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ASIA PACIFIC M&A REVIEW 2017



CONTENTS

- 01 Welcome**
Asia Pacific M&A Review 2017
- 03 Australia**
Big deals feature amid increasing complexity
- 05 China**
Outbound deals surge but uncertainties and risks ahead
- 07 Industry focus: Mining**
Divestments drive M&A
- 09 Hong Kong**
Opportunities despite global uncertainties
- 11 India**
Asia's bright spot for M&A
- 13 Industry focus: Private Equity**
Back to buy side
- 15 Indonesia**
Opportunities in new emerging sectors
- 17 Japan**
Continued growth in M&A activity
- 19 Industry focus: Energy**
Opportunities in a disrupted landscape
- 21 Malaysia**
Resilience and opportunities
- 23 Myanmar**
Rapid change, many opportunities
- 25 Singapore**
Asset management and fintech strengths
- 27 South Korea**
M&A steady despite political headwinds
- 29 Industry focus: TMT**
Technology stems decline in telecoms and media
- 31 Thailand**
A significant M&A player emerges
- 33 2016 Australasian M&A league tables**
- 34 Herbert Smith Freehills achievements**
Asia Pacific M&A
- 35 Contributors**
Contact directory

ASIA PACIFIC M&A REVIEW 2017

WELCOME

Welcome to the Herbert Smith Freehills Asia Pacific M&A Review for 2017.

In this edition we survey the 2016 year in M&A across the Asia Pacific region and discuss the expected market trends for 2017 and beyond.

2017 is a particularly exciting year for Herbert Smith Freehills, as it expects to open a new office in Kuala Lumpur, Malaysia in May 2017.

Should you have any questions in relation to M&A in the Asia Pacific region, please contact our partners across our network.

Andrew Pike & Lewis McDonald



Andrew Pike
Head of Corporate - Australia
T +61 2 9225 5085
M+61 416 225 085
andrew.pike@hsf.com



Lewis McDonald
Head of Corporate - Asia
T +82 2 6321 5711
M+82 10 3609 0320
lewis.mcdonald@hsf.com

Herbert Smith Freehills

2016 was another strong year for Herbert Smith Freehills. The firm was the top non-US headquartered firm for M&A globally (by deal value) and acted on more announced M&A deals in Australia and Australasia than any other firm.

Source: Thomson Reuters, Mergermarket



PAN-ASIAN M&A IN 2016

Key themes across the 2016 Asia Pacific M&A market include:

1

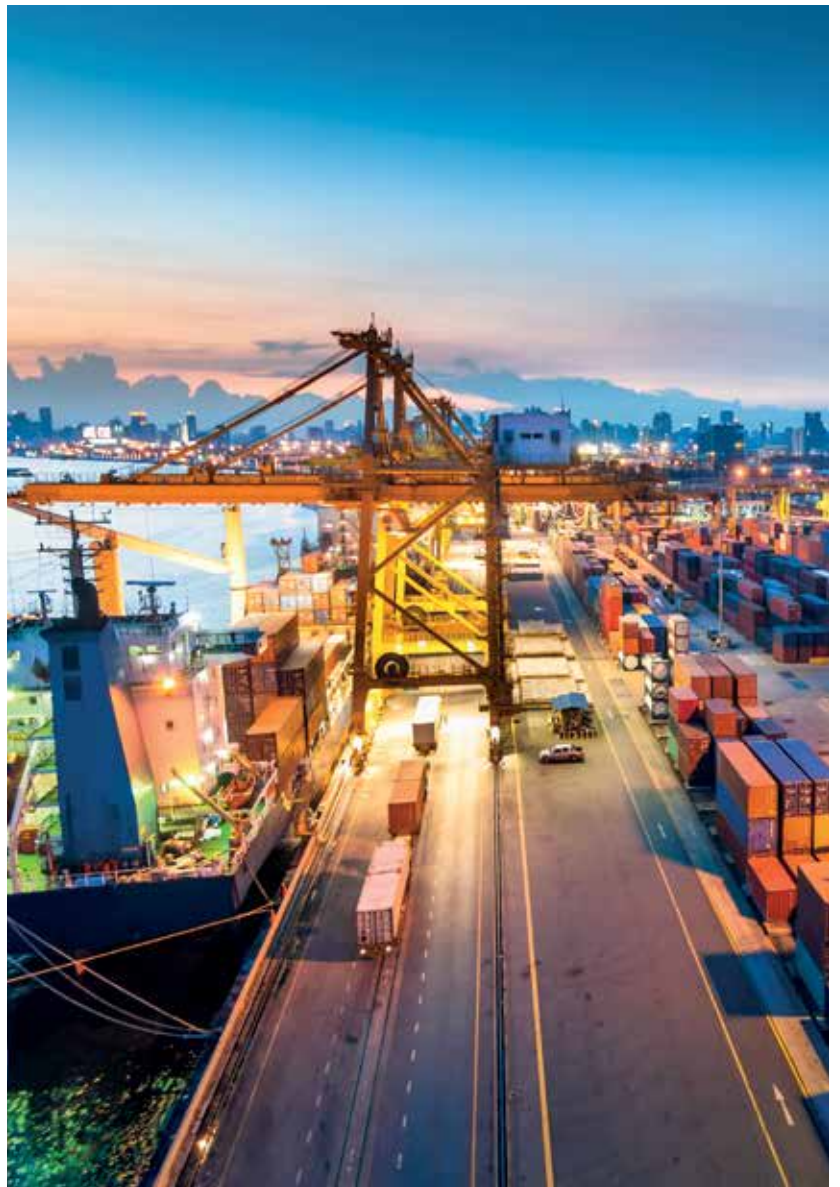
Chinese outbound M&A activity reached record levels in 2016, with the value of deals almost double that for 2015. Importantly, the investment mix moved beyond the traditional primary industries into the technology, industrial, chemical and consumer sectors.

2

Private equity was again active throughout the Asia Pacific region. In particular, many jurisdictions reported a significant uptick in buy-side activity in 2016, following higher exit activity in FY2014 and FY2015.

3

M&A in the mining sector was characterised by a fall in aggregate deal value, but with an increase in the number of deals being undertaken. One driver of that activity was the asset divestment programs pursued by a number of major miners, typically via private M&A auctions.



ASIA PACIFIC YEAR AHEAD

Predictions for the Asia Pacific M&A market for 2017 include:

1

Continued growth in investment in fintech and renewable energy technologies, which will become significant drivers of M&A activity across the Asia Pacific region.

2

Uncertainty in relation to the level of Chinese outbound investment following the decision to address currency depreciation and capital outflows by increasing regulatory scrutiny of overseas deals and significant forex transactions.

3

Investors will be presented with a selection of opportunities in the oil and gas sectors as companies look to restructure asset portfolios and reduce gearing.



AUSTRALIA

BIG DEALS FEATURE AMID INCREASING COMPLEXITY



2016 HIGHLIGHTS

- We saw a number of very large infrastructure transactions during 2016, including Ausgrid, Port of Melbourne and Asciano.
- Those deals influenced the overall value of M&A transactions, and disguised a softer M&A market at lower value levels.
- Foreign acquirers remain a prominent part of the Australian M&A scene. During 2016, this has given rise to many concerns about foreign investment approvals, including limits being imposed on the level of foreign ownership in key infrastructure assets and new conditions being imposed to protect the government's tax base. This has created an apprehension of uncertainty in some proposed transactions.



Tony Damian
Partner

T +61 2 9225 5784
M +61 405 223 705
tony.damian@hsf.com



Rodd Levy
Partner

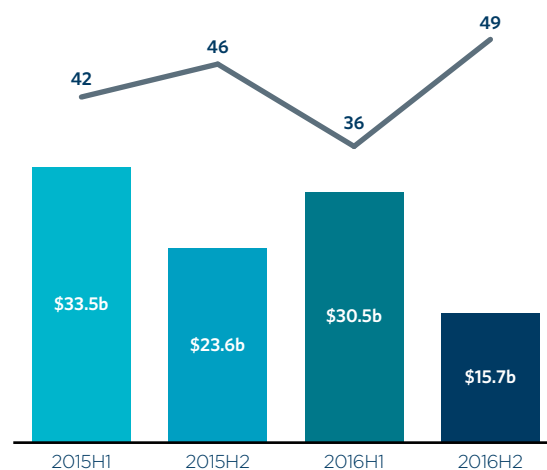
T +61 3 9288 1518
M +61 417 053 177
rodd.levy@hsf.com

THE STATE OF THE MARKET

Overall, the market value of Australian M&A has been very steady in 2016 compared to previous years. 2016 saw a significant number of very large private M&A transactions, including the sale and long-term lease of 50.4% of the Ausgrid electricity network for A\$16.4b and the sale via long-term lease of Port of Melbourne for A\$9.7b. In the public M&A space, similarly sized deals included the long-running break up sale of Asciano for A\$8.7b. All of these mega-deals included Herbert Smith Freehills playing a key role.

Despite this surge in mega-deals, mid-level deals in the space between A\$500m and A\$1b have been fewer.

As illustrated in the following graph, 85 Australian public M&A deals were announced in 2016, which was broadly consistent with 2015 figures. Whilst the cumulative value of those transactions was slightly lower than 2015 levels, this was more than offset by the significant value of private M&A deals announced throughout the year.



Total value (A\$b) and number of Australian public M&A deals

Source: Mergermarket*

HIGHLIGHTS FROM SELECT TRANSACTIONS

2016 saw the resolution of the bidding war for Asciano, with Qube and Brookfield and their various co-investors ultimately uniting as a consortium to acquire the company. The finalised deal was structured as a 'consortium break-up bid' by scheme of arrangement and involved the acquisition of Asciano by a special purpose vehicle and its effectively contemporaneous break-up into three separate companies, reflecting Asciano's business units. In this way, the bid provided for the acquisition of a large target, but also allowed consortium members to break off a smaller entity which the relevant consortium member then controlled.

Ferrovial S.A.'s hostile cross-border off-market takeover of Broadspectrum also attracted interest in 2016. The hostile bid, ultimately recommended by the Broadspectrum Board, occupied headlines over a number of months due to various unexpected developments relating to Broadspectrum's operation of regional immigration processing centres in Nauru and Manus Province, including a decision of the PNG Supreme Court in April 2016 finding that the detention of asylum seekers in the Manus Province processing centre was unconstitutional. Following those developments the Broadspectrum Board revised their recommendation to 'accept' given the uncertainty relating to the impact of those developments on the company. Ferrovial subsequently received acceptances for more than 90% of Broadspectrum shares and proceeded to compulsory acquisition.

PREDICTIONS FOR 2017

Our key predictions for M&A in Australia in 2017 are as follows:

- 1 Inbound M&A from China and North America**

Recent word of renewed scrutiny on outbound acquisitions by Chinese companies, perhaps driven by leveraging concerns, suggests that Chinese bidders will be less active in 2017 than in recent years. We expect this to be a focus of the first half of 2017. Australia remains a friendly destination for foreign and Chinese investment, and this is likely to remain so as other developed economies apply their own renewed focus to foreign investment. In FY2016, North American bidders provided 40% of deal value in Australian public M&A. There were also many significant private M&A processes in which North American bidders participated. We think 2017 will see a continued focus on Australia from US and Canadian companies and funds. Business deregulation in the US is an area of common ground for the incoming Administration and Congressional Republicans. Favourable developments on that front will give US companies confidence to continue executing M&A deals. We also see continuing strong interest on Australian assets from the Canadian side of things.
- 2 Foreign Investment Review Board stays centre stage**

Barely a week went by in 2016 without FIRB hitting the headlines, with the Ausgrid knock-back in July being the most prominent instance. We expect FIRB considerations to remain a significant part of transactions across a wide array of sectors (not least infrastructure, utilities and agribusiness).
- 3 Consortium and break-up bids**

We see strong prospects for more consortium bids in 2017 – both for regulatory reasons (FIRB and ACCC) and in order to facilitate access to different parts of targets' businesses. This trend is evidenced by the Asciano break-up transaction, the Macquarie-led consortium proposal to break up Tatts Group, the Australian/Chinese bidding consortium for the Kidman cattle station group and various other transactions. All have brought together bidders who have different objectives and involve the eventual break-up of the assets to be acquired.
- 4 Bear hug season**

With hostile bids becoming a little less popular in recent times, we expect bidders to exert pressure on target boards through bear hug approaches. Leaks and announcements of desires to do deals will be a common part of the M&A landscape in 2017.
- 5 Sectors**

Infrastructure and mining look like top picks across the sectors for 2017. The hopefully green shoots in some mineral prices might spur confidence with positive M&A driving the sector. We also suspect that high levels of interest in the renewables sector will continue, and that property might see some M&A activity.

2016 – KEY DEALS

- **Break up of Asciano** – The Brookfield/Qube consortium's A\$8.9b acquisition of Asciano by scheme of arrangement in 2016 followed a series of hotly contested but ultimately unconsummated takeover bids for the company in 2015. The scheme was structured as a consortium break-up bid, resulting in Asciano's division into three separate companies, reflecting its business units.
- **Sale of Ausgrid by NSW Government** – Following the Federal Treasurer's decision to block earlier bids for Ausgrid by Chinese and Hong Kong bidders and the subsequent re-launch of the sale process, a consortium consisting of IFM Investors and AustralianSuper successfully concluded an agreement with the NSW Government for the A\$16.4b sale and long-term lease of 50.4% of the Ausgrid electricity network.
- **Proposed combination of Tabcorp and Tatts Group** – The proposed merger of Tatts Group and Tabcorp Holdings by scheme of arrangement offered Tatts shareholders a mix of cash and Tabcorp scrip and, if successful, will result in the creation of a A\$11.3b gaming giant. As at the date of this publication, one competing proposal has been received by the Tatts board but dismissed as not superior to the proposed Tabcorp merger.
- **Acquisition of Pacific Brands** – The unsolicited A\$1.1b bid by US clothing giant HanesBrands for Australian consumer products and retail company Pacific Brands offered shareholders a combination of cash and a fully franked special dividend and was effected by scheme of arrangement.
- **Broadspectrum takeover** – The unsolicited and vigorously defended A\$1.2b bid for Broadspectrum by Spanish infrastructure group Ferrovial, which followed an unsuccessful bid for Broadspectrum in 2014, set the scene for a series of hostile bids in 2016.

Herbert Smith Freehills acted on each of the transactions described above.

CHINA

OUTBOUND DEALS SURGE BUT UNCERTAINTIES AND RISKS AHEAD



2016 HIGHLIGHTS

- While domestic public M&A activity in China softened somewhat from 2015 levels, outbound M&A surged to a record high.
- We saw a broad universe of Chinese acquirers executing outbound M&A transactions with an increase in pace and deal size.
- China is stepping up measures to stem capital outflows in the midst of continuing renminbi depreciation pressure which will have an impact on outbound deal flows in 2017.



Tom Chau
Partner
 T +86 10 6535 5136
 M +86 135 0109 7809
 tom.chau@hsf.com



Nanda Lau
Partner
 T +86 21 2322 2117
 M +86 136 8191 7366
 nanda.lau@hsf.com



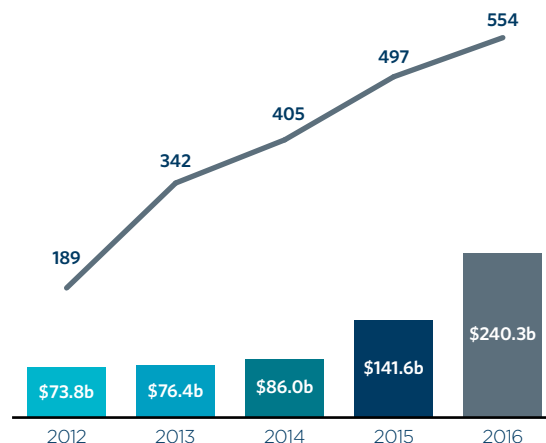
Monica Sun
Partner
 T +86 10 6535 5122
 M +86 151 1695 7877
 monica.sun@hsf.com

THE STATE OF THE MARKET

China's outbound M&A surged significantly in 2016 with 554 announced deals and total deal value of US\$240.3b overtaking all annual counts and total values on record for outbound M&A.

The value of outbound M&A activity in the first half of 2016 alone was greater than the previous annual record of US\$141.6b set in 2015.

Inbound M&A activity remained commensurate with deal count and total value in 2015, while domestic public M&A activity softened somewhat from 2015 levels.



Total value (\$USb) and number of Chinese outbound M&A deals

Source: Mergermarket

OUTBOUND M&A CONTINUED TO SURGE

Chinese buyers have been playing an increasingly important role in global M&A activities in 2016. The types of foreign businesses that Chinese companies are most interested in have moved beyond the traditional resource and energy sectors into the technology, industrial, chemical and consumer spaces. This trend closely mirrors the broader economic transition that is currently underway in China – which focuses on shifting away from export-driven manufacturing and moving toward high-end, high-tech R&D and domestic consumption.

CONTROL ON CAPITAL OUTFLOW

Facing continuing pressure on renminbi depreciation and excessive capital outflows, China decided to put a brake on outbound M&A activity in the last quarter of 2016 by announcing various measures, including increasing regulatory scrutiny of overseas deals and significant forex transactions. Many interpreted this as a major setback to the renminbi

internationalisation process and one which creates significant uncertainties for Chinese outbound investments going forward.

RATIONALISATION OF FOREIGN INVESTMENT

China continued to send mixed messages in 2016 regarding foreign investment. On the one hand, China promised to further open up certain industrial sectors (such as TMT, financial services and education) to foreign investment in a gradual and systematic manner while also taking measures to simplify foreign investment related regulatory procedures. On the other hand, the tightening of the compliance regime in China with high profile cases targeting multinationals, the recent focus on Chinese national and economic security and the increased cost of doing business have caused foreign investors to reconsider their strategies and business operations in China. All those factors have contributed to a reasonably active level of M&A, restructuring and divestiture activities involving foreign investors in 2016 with the primary aim of rationalising and optimising their investment strategies in China.

PREDICTIONS FOR 2017

Our key predictions for M&A in China in 2017 are as follows:

- 1** **Outbound investments will be modest or slightly decrease**

With PRC regulatory uncertainties concerning capital control and possible changes to the international trade policies of some Western jurisdictions, we anticipate that Chinese outbound M&A activity will be more modest in 2017 with a potential decrease in the number and value of deals. While the Chinese government will continue to support core strategic and long-term outbound investments by Chinese buyers (especially SOEs) it will tighten scrutiny on investments in non-core sectors or speculative, over-valued projects.
- 2** **Foreign investors continue to rationalise Chinese businesses**

Foreign investors will continue to rationalise their business strategy and operations in China through M&A and restructuring activities in order to better position themselves in a highly competitive Chinese market. We also expect to see more foreign capital pouring into the services and consumer related sectors.
- 3** **Continuing state-owned entity (SOE) reform**

China has been pushing for the reform of its SOEs through M&A activity aimed at enhancing efficiency and competitiveness. The momentum of that reform reached a climax recently when the combination of two leading steel mills (Bao Steel and Wu Steel) was announced in December 2016. We expect that the reform will progress in other areas in 2017, such as the crude oil, natural gas, railway, civil aviation, telecommunications and military sectors. This will be a key driver in domestic M&A activity in 2017.

2016 – KEY DEALS

- **China's Silk Road Fund** – China Silk Road Fund acquired a 9.9% stake in Russia's Yamal liquid natural gas project for €1.1b from independent gas producer Novatek.
- **China Molybdenum Co (CMOC)** – CMOC bought mining giant Freeport-McMoRan's majority stake in investment firm TF Holding, which has an indirect 56% stake in the Tenke Fungurume mine, a copper mine located in the Democratic Republic of Congo for US\$2.7b.
- **China General Nuclear Power Group (CGN)** – CGN completed its US\$2.3b acquisition of the energy assets of Edra Global Energy Berhad. The assets include interests in 13 power plants in Malaysia, Bangladesh, Egypt, Pakistan and the United Arab Emirates, representing a total generating capacity of over 6,620MW.
- **Beijing Gas Group** – Beijing Gas Group reached an agreement with Rosneft on cooperation in the gas sector and for the acquisition of 20% of Verkhnechonskneftegaz from Rosneft for US\$1.1b.
- **Humanwell Healthcare** – shareholders of Epic Pharma, LLC and Epic RE Holdco, LLC (US pharmaceutical companies) sold their interests in these two companies to Humanwell Healthcare (a leading listed Chinese pharmaceutical company).
- **CBRE Group Inc** – CBRE Group Inc. acquired Johnson Controls, Inc.'s Global Workplace Solutions business for US\$1.5b.

Herbert Smith Freehills acted on each of the transactions described above.

INDUSTRY FOCUS: MINING

DIVESTMENTS DRIVE M&A



2016 HIGHLIGHTS

- The number of announced public M&A deals in the mining sector was up in 2016, however deal values were lower than in previous years.
- Some major miners continue to execute their divestment strategies, particularly in thermal coal (or lower tier metallurgical coal) which was a key driver of M&A activity. Other significant activity was concentrated in gold and copper.
- Bulk commodity prices rallied in the second half of 2016 and on the whole have a more positive outlook than they have for some time, generating positive sentiment in the mining industry.



Jay Leary
Partner

T +61 8 9211 7877
(Perth)
T +61 7 3258 6619
(Brisbane)
M+61 408 101 028
jay.leary@hsf.com



Paul Branston
Partner

T +61 8 9211 7880
M+61 408 307 688
paul.branston@hsf.com

THE STATE OF THE MARKET

There was a decline in the value of reported M&A activity in the mining industry in 2016, with the value of public mining M&A deals down by a third in 2016 as compared to 2015.

Despite the decrease in deal value, there was a 25% increase in the number of mining deals announced in 2016 as compared with 2015 (with most new deals being announced in the second half of 2016). The value of resources/mining M&A as a percentage of total M&A activity was also down slightly.

To illustrate this value point, in Australian public M&A involving companies with mining assets, only two transactions were valued at more than A\$100m.

In 2016, mining M&A transactions fell into three categories. First, major miners divesting assets, particularly metallurgical and thermal coal assets, via private M&A auction processes. Secondly, sales of mid or small size operating gold and/or copper assets. Thirdly, sales of exploration assets or undeveloped mining leases (particularly in metallurgical coal).

The significant increase in metallurgical coal prices in the second half of 2016 adversely affected the ability to complete large scale M&A transactions. The unexpected size of the price increase made it difficult for purchasers and vendors to reach agreement on price. The significant increase in metallurgical coal prices also made it difficult for large listed mining companies to justify to the market their desire to sell.

Despite uncertainty surrounding what effect a new US administration, Brexit, and China's slowing rate of economic growth will have on the industry, there are positive signs for M&A in the mining sector moving forward. Miners have continued to look for ways to strip out costs and implement measures to improve cash flow. They have also innovated and invested (in automation, 'big data' and other technologies). These measures have left them stronger and well placed to pursue opportunities in an improving market.

PREDICTIONS FOR 2017

Our key predictions for M&A in the mining industry in 2017 are as follows:

- 1 Growth high on the agenda**

The 2016 rally in commodity prices, lower production costs, and the Australian dollar have increased confidence in the mining sector which is likely to act as a catalyst for M&A in 2017. We anticipate more M&A activity as miners, having achieved significant cost and debt reductions and having improved profitability (and in some cases being net cash), refocus on their growth plans. Confidence levels in long-term pricing have improved but volatility is still a consideration, particularly in bulk commodities. We therefore expect that at least in the short term, this will drive miners to prefer growth through acquisitions of existing operations rather than organic growth through developing new operations.
- 2 Divestments will continue**

Despite improvements in commodity prices potentially causing sellers to reconsider their divestment programs, we expect mining M&A in 2017 to continue to be driven in part by the majors' divestment programs, given they address longer term strategic goals of streamlining and allowing re-generation of asset portfolios. This will result in continued opportunities for smaller, single asset or pure play companies to acquire high quality assets.
- 3 Commodities to watch**

We expect to see continued M&A activity in coal and gold as well as increasing activity in copper and bauxite as buyers will be looking to gain exposure to current prices, although the real opportunities in bauxite seem limited. The challenge in consummating deals will be achieving a match on price expectations in an improving commodity price environment.
- 4 Steady private equity activity**

For many years it has been predicted that private equity will drive M&A in the mining sector. We have seen significant interest from private equity in mining assets and despite some larger deals involving private equity in 2016 (see Key Deals below), there has perhaps not been as much investment by private equity as some commentators had predicted. We expect private equity to continue to be an active participant in mining M&A in 2017 but to remain characteristically judicious in deploying capital. On the flipside, whilst there have been very few significant mining IPOs in recent years, given recent price improvements we think an increase in mining IPOs is likely, including those involving exits by private equity.
- 5 Collaborative transactions and innovative deal structures**

There is a strong likelihood of more collaborative transactions, including for example, joint ventures involving arrangements relating to specific aspects of mining operations such as infrastructure or marketing and blending. We also expect to see more innovative deal structures employed to bridge the price expectation gap between buyers and sellers. In some cases it may be necessary for the seller to have some ongoing price participation to be comfortable on value given the recent increase in commodity prices.

2016 – KEY DEALS

- **South32's acquisition of Metropolitan coal** – South32 acquired the Metropolitan coal mine in New South Wales, Australia and a 16.67% interest in the Port Kembla Coal Terminal, from Peabody Energy Corporation for US\$200m.
- **Mach Energy Australia's acquisition of the Mount Pleasant coal mine** – Rio Tinto sold its Mount Pleasant thermal coal mine in New South Wales to Mach Energy Australia (a wholly owned subsidiary of the Salim Group, Indonesia's largest conglomerate) for US\$224m.
- **Newmont sells its interest in the Batu Hijau copper and gold mine in Indonesia** – Medco Energi Internasional PT Tbk. (an Indonesian oil and gas company) acquired a 82.2% interest in Newmont Nusa Tenggara, PT from Newmont Mining Corporation and Sumitomo Corporation for US\$2.6b.
- **BHP Billiton sells IndoMet** – Alam Tri Abadi PT, a subsidiary of Adaro Indonesia, purchased BHP Billiton's remaining 75% stake in the IndoMet Coal Project for US\$120m.
- **Golden Grove** – EMR Capital acquired the Golden Grove zinc and copper mine in Western Australia from MMG for US\$210m.
- **Ernest Henry Mine** – Evolution Mining Limited acquired a 30% stake in the Ernest Henry copper and gold mine from Glencore plc for A\$800m.
- **Foxleigh mine** – Anglo American sold its interest in the Foxleigh coal mine to a consortium including Taurus Fund Management, POSCO and Nippon Steel.

Herbert Smith Freehills is acting for, or acted for, South32, Newmont Mining Corporation and BHP Billiton on the deals listed above.

HONG KONG

OPPORTUNITIES DESPITE GLOBAL UNCERTAINTIES



2016 HIGHLIGHTS

- 2016 saw Hong Kong companies as both targets and platforms for acquisitions as outbound M&A from China surged.
- We also saw an increased number of privatisations taking advantage of undervalued companies in certain sectors.
- Continued restructurings of SOEs and Hong Kong conglomerates were also a key theme throughout the year.



Tommy Tong
Partner
 T +852 2101 4151
 M +852 9193 9690
 tommy.tong@hsf.com

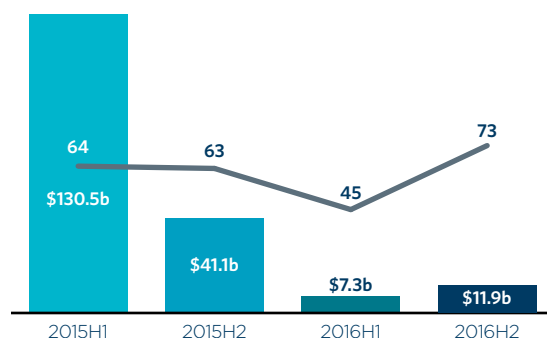


Jason Sung
Partner
 T +852 2101 4607
 M +852 9106 1217
 jason.sung@hsf.com

THE STATE OF THE MARKET

2016 broke all records for outbound China M&A transactions, almost doubling the value of announced deals in 2015. However, the value of reported M&A activity in Hong Kong, excluding transactions structured through Hong Kong but with a dominant geography elsewhere, was significantly lower in 2016 compared to 2015.

Public M&A deal numbers were also down in 2016 compared to the previous year. Whilst there was a fall in activity in the first half of 2016, deal volume in the second half of the year returned to higher levels with an upsurge in lower value deals.



Total value (US\$b) and number of Hong Kong public M&A deals

Source: Mergermarket*

STRONG OUTBOUND M&A ACTIVITY FROM CHINA SUSTAINED ACTIVITY

Outbound M&A activity from China surged in 2016, significantly boosting activity levels. This saw Hong Kong companies feature as both acquisition targets and platforms for outbound investment. For instance, an indirect subsidiary of the state owned asset management company, China Great Wall Asset Management Corporation, successfully made a public offer for Armada Holdings Limited, a Hong Kong-listed property investment company. Hong Kong-listed Tencent Holdings Limited led a consortium to acquire a 76.9% stake in Supercell Oy, the Finland based mobile game developer for US\$8.6b.

HONG KONG PRIVATISATIONS

2016 also saw a number of privatisations driven by perceptions of undervalued companies. Opportunities arose for owners to take advantage of low share prices to attempt privatisations. Certain Chinese-based listed companies sought to privatise in favour of

possible re-listings in Mainland China despite increased regulatory scrutiny of overseas-listed Chinese companies seeking a return to the A-share market. Dalian Wanda Group Co., Ltd privatised Dalian Wanda Commercial Properties Co., Ltd with a view to seeking a re-listing in Mainland China. Peak Sport Products Co., Limited based its decision to de-list on its depressed share price and low liquidity.

CONTINUED RESTRUCTURINGS BY HONG KONG-LISTED SOEs AND CONGLOMERATES

Following on from restructurings in 2015, 2016 saw further streamlining and consolidation activity by Hong Kong-listed SOEs implementing PRC government reform measures. China Overseas Land and Investment Limited acquired the residential-focused property assets of CITIC Real Estate Group Co., Ltd and CITIC Pacific Limited from CITIC Limited for US\$5.2b. Restructuring exercises by conglomerates to streamline operations also continued. New World Development Co Ltd's privatisation of its property development business, New World China Land Limited, was one such example.

PREDICTIONS FOR 2017

Our key predictions for M&A in Hong Kong in 2017 are as follows:

- 1 Slowdown in China outbound acquisitions** Tightened controls in Mainland China on capital outflows to curb renminbi depreciation and greater regulatory scrutiny of outbound transactions is expected to slow China outbound acquisitions. This will, at least in the short term, have a knock-on effect on deal activity in Hong Kong which has benefited from the recent surge in outbound investment.
- 2 Opportunities for private equity buyers or PE-led consortia** Private equity buyers or PE-led consortia are well placed to capitalise on acquisition opportunities in Hong Kong, particularly as competitors in auction sales. We expect a rise in outbound private equity investments from Mainland China targeting Hong Kong as funds seek to diversify and balance their portfolios with overseas investment.
- 3 Continuing interest in backdoor listings and reverse takeovers** A growing backlog of listing applications in China is encouraging companies to find alternative routes to listing. Despite increased scrutiny by Hong Kong regulators of backdoor listings and reverse takeovers, interest in acquiring Hong Kong listed companies as a means of establishing a listed presence is likely to continue.
- 4 Privatisation of undervalued companies** With market uncertainty likely to continue in 2017, we expect further privatisation attempts, including delisting proposals in favour of potential re-listings on the A-share market.
- 5 Sectors of interest** With growing regulatory support in Hong Kong for fintech, we anticipate increased investment in this sector, along with other 'new economy' sectors such as internet-based businesses. China's 'One Belt, One Road' initiative also creates continuing opportunities for Hong Kong companies to expand internationally in associated countries, particularly in the infrastructure and resources sectors.

2016 – KEY DEALS

- **Dah Sing Life Assurance** – a subsidiary of China-based Fujian Thai Hot Investment Co., Ltd acquired the life insurance companies of Dah Sing Financial Holdings Limited for approximately US\$1.4b.
 - **Armada Holdings (formerly SCMP Group)** – an indirect subsidiary of China Great Wall Asset Management Corporation acquired 74.19% of Armada Holdings Limited triggering a mandatory general offer.
 - **New World Development** – New World Development Co Ltd launched a successful offer for the remaining 29.88% of its property unit, New World China Land, for US\$2.8b, having failed in its privatisation attempt in 2014.
- Herbert Smith Freehills acted for a bidder for Dah Sing Life Assurance and for the financial adviser to the bidder for Armada Holdings.*

INDIA

ASIA'S BRIGHT SPOT FOR M&A



2016 HIGHLIGHTS

- 2016 saw a significant increase in M&A activity in India resulting in the highest annual total of M&A deals by value on record since 2001.
- There were a total of 388 public and private M&A deals worth US\$64.5b, which is an increase by 90.5% by value compared to 2015 (US\$33.9b).
- India was also one of the top M&A markets in Asia, accounting for 8.8% of Asia Pacific deals.
- Prime Minister Modi's government has continued to make a number of structural changes to the legal and regulatory landscape in 2016, which has helped maintain an environment of confidence for domestic and international investors.



Alan Montgomery
Partner

T +44 20 7466 2618
M +44 780 9200437
alan.montgomery@hsf.com

THE STATE OF THE MARKET

2016 was another very strong year for Indian M&A. While outbound M&A grew by 7% to US\$5.3b, inbound M&A saw a significant increase by 62% to US\$30.8b. Inbound deal value was boosted in particular by the US\$12.9b Rosneft-led acquisition of Essar Oil.

There was also a sharp increase in domestic M&A, which grew by 126% to US\$33.7b. This increase was a result of a much-awaited consolidation in capital intensive sectors such as cement and power.

After a record breaking 2015, there was a relative slowing down of PE exits in 2016, with PE exits dropping by 22% to US\$6.3b. However, buyouts increased by 40% to US\$12.6b. Unlike the last few years where Indian PE houses were dominant, foreign PE houses played an important role in 2016 with seven in every 10 deals involving an international PE player.

In terms of legal and regulatory changes, there were a number of interesting developments for investors, the most significant being:

- **FDI:** the government relaxed foreign direct investment limits across a broad spectrum of sectors. Most sectors now allow full foreign ownership without any restrictions (e.g. defence, civil aviation, broadcasting and pharmaceuticals).
- **Insolvency laws:** the government enacted a unified and a comprehensive new Insolvency and Bankruptcy Code 2016, which is expected to improve the speed and transparency of the insolvency system and debt recovery in India in the medium to long term. The change was heralded as one of the biggest economic reforms of the Modi government to date and has been received positively by the investment community (particularly the banking sector).
- **GST:** the much-debated single harmonised indirect tax regime was eventually approved by Parliament last year. It is scheduled to come into effect from the second half of 2017, however full implementation in a country as vast and as complex as India will inevitably take more time. We expect to see its positive effects only in the next 18-20 months.
- **Tax treaties:** the Indian government has also amended its tax treaties with Mauritius, Cyprus and Singapore. These amendments radically change tax on gains arising from disposals of shares of Indian companies by tax residents in Mauritius, Cyprus and Singapore. Previously such gains were taxable in the country of residence, often resulting in zero taxation, but the amendments now impose Indian tax on such gains.
- **Demonetisation:** in November 2016, the Indian government announced the demonetisation of high denomination Indian currency notes to curtail the shadow economy and use of 'black money'. The sudden nature of the announcement resulted in a significant cash shortage in the weeks that followed, impacting the economy at large, which is heavily dependent on cash transactions.

PREDICTIONS FOR 2017

Our key predictions for M&A in India in 2017 are as follows:

- 1 M&A activity will continue to surge in 2017**

We expect the Indian M&A story to continue to be strong so long as India's economic fundamentals remain positive. Although demonetisation has had an immediate impact on the economy, we do not believe that this will destabilise M&A in the medium to long term. While we predict that India will continue to see interest from international strategic investors, we also believe there will be increased interest from pension and sovereign wealth funds in particular.
- 2 Sectors to watch**

We expect that chemicals, infrastructure, civil aviation and telecommunications will be active sectors for Indian M&A in 2017. Renewables will also continue to be active both in terms of M&A activity and greenfield investment. Sectors that are directly linked to the consumer story (e.g. healthcare and pharmaceuticals, real estate and fast-moving consumer goods) will likely gain momentum as well, especially once the environment settles in the aftermath of demonetisation.
- 3 Over-leveraged businesses**

We also expect to continue to see the sale by promoters of non-core assets and of strategic stakes to raise funds to reduce borrowings and invest in core assets. We also expect to see distressed assets (in particular in real estate) become another focus area for international institutional/financial investors.

2016 – KEY DEALS

- **Essar Oil** – Rosneft Oil's subsidiary, Petrol Complex, and a consortium led by Trafigura Group acquired a collective 98% stake in Essar Oil for US\$12.9b.
 - **Reliance Communications** – Brookfield Infrastructure acquired Reliance Communications' telecommunications towers business for US\$1.6b (the largest investment by an international financial investor in the infrastructure sector in India).
 - **Claris Injectables** – Baxter International acquired Claris' generic injectables business for US\$625m (the biggest pharmaceuticals deal in India in 2016).
- Herbert Smith Freehills acted for Reliance Communications and Claris Lifesciences Limited on the deals listed above.*

INDUSTRY FOCUS: PRIVATE EQUITY

BACK TO BUY SIDE



2016 HIGHLIGHTS

- 2016 was characterised by lower exit activity which was offset by an increase in the volume and value of deals on the buy side.
- Increased fund raising and dry powder in the PE sector is likely to continue the trend of greater competition for quality assets and increase downward pressure on overall leverage in transactions.
- Completed financial sponsor deals continue to be dominated by private market transactions involving founders, early exclusivity/non-competitive processes and roll up plays in specific industries.



Peter Dunne
Partner

T +61 2 9225 5714
M +61 417 388 513
peter.dunne@hsf.com



Hayley Neilson
Partner

T +61 2 9322 4376
M +61 408 178 023
hayley.neilson@hsf.com

THE STATE OF THE MARKET

2016 saw an overall uptick in Australian PE activity levels. This growth in activity was mostly fuelled by acquisitions (with an increase in both volume and overall value of buyouts), as sponsors buoyed by increased fundraising moved into a buy cycle following higher exit activity in FY2014 and FY2015.

By contrast to 2015, there was a decrease in the number of sponsor exits by way of IPO in Australia. Most activity continued to be centred around the lower end of the mid-market, although the A\$1.1b Inghams IPO in November 2016 by TPG was a highlight.

As with previous years, there was continued interest from Chinese investors and SOEs with one notable deal being the A\$1.7b trade sale of GenesisCare by KKR to Macquarie/China Resources.

Apart from transactions such as Baring PE Asia's acquisition of SAI Global and Pacific Equity Partners' acquisition of Patties Foods (both of which were via scheme of arrangement), the market for public to private transactions involving financial sponsors remained subdued. In Australia, although 18% of all announced schemes and takeovers involved financial sponsors as bidders, the completion rate of such transactions was low.

Whilst the market for sponsor led public to private deals remains uncertain, global sponsors are broadening their mandate in Australia to gain market share and to increase their completed transactions. Although global sponsors (such as Apollo, Bain Capital, KKR, TPG and Carlyle) typically look for control transactions for listed and unlisted assets over A\$1b, recent activity has shown modifications to this traditional approach (for example, Bain Capital's A\$400m acquisition of Camp Australia, Blackstone's continued acquisitions of commercial property, KKR's acquisition of distressed debt and Partners Group's A\$400m acquisition of Guardian Early Learning).

Financial sponsor activity in the Australian market continues to be dominated by low to mid-market transactions involving acquisitions of private companies. Sponsors such as Allegro Funds, The Growth Fund, Navis Capital, Mercury Capital and Quadrant Private Equity have been particularly active in acquiring businesses without engaging in competitive processes. During 2016, private equity were reported to be involved in most major contested M&A processes. However, notwithstanding the involvement of an increasingly contested pool of financial sponsors, we have seen a trend of sellers opting to complete transactions with alternate bidders including with Chinese SOEs due to price differentials (for example, China Resources' acquisition of GenesisCare) or with trade players due to perceived synergies and ease of transitional service arrangements (for example the acquisition of State Plus by First State Super).

As typical sponsor transactions in the current cycle move from large public to private deals towards smaller mid-market transactions, we have seen a resurgence in industry specific roll up plays. Typically this involves the acquisition of a platform entity followed by successive complementary bolt-on acquisitions. Depending on the size of the combined business and the state of equity markets at the time, the usual method of exit following a successful sponsor led roll up would be via IPO. An example of this trend during 2016 has been the success of Quadrant Private Equity who have engaged in multiple, rapid roll up plays in the hospitality industry (via acquisitions of the Urban Purveyor Group and Neil Perry Group), experiential tourism industry (via acquisitions of Cruise Whitsundays and Rottnest Express), automotive industry (via Peter Warren Automotive and Motorone) and health and fitness industry (via Fitness First, Jetts Fitness and Goodlife Health Clubs).

A number of factors, including a weaker Australian dollar and significant market uncertainty in Europe and the US, have driven institutional investors to invest in relatively stable economies such as Australia and New Zealand. This has led to significant fundraising activity in both countries. In FY2016, seven venture capital and 10 private equity funds based in Australia raised approximately A\$2.7b. Venture capital fundraising in particular increased to its highest level on record. As a consequence of both increased fundraising activity and difficulty in deploying capital at reasonable prices, Australian funds enjoyed another cash-rich year and sat on around A\$7b in dry powder.

DEBT

Factors such as the ongoing global economic recovery, low interest rates, and large institutional capital holdings have contributed to high levels of bank liquidity. Stronger PE borrowers have been successful in obtaining relatively favourable terms from banks and other lenders, with debt pricing generally remaining low. Overall debt underwriting fees have decreased.

The Asian debt market continues to be readily available to support sponsors' appetite for investments in the region. Chinese banks in particular continue to seek involvement in the leveraged finance market, moving beyond their traditional relationship in supporting only Chinese investors.

Participation from non-bank lenders has also continued to increase, with superannuation funds and specialty loan funds active on deals such as Quadrant's acquisition of Fitness First from Oaktree and Partners Group's acquisition of Guardian Early Learning Group from Navis Capital.

PREDICTIONS FOR 2017

Our key predictions for the private equity sector in 2017 are as follows:

- 1

Ongoing interest in the service sector

Australia's transition from the resources to the services sector looks set to endure in 2017. There continues to be strong overseas sponsor interest in Australian consumer brands, education providers and the health and aged care industries due to Australia's relatively high incomes, aging population and proximity to Asia.
- 2

Increased competition at mid-market

We expect roll up plays to increase as financial sponsors seek to deploy raised capital to enhance existing investments. We also see continued difficulty in sponsor led, hostile public to private transactions. We expect these combined trends to further increase sponsor competition in mid-market competitive processes, adding to the abundance of global trade and Chinese SOE buyers already operating within this congested space.
- 3

Global volatility and Australian consequences

As the unpredictable consequences of political developments such as Brexit and the US election play out in 2017, the relative stability of the Australian and New Zealand financial and political landscapes will see Australia and New Zealand remain an attractive destination for investors and lenders. If stability in the Australian and New Zealand economies persists, we expect that the availability of cheap debt and willing corporate and financial sell side counterparties will likely continue.

INDONESIA

OPPORTUNITIES IN NEW EMERGING SECTORS



2016 HIGHLIGHTS

- Reported M&A deal activity by total value increased significantly in 2016 compared to 2015, influenced primarily by a number of very large divestment transactions in the mining sector.
- Sectors which have been steadily growing by virtue of Indonesia's expanding middle class - ranging from food and beverage, health care to insurance - continue to attract foreign investment, including by foreign private equity and strategic investors.
- Technology-related start-ups are making increasing headway in a variety of sectors (driven in particular by Indonesia's high mobile phone usage), including in the transportation and fintech sectors. Although many of these companies remain small, a number of them have begun to attract significant foreign investment e.g. Go-Jek and Tokopedia.



David Dawborn
Partner

T + 62 21 5790 0571
M+ 62 811 1890 367
david.dawborn@hsf.com



Vik Tang
Partner

T + 62 21 5790 2829
M+62 812 11 71912
vik.tang@hsf.com



Cellia Cotan Cognard
Senior Associate

T +62 21 574 4010
M+62 811 910 7287
cellia.cognard@hsf.com

THE STATE OF THE MARKET

The Indonesian M&A market in 2016, based on reported transaction value, increased significantly compared to 2015. This increase was in part influenced by a number of very large divestment transactions in the mining sector. For example, we advised Newmont and Sumitomo in relation to the sale of their majority interest in the Batu Hijau copper and gold mine to Medco and the sale by BHP Billiton of its majority interest in seven coal contracts of work to its joint venture partner Adaro Energy. There were also a number of transactions in 2016 where over-leveraged Indonesian conglomerates sought to divest assets in order to raise cash to repay maturing debt, particularly in the natural resources sector.

Foreign inbound transactions by strategic investors in the mid-market space continue to be sustained in sectors related to Indonesia's expanding middle class. For example, we acted for the Panin group (an Indonesian conglomerate) on its IDR2.2b sale of its majority stake in AMAG, a general insurance company, to Fairfax (of Canada).

In addition, foreign private equity funds continue to seek out some mid-market transactions in the consumer related sector. For example, we acted for General Atlantic on its investment in the Starbucks franchise held by Mitra Adiperkasa - this is a good example of a foreign financial investor seeking to tap into the growth associated to Indonesia's expanding middle class. Another example of this is CVC's US\$170m investment in Siloam, a listed hospital group controlled by the Lippo group.

PREDICTIONS FOR 2017

Our key predictions for M&A in Indonesia in 2017 are as follows:

- 1 Sustained private equity and venture capital investment**

We expect foreign private equity and venture capital to continue to seek out investments in Indonesia in selected sectors. Over the last 5 years or so we have seen the sectors in which foreign private equity and venture capital funds invest in becoming increasingly diverse as more foreign funds begin to invest in Indonesia. For example, this ranges from food and beverage, health care and real estate to TMT (including e-commerce and fintech). We expect this trend to continue in 2017.
- 2 Financial services sector (including fintech)**

We expect continued foreign interest in the Indonesian financial services sector, in particular in the insurance sector and the new (but fast growing) fintech sector in Indonesia. M&A activity in the financial services sector is likely to be driven by regulatory requirements (e.g. single presence policy and local ownership requirements in the insurance sector) and also fast growing new opportunities in emerging sectors (e.g. peer to peer lending). The Indonesian Government is strongly supportive of a 'financial inclusion' agenda and is encouraging the use of technology in this area – as the regulations become clearer, there is a higher likelihood that foreign investment in this sector will increase.
- 3 Consumer sector and impact of technology**

The impact of technology on the consumer sector in Indonesia is increasingly felt and we expect the pace to accelerate in 2017. This opens up opportunities in a number of related sectors, including e-commerce and transportation. The fundraising requirements of these fast growing companies are likely to attract foreign venture capital, private equity and also strategic investors looking to get in early into these new emerging areas for investment in Indonesia.

We also expect the longer term trend of companies involved in providing goods and services to the Indonesian middle class to continue to attract foreign investment, in particular in the following sectors: food and beverage, healthcare, leisure and logistic/distributions sectors.
- 4 Increase in company insolvencies and distressed scenarios**

Much of Indonesian corporate borrowing is USD-dominated and, as in 2016, we expect to see the trend of increasing company insolvencies to continue in 2017, as certain Indonesian companies (particularly those exposed to the natural resource sector) continue to struggle with sluggish revenues and the rising cost of foreign debt services. This will likely result in higher numbers of distressed asset sales and corporate restructures even if formal bankruptcies do not eventuate.
- 5 Natural resource and infrastructure sectors**

The Indonesian Government is continuing to further regulate the mandatory local divestment requirements in the oil and gas and mining sectors. As a result, we expect that M&A activity in the Indonesia natural resources sector is likely to continue to relate to the partial divestment or outright sale by foreign investors to local players, including state-owned or regional-owned enterprises. Also, given the recent activity in the power sector in relation to the implementation of President Jokowi's 35,000MW power project, we expect to see continued strong offshore interest and investment into the Indonesian power sector and corresponding M&A activity, particularly as more of these projects move into the operation stage.
- 6 Tourism and the creative industry**

Both the tourism and creative economy sectors have opened up to increased foreign ownership levels signalling the Indonesian Government's renewed commitment to welcoming overseas investment in these areas. In particular, foreign ownership limitations have been relaxed in the food and beverage, accommodation, film and sports and recreation sectors. As a result, we expect to see increased interest from foreign investors in these sectors.

2016 – KEY DEALS

- **Newmont Mining Corporation and Sumitomo Corporation** disposed of their collective 56% shareholding (and the unwinding of loan arrangements) in PT Newmont Nusa Tenggara, an Indonesian gold and copper mine, with a total transaction value of US\$2.6b.
- **BHP Billiton** disposed of its 75% shareholding in seven coal contract of work companies in Central and East Kalimantan to its existing joint venture partner, Adaro Energy for US\$120m.
- **Panin Group** sold its majority stake in AMAG (a general insurance business) to Fairfax (of Canada) for IDR2.2t.
- **General Atlantic** made a US\$145m pre-IPO bond and option investment in the food and beverage division of Mitra Adiperkasa, Indonesia's leading listed retailer and food and beverage operator.
- **CVC** made a US\$170m strategic investment in Siloam (an Indonesian listed hospital company).
- **A consortium of investors (lead by Warburg and KKR)** made a US\$550m million investment in Go-Jek, the ride hailing company.

Herbert Smith Freehills and Hiswara Bunjamin & Tandjung acted on each of the transactions described above, except for the Go-Jek transaction.

JAPAN

CONTINUED GROWTH IN M&A ACTIVITY



2016 HIGHLIGHTS

- Overall M&A activity edged ahead of 2015 levels, with total deal value up by 2.3%.
- 2016 saw the second biggest Japanese outbound mega deal, when telecommunications and internet conglomerate SoftBank Group acquired UK chipmaker ARM Holdings.
- Japanese private equity buyout activity soared, indicating the increased appeal of the Japanese market.



Graeme Preston
Partner
 T +81 3 5412 5485
 M+44 7920 533 743
 graeme.preston@hsf.com



Lex Papolomontos
Partner
 T +81 3 5412 5402
 M+44 789 200 494
 alexis.papolomontos@hsf.com



Andrew Blacoe
Partner
 T +81 3 5412 5455
 M+44 7769 695 929
 andrew.blacoe@hsf.com



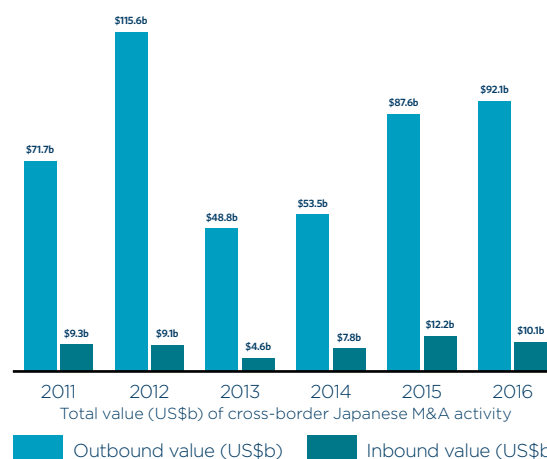
Damien Roberts
Partner
 T +81 3 5412 5453
 M+44 7809 200 659
 damien.roberts@hsf.com

THE STATE OF THE MARKET

Overall Japanese M&A activity edged ahead 2.3% by value from 2015, making it the highest level for four years. Japan's outbound activity experienced its fourth consecutive increase in deal value with 309 deals worth US\$92.1b. Domestic M&A also had a strong year contributing to around 84% of overall Japan-targeted deals. Consolidation between Japanese companies continued to drive M&A activity, as businesses snapped up the less efficient within a crowded marketplace.

Looking to foreign markets, Japanese outbound activity was off to a slow start in the first half of 2016 but ultimately rebounded, ending the year with the second highest annual figures on record (by value). SoftBank Group's acquisition of UK chipmaker ARM Holdings being a symbolic example of the medium to long-term trend of Japanese companies seeking growth opportunities overseas to improve profitability amidst a stuttering economy and an aging and shrinking population.

Industrials and chemicals was the most active sector by value during 2016, while technology (as a result of SoftBank's acquisition of ARM) was the most targeted sector for outbound activity by value.



PRIVATE EQUITY ON THE HUNT FOR JAPANESE TARGETS

There was a significant amount of deals involving private equity funds in 2016, indicating the increased appeal of the Japanese market. Buyouts have soared and in 2016 Japan saw the highest number of buyouts since 2007, as companies looked to streamline operations and pursue divestitures. Private equity funds have also shown increasing interest in Japanese ventures involving cutting-edge technologies, including fintech and artificial intelligence.

PREDICTIONS FOR 2017

Our key predictions for Japanese M&A in 2017 are as follows:

- 1 Increased deal activity on the horizon**

We expect Japan to emerge as an even richer source of potential M&A targets as companies continue to seek out deals as countermeasures to the country's declining population and aggressive global competition and the yen remains weak against the dollar. Many smaller listed companies will become targets as they continue to command relatively low price/book ratios. We would also expect larger value deals to continue, as the government looks to back greater consolidation where there is an oversupply of companies.
- 2 Japan continues to look outward**

We see Japan Inc continuing to make waves and become increasingly involved in outbound deal making next year, as Japan's cash-rich firms continue to seek growth opportunities overseas and Beijing clamps down on capital outflows on foreign acquisitions. This, matched with a weak domestic consumer market and negative interest rates while cash reserves remain high, means many Japanese corporates will have little choice but to look offshore to expand businesses and offset localised challenges.
- 3 All eyes on consumer, healthcare and life insurance sectors**

We expect to see an increased focus on M&A activity in the financial services (particularly insurance), healthcare and food and beverage sectors, given companies in these sectors will have an increasing sense of an urgent need to boost profitability and growth as they are directly affected by the country's demographic issue.
- 4 Key sectors for inbound investments**

Key sectors of interest for inbound investments will include fintech, an industry with expected annual growth of 22% until 2020, as well as e-commerce. Renewable energy, particularly solar and wind, is likely to be another attractive sector with growing demand.
- 5 Business reorganisations**

As the demographics of Japan's population increasingly affect the domestic M&A market, population decline will eventually cause excessive competition among domestic players. We expect to see plenty of businesses tackle this through reorganisations and restructurings, either by divestments or company integration, particularly in consumer industries.

2016 – KEY DEALS

- **SoftBank Group Corp** – SoftBank acquired UK-based ARM Holdings, the largest outbound investment recorded by a Japanese bidder in 2016, for US\$30.2b.
- **Yokogawa Electric Corporation** – Yokogawa Electric Corporation acquired KBC Advanced Technologies, the UK-based and listed provider of software and consultancy services to the oil and gas industry.
- **Mitsui & Co., Ltd** – Mitsui acquired a 16% stake in International Columbia US LLC which owns a 70% stake in Columbia Asia, a company engaged in operating a chain of hospitals.
- **Asahi Group Holdings, Ltd.** – Asahi Group acquired the Peroni, Grolsch and Meantime brands, as well as certain European operations of SABMiller.

Herbert Smith Freehills had roles on the first three deals listed above.

INDUSTRY FOCUS: ENERGY

OPPORTUNITIES IN A DISRUPTED LANDSCAPE



2016 HIGHLIGHTS

- There was a solid uptick in M&A activity in the Asia Pacific energy sector despite political instability.
- The oil and gas sector faced a challenging year, but showed surprising resilience with some significant transactions, particularly in Indonesia.
- The electricity generation (including renewables) and electricity transmission and distribution sectors continued to attract strong interest, stimulated by policy incentives and buyers' desire for regulated assets - funds and Chinese companies featured as particularly interested buyers.



Robert Merrick
Partner
T +61 8 9211 7683
M +61 419 767 830
robert.merrick@hsf.com



David Clinch
Partner
T +65 6868 8032
M +65 9710 8013
david.clinch@hsf.com



Belinda Fan
Partner
T +61 3 9288 1368
M +61 400 117 348
belinda.fan@hsf.com

THE STATE OF THE MARKET

With the Brexit referendum, a new US administration and political instability in the EU, 2016 was characterised by caution globally. Nonetheless, there was a solid market for energy M&A (public and private) in Asia Pacific, with 239 deals completed reaching US\$79.6b in total value and a marked uptick in activity at the end of the year.

POWER

Continuing a trend from last year, regulated transmission and distribution assets enjoyed record valuation multiples with buyers looking for stable and long-term returns. In particular, one of the year's most high profile deals involved IFM Investors and AustralianSuper acquiring Ausgrid for A\$16.4b. In Asia, CGN Group completed its acquisition of the Edra power generation business for approximately US\$2.3b.

Investors, including private equity investors, took advantage of generation asset valuations in the region, to contribute almost half of the region's power and utilities deal value in 2016. Interest in the Indonesian power sector, both conventional and renewables, remained strong against a lack of brownfield opportunities coming to market, although Chevron's sale of its geothermal business and related power assets in Indonesia and the Philippines was announced shortly before the end of the year, another very significant power sector deal in Asia.

Despite a relative slow-down by some buyers from China and Japan, M&A activity in the renewables sector remained upbeat (including in Indonesia, as noted above). There was strong appetite for brownfield assets elsewhere too (Origin's 536MW Stockyard wind farm attracted significant

interest). New conventional generating capacity continues to play an important role in emerging markets with cheap coal still a significant feature of the fuel mix, notwithstanding environmental concerns.

OIL AND GAS

Clearly oil prices constrained spending and muted M&A activity in 2016, with deal-making at its lowest level in five years. With lower liquidity in the market, and a drop in profit margins, producers continued to focus on reducing costs. The sector saw reduced capital expenditure and aggressive discounting across the supply chain.

The oil price did however continue to encourage portfolio rationalisation. In Australia, Santos restructured a significant portion of its assets into a non-core business unit; AGL abandoned its upstream petroleum business; and Origin announced plans to spin off certain conventional oil and gas assets. In Asia, a number of upstream sale processes were reported, however few deals were completed although Indonesia was a particular focus with the purchase of Conoco's Block B interest by Medco and the sale of BP's interest in the Sanga-Sanga gas production block to PT Saka Energi representing further shifts to local players.

The LNG market is growing rapidly, aided by FSRU technology. Price convergence between the Atlantic basin and Asia Pacific markets in 2015, combined with the predicted oversupply from new projects in Australia and the US has led to a growth in short-term sales and LNG trading in general. New markets will go some way to absorbing that supply.

PREDICTIONS FOR 2017

Our key predictions for energy M&A in 2017 are as follows:

- 1 Oil price rebound could help closing deals**

A continued rebound (even modest) in the oil price will help activity in 2017. Oil and gas companies are likely to continue to look to restructure portfolios and reduce gearing. In Asia, continued interest from NOCs and Asian companies are likely to be a key stimulant for upstream M&A and there is the hope that traditional buyers from North Asia may be more active in the market. We have seen a significant number of mature oil and gas assets coming to the market in Australia in particular. Across Asia, clarity around changes to decommissioning regimes and possible concession / PSC extensions would substantively help deal making but it is probably unlikely that this will be fully achieved in 2017 and parties will need to be creative in structuring some deals and their consideration. Decommissioning risk management is becoming a threshold issue in M&A transactions and regulators are likely to pay closer scrutiny to decommissioning obligations and risk allocation.
- 2 Up and up for renewables**

Strong momentum for renewables will pose a challenge to coal and gas assets in Australia as more renewable generation comes online in a flat electricity market with flat demand. China and India will likely encourage greater internal and outbound investments in renewable assets. In Asia, we also expect to see strong interest in renewables, although it seems likely that cheap coal will remain a significant feature of baseload generation in Asia. Investors will also seek out opportunities in 'market disruptive' assets such as battery storage. The principal issue for M&A in the renewables sector will continue to be finding assets and portfolios of sufficient scale to appeal to larger buyers.
- 3 LNG sector**

Current investigations by the Japan and Korea Fair Trade Commissions on destination restrictions and profit sharing mechanisms in LNG contracts, combined with a number of buyers in Japan and Korea having oversupply contracted into the next decade, presents an opportunity for Japanese and Korean gas and energy companies to develop LNG trading businesses.

There has been a push in Asia to trade LNG cargoes under a hub price. The new pricing models include physical trades under GLX in Singapore as well as 'virtual' trades under the Singapore SLInG price and the Japan OTE Exchange trading models. These are in addition to the established JKM and JCC pricing models in North Asia and European and UK virtual hub pricing (NBP). New models being discussed include a concept of 'Japan Marker' or 'JLC', based on the average price of LNG landed in Japan in any month. All of these pricing models and the rush to establish market share, particularly in relation to the spot and short-term market, is expected to impact on LNG trading across the globe.
- 4 Politics will reshape outbound investments**

Political uncertainties from the US election and UK referendum may dampen the appetite for investment from and to those countries. Southeast Asian countries may 'pivot' towards China as a hedge against any uncertainty. The China-led AIIB and One Belt, One Road initiatives are likely to continue to take greater prominence in the region's investment activities, and see increasing investments from China into Southeast Asia. It remains to be seen whether some of the major Chinese SOEs or the major Japanese companies become more active again in upstream and LNG-related M&A.

2016 – KEY DEALS

- **BP** sold its 37.825% working interest in the Sanga-Sanga gas production block in Indonesia to PT Saka Energi, an upstream division of Indonesian national gas company PGN.
- **AustralianSuper** and **IFM Investors** successfully concluded an agreement with the NSW Government for the A\$16.4b sale and long-term lease of 50.4% of the Ausgrid electricity network.

Herbert Smith Freehills is acting for, or acted for, BP, AustralianSuper and IFM Investors on the deals listed above.

MALAYSIA

RESILIENCE AND OPPORTUNITIES



2016 HIGHLIGHTS

- Herbert Smith Freehills received a Qualified Foreign Law Firm licence from Bar Council Malaysia. Our new office in Kuala Lumpur, Malaysia is expected to open in May 2017.
- Despite global challenges affecting the region and country-specific issues, Malaysia-related M&A activity was resilient in 2016, including some sizable transactions. For example, we advised CGN on its US\$2.3b acquisition of Edra Group.
- Although the rate of Malaysian outbound investment was moderate in comparison to the high rates of activity in recent years, Malaysian corporates and funds continued to seek opportunities to invest in strategic assets both regionally and globally.



Nicola Yeomans
Head of M&A Southeast Asia
 T +65 6868 8007
 M +65 8339 5896
 nicola.yeomans@hsf.com



Vik Tang
Partner
 T + 62 21 5790 2829
 M +62 812 11 71912
 vik.tang@hsf.com

Herbert Smith Freehills Malaysia Mailbox:
 Malaysia@hsf.com

OUR NEW KUALA LUMPUR OFFICE

Herbert Smith Freehills is to open in Kuala Lumpur, Malaysia, after receiving a Qualified Foreign Law Firm licence from Bar Council Malaysia. The Kuala Lumpur office is expected to open in May 2017, subject to final regulatory and administrative processes. A team of local and international lawyers will be based in Kuala Lumpur, advising both Malaysian and international clients on transactions (including mergers and acquisitions), disputes and Islamic finance.

“After working with Malaysian clients for over 20 years, we are delighted that we can now offer them legal expertise on the ground in Kuala Lumpur, providing easier local access to our international network for their overseas business,” said Sonya Leydecker, CEO, Herbert Smith Freehills. “The new office will also be welcomed by our many international clients with existing operations and investments in Malaysia, and by those planning expansion into Southeast Asia”.

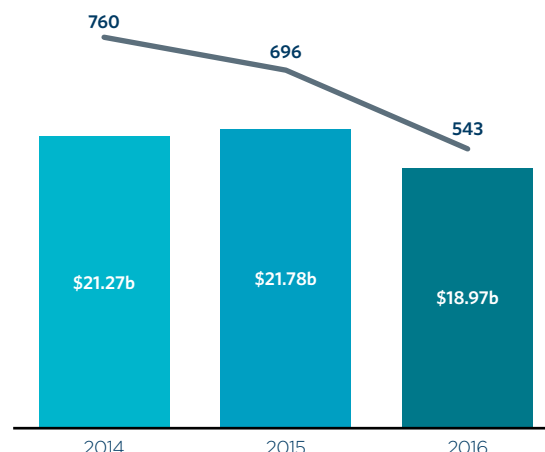
STATE OF THE MARKET

Despite global challenges affecting the region (including continued weakness in oil prices and uncertainty in US monetary policy which continues to affect local currencies in the region) and country-specific issues (including currency and capital outflow restrictions), Malaysia-related M&A activity was resilient in 2016.

Capital IQ data shows that 2016 public and private M&A deal volume by number (543) declined from 2015/2014 levels and 2016 total deal value (US\$18.97b) declined only slightly from 2015/2014 levels.

The industrials sector contributed the highest number of deals. The energy, financial services, TMT and healthcare sectors were also strong contributors, and a number of highlight deals were in the real estate sector.

Sources indicate that the split (by value) between domestic, outbound and inbound deals was approximately 50:30:20.



Total value (US\$b) and number of Malaysian public and private M&A deals

Source: Capital IQ

PREDICTIONS FOR 2017

Our key predictions for Malaysia-related M&A in 2017 are as follows:

- 1 Outbound – continuing search for growth opportunities**

Malaysian corporates (both state-owned and private sector) have a long history of investing abroad and, despite global challenges, we do not expect this trend to fundamentally change in 2017, although the rate of investment is likely to moderate over the near term.

Large Malaysian corporates will continue to search for growth opportunities outside Malaysia to complement their portfolio of maturing domestic investments, particularly in the TMT, real estate, healthcare, agriculture and infrastructure sectors.
- 2 Inbound and domestic – restructuring and infrastructure will drive activity**

The ongoing restructuring of large Malaysian corporates is likely to generate M&A activity in 2017. For example, this could range from corporates that are exposed to the commodities sectors seeking to restructure their capital and funding arrangements to large multi-sector conglomerates seeking to realise the value of non-core assets.

This theme is not unique to Malaysia, and we expect a similar story to play out in other countries in the region that are similarly affected by the same global economic forces. In some cases these restructurings might give rise to inbound opportunities for foreign investors.

Malaysia has over several decades demonstrated an ability to execute large, complex infrastructure projects and we expect this to continue in 2017. A number of large infrastructure projects (including in the transport sector) are on the horizon. These will potentially generate additional opportunities for overseas and domestic investors.

2016 – KEY DEALS

- **China General Nuclear Power Group (CGN)** – CGN acquired Edra Global Energy Berhad (Edra) in Malaysia, which holds a portfolio of power projects, for US\$2.3b. Edra was a subsidiary of 1Malaysia Development Berhad.
- **edotco** – Axiata, the Malaysia based telecoms group, closed a US\$600m equity investment in its telecoms infrastructure company, edotco, by Innovation Network Corporation of Japan and Khazanah Nasional Berhad.
- **Ncell** – Axiata entered the Nepal telecoms market by acquiring an 80% stake in Ncell for US\$1.4b.
- **iProperty** – REA Group acquired the remaining 77.33% stake in iProperty Group, the ASX listed Malaysia based property listings portal, for US\$414m.
- **Bandar Malaysia** – A Chinese owned consortium acquired a 60% stake in Bandar Malaysia Sdn Bhd from 1MDB Real Estate Sdn Bhd for US\$1.7b.

Herbert Smith Freehills advised on the CGN, edotco and iProperty deals listed above.

MYANMAR

RAPID CHANGE, MANY OPPORTUNITIES



2016 HIGHLIGHTS

- A new government led by the National League for Democracy took office in late March.
- US economic sanctions on Myanmar were lifted in October and Myanmar was added to the US Generalised System of Preferences, a list which exempts countries from high import taxes.
- Significant new legislation, including the new Myanmar Investment Law (applicable to all investment in Myanmar) and Myanmar Arbitration Law (fully implementing the New York Convention) were passed.
- The Financial Crimes Enforcement Network suspended the prohibition on US financial institutions providing correspondent services to Myanmar banks and the Financial Action Task Force removed Myanmar from its list of states deemed weak in combating money laundering and terrorist financing.
- The Central Bank of Myanmar granted 4 additional banking licenses to foreign banks.



David Clinch
Partner

T +852 2101 4018
M +852 6298 7287
david.clinch@hsf.com



Mark Robinson
Partner

T +65 6868 9808
M +65 9770 0310
mark.robinson@hsf.com



Guillaume Stafford
Senior Associate

T +65 6868 8000
M +65 9656 0558
guillaume.stafford@hsf.com

THE STATE OF THE MARKET

The investment outlook in Myanmar remains positive, in spite of a slowdown in foreign investment over the last year following the protracted change in government.

With the TMT, power, manufacturing, consumer, tourism, health and infrastructure sectors continuing to see activity and various other sectors continuing to provide opportunities for foreign investors, it is perhaps no surprise that the IMF recently estimated Myanmar's 2016 GDP growth rate to be the second fastest in the world, after Iraq.

Increasing numbers of foreign investors in search of economic growth are interested in entering or expanding within the market as a result of the China slowdown, a quickly improving legal landscape, and a growing pool of investment ready local companies.

2016 saw the first international standard power purchase agreement (PPA) and project structure. Heralded as a good precedent for development of power and infrastructure projects in Myanmar, in March a PPA was signed with the government to develop the Myingyan

power project - a 225MW combined cycle gas-fired project. This followed a government tender process which commentators have praised for its transparency and was widely seen as well managed. Several development and commercial lenders are expected to participate in the financing, demonstrating the bankability of the project structure and documents.

In another positive step forward for the foreign investment landscape, trading saw major liberalisation in the past year, with the Ministry of Commerce announcing that foreign companies may enter into a joint venture with local companies to sell five types of products in Myanmar, being construction materials, fertilizer, medical equipment, pesticides and seeds, on either a retail or wholesale basis.

Luxury consumer products have also started coming to the market, highlighting confidence amongst high-end retailers of the spending potential of the country's awakening middle class and wealthy returning emigrants.

OUR SECONDEE IN MYANMAR

We have advised on many Myanmar transactions across a range of sectors in the last few years, and have a senior corporate associate on the ground in Yangon. This means we understand the local legal and commercial market and the regulatory and political framework which our clients are likely to be faced with upon investing in Myanmar.

In the last three years, our Myanmar practice group has seen an unprecedented level of interest from clients and potential clients in connection with Myanmar matters.

We have a core team of experienced lawyers in Singapore and throughout Asia focused on the Myanmar market, as well as a secondment arrangement with a local law firm in Myanmar. Our Myanmar practice group consists of approximately 15 partners from across our global network and we have approximately 16 other fee-earners who provide significant support and have strong Myanmar project and transactional experience.

We have developed a close relationship with local law firms in Myanmar, including through our secondment lawyers who practice or have practiced on the ground in Yangon, meaning that in addition to understanding the local legal framework, we are able to provide our clients with a seamless service in a jurisdiction where the number of good local lawyers is limited and where commercial laws and regulations are still in their infancy and often changing.

Herbert Smith Freehills and local firm Myanmar Legal Services Limited (MLSL) know each other well, having worked together on a number of matters in Myanmar. Our relationships and our existing know-how enable us to deliver Myanmar legal advice swiftly and effectively. We have had a corporate associate secondee, currently Guillaume Stafford, from Herbert Smith Freehills based in Yangon working with MLSL, in place for many years. This combination makes us unique in the market and enhances the speed and efficiency in which we are able to run our Myanmar related matters.

We are consistently ranked by legal directories as being market leaders in Myanmar and are currently ranked Band 1 by Chambers Asia Pacific as an international advisor in Myanmar.

PREDICTIONS FOR 2017

Our key predictions for M&A and legal developments affecting M&A activity levels in 2017 are as follows:

1

Rapid legal developments improve business conditions

Business conditions in Myanmar will continue to improve for foreign investors, and help encourage more activity from multinational corporations and private equity firms. In particular, we expect to see the following legal developments:

- a new Companies Act by 1 April 2017 (per Directorate of Investment and Company Administration (DICA) announcements), repealing the century old Company Act 1914 and bringing company law into the 21st century;
- the implementation of rules for the new Investment Law by 1 April 2017 (per DICA announcements), clarifying the new tax holiday and incentive regime applicable to foreign investment;
- the implementation of the Myanmar Competition Act in February, representing Myanmar's first antitrust regime and paving the way for the creation of the Myanmar Competition Commission. This will introduce internationally recognised antitrust concepts into Myanmar law;
- new insurance regulations, which it is hoped will breathe life into Myanmar's insurance sector by permitting foreign investment into the industry;
- new intellectual property laws covering patent, copyright and trademark protections; and
- new mining regulations, to help further open up the mining sector to foreign investors.

2

Increasing interest from overseas investors

We also expect to see an increase in the number of US and European corporates showing an interest in the market as a result of both the easing of sanctions and other trade barriers on Myanmar and the wide-ranging domestic legislative developments outlined above.

2016 – KEY DEALS

- **edotco Myanmar** – Following its 2015 acquisition of a 75% stake in edotco Myanmar (formerly Digicel Myanmar Tower Company Ltd), Axiata Group Bhd's mobile tower company, Edotco Group Sdn Bhd acquired an additional 12.5% stake in the company.
- **Viettel Group** – Viettel Group entered into joint venture arrangements with a consortium of Myanmar parties in connection with the award of the fourth telecom licence in Myanmar.

Herbert Smith Freehills acted for Edotco Group Sdn Bhd on the first deal listed above.

SINGAPORE

ASSET MANAGEMENT AND FINTECH STRENGTHS



2016 HIGHLIGHTS

- 2016 saw an increase in deal volume from 2015, although total deal value was lower.
- Outbound deals continued to make up a significant proportion of overall deal value, with real estate, industrials and technology all contributing significantly.
- Singapore's state funds, GIC and Temasek Holdings, continued to drive M&A activity on the buy-side and sell-side.
- Strong public M&A and takeovers continue to drive activity while there are very few new IPO listings on the SGX.



Nicola Yeomans
Partner
 T +65 6868 8007
 M+65 8339 5896
 nicola.yeomans@hsf.com



Mark Robinson
Partner
 T +65 6868 9808
 M+65 9770 0310
 mark.robinson@hsf.com



Ban Leong Oo
Managing Director
Prolegis LLC
 T +65 6812 1351
 M+65 9768 8755
 banleong.oo@pro-legis.com

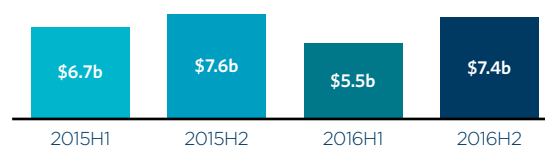
THE STATE OF THE MARKET

2016 did not reach the heights of 2015 deal-making in terms of value, however, the number of transactions increased.

Outbound activity continued to dominate, with Singapore remaining a strategic hub for outbound deals across the Southeast Asia region.

Real estate activity was strong in 2016, with large deals such as GIC's US\$2.7b acquisition of a Czech Republic logistics company driving up deal value in this sector, with industrials and technology remaining active.

As illustrated by the following graph, public M&A saw a strong second half of the year despite political uncertainty across the globe, only just falling shy of total deal value in the second half of 2015.



Total value (US\$b) and number of Singaporean public M&A deals

Source: Mergermarket*

PREDICTIONS FOR 2017

Our key predictions for M&A in Singapore in 2017 are as follows:

- 1 Singapore will strengthen its reputation as a global asset management hub**

With political uncertainty continuing in the UK and the US, we predict a rise in the number of Singapore-domiciled funds. With tax treaties and ease-of-business favouring Singapore, we are seeing fund managers and asset managers migrating to the city-state. Global private equity funds continue to show strong interest in regional IT plays, and infrastructure funds and pan-Asian funds have already established in Singapore. The funds management industry will compete heavily for assets in the region.
- 2 Consolidation across the real estate sector**

We consider that many sectors across the region are ripe for consolidation. One key example is real estate investment trusts (**REITs**). Many of the SGX-listed REITs are trading below book value. The proposed reverse takeover of SGX-listed Saizen REIT by Malaysian conglomerate Sime Darby Berhad and the proposed takeover of SGX-listed ARA Asset Management Limited, a holding company for several REIT managers, are prime examples of the interest in this area. We expect to see further examples in 2017.
- 3 Singapore focus on tech industry driving M&A**

In 2016, Asia became the number one region globally in terms of the amount invested into financial technology. In Southeast Asia, the fintech industry has been growing fast, from payments and lending, to insurance, wealth management and cryptocurrency. Singapore has become the emerging tech hub for the Southeast Asia region and is providing concessions to companies to base their R&D hubs in the city-state. In addition, the Monetary Authority of Singapore has pledged investment of S\$225m by the end of 2020. We expect further investment and M&A activity in the fintech sector in 2017.
- 4 Demand for warranty and indemnity insurance may raise deal pricing**

In the past, warranty and indemnity insurance has been prohibitively expensive, with most insurers and underwriters unwilling to take emerging market risk on an M&A transaction. However we have seen a shift in risk appetite recently and we expect additional warranty and indemnity insurance opportunities in 2017, especially in the case of PE-related transactions. We expect a corresponding increase in deal pricing to cover the cost. Insurers and brokers have been setting up teams in Singapore with these trends in mind.
- 5 More regional harmonisation of governance standards**

With perceptions that governance standards in Southeast Asia have some way to go to match established public markets, expect to see greater harmonisation between the region's developed markets, particularly in disclosure standards and assessment of governance compliance. Expect a knock-on effect in the private markets too, with private shareholders agreements focusing more on related party issues and conflicts of interest at the outset, as these structures reach internationally accepted standards.

2016 – KEY DEALS

- **Broadcom Limited** – Broadcom Limited, a Singapore-based manufacturer of semiconductor products, signed a definitive agreement to acquire Broadcade Communications Systems Inc, a US-based provider of data storage networking and application infrastructure management solutions, for US\$5.1b.
- **Temasek** – Temasek Holdings Pte Ltd, the state owned investment firm, announced the privatisation of SMRT Corp, its listed subsidiary engaged in public transportation. The transaction will be conducted by way of scheme of arrangement in Singapore and is valued at US\$1.4b.
- **GIC** – GIC Private Limited, the Singapore sovereign wealth fund, agreed to acquire PointPark Properties s.r.o., a Czech Republic based owner, developer and manager of logistics properties, for US\$2.7b.
- **iflix** – Southeast Asia's Netflix competitor engaged in an equity funding round involving European broadcaster Sky and Indonesian media giant Emtek group, valuing the company at US\$450m.

Herbert Smith Freehills acted for iflix on the fourth deal listed above.

SOUTH KOREA

M&A STEADY DESPITE POLITICAL HEADWINDS



2016 HIGHLIGHTS

- Despite political and economic uncertainty, M&A activity remained steady, decreasing slightly from 361 announced public and private M&A deals in 2015 to 352 deals in 2016. While deal value decreased significantly from US\$84.9b in 2015 to US\$46.8b in 2016, this was the result of a number of mega deals in 2015 and is still a healthy number on a historical basis.
- Outbound M&A value increased significantly from US\$3.7b in 2015 to US\$13.1b in 2016, largely attributable to Samsung Electronics' US\$8.0b acquisition of Harman International Industries (pending), though the number of outbound deals remained steady, from 47 in 2015 to 44 in 2016.
- Reorganisations and sales of non-core assets continued in 2016, with the shipbuilding and certain industrial sectors being heavily targeted in the context of such sales.
- A number of high-profile deals, like the proposed sale of Hollys F&B and McDonald's Korean operations in the food and beverages sector, were scrapped due to differences in valuations and outlook.



Lewis McDonald
Partner

T +82 2 6321 5711
M +82 10 3609 0320
lewis.mcdonald@hsf.com



Dongho Lee
Partner

T +82 2 6321 5715
M +82 (0)10 4066 5715
dongho.lee@hsf.com

THE STATE OF THE MARKET

Despite political and economic uncertainties, including the impeachment proceedings against President Park Geun-hye as well as tensions with China regarding the Terminal High Altitude Area Defense system, which have had a chilling effect on pending and proposed deals, M&A activity (measured by the number of announced deals) has remained steady. Key Korean M&A drivers remain, such as a mature domestic market and large corporate cash reserves, and deals continue to be made, especially in increasingly popular areas such as TMT, pharmaceuticals and healthcare, and the consumer sector.

Korean private equity funds and other financial buyers are also becoming increasingly active in outbound investments in various sectors. With the demise of the shipbuilding and shipping sectors, investment in the aviation sector is also on the rise. Outbound investment activity by Korea Inc. is balanced by the proposed divestitures of overseas energy and resource assets acquired by Korean SOEs under previous Korean government administrations.

OUTBOUND FOCUS

Headlined by Samsung Electronic's entry into a definitive agreement to acquire Harman International Industries for approximately US\$8.0b, Korean corporates, financial institutions, private equity funds and governmental investment institutions have continued to invest in foreign targets. Access to new growth markets (given a mature domestic market with limited growth potential), acquiring necessary technologies and know-how, and limited domestic investment opportunities are all factors contributing to this outbound focus.

SALES OF DISTRESSED AND NON-CORE ASSETS

2016 saw a number of high-profile sales of distressed assets, including the currently ongoing creditor-led sale of a 42.01% stake in Kumho Tire as well as the sale of certain assets of Hanjin Shipping which filed for bankruptcy protection during the year. The trend of sales of non-core assets of Korean conglomerates continued in many industries. Such sales included, among many others: Doosan Engineering & Construction's sale of its Heat Recovery Steam Generator business to

GE Power, Samsung Electronics' sale of its printer business to HP Inc., SK Networks' sale of its fashion business to Handsome Corporation and Ssangyong Cement Industry's sale of a controlling stake in Ssangyong Materials Corp. to Union Corporation. Large reorganisations, such as the merger between Mirae Asset Securities and Mirae Asset Daewoo, also continued.

DIVESTMENT PROGRAM BY KOREAN SOEs

The Korean government's stated program of the divestment of non-core energy and natural resources assets by Korean SOEs began in earnest during 2016, led by KEPCO, Korea Resources Corporation, KOGAS and Korea National Oil Corporation. KEPCO, for example, has commenced the process of transferring the overseas coal assets it holds in Australia and Indonesia to its genco subsidiaries. The gencos will subsequently be readied for a public offering of shares. In addition, Korea Resources Corporation is known to have appointed a financial advisor to manage the sale of its interests in certain coal mine assets in Australia. The divestment program has been (and continues to be) the subject of much debate and controversy but these transactions will feature prominently for Korean M&A in 2017.

PREDICTIONS FOR 2017

Our key predictions for M&A in South Korea in 2017 are as follows:

- 1 Strong investment fund activities**

As exemplified by the acquisition of Doosan Infracore's machine tool division by MBK Partners (a Korean domestic private equity fund), investment funds have been active players in Korea. We have observed domestic private equity funds and asset managers focusing more on outbound investments and teaming with sovereign wealth funds and/or strategic investors when looking into overseas assets. We have also noticed that domestic asset managers are in the process of developing sector-specific expertise and investment strategies.
- 2 Sectors to watch**

TMT was a key sector in 2016 and is expected to remain as such in 2017. We expect fintech, e-commerce and online gaming to be particularly active subsectors, in addition to technology businesses that can create synergies with other manufacturing businesses.

With the demise of the shipbuilding and shipping sectors, investment in the aviation sector will continue to rise in 2017. Asset managers of different levels of resources and experience have shown interest in this sector leading to an increasing number of deals.

We also expect pharmaceuticals and healthcare to be particularly active sectors in 2017 with new entries from major conglomerates and overseas expansions by existing players. Samsung and other conglomerates are raising their investments in medical devices and healthcare assets, while pharmaceutical companies and other healthcare providers are venturing into overseas markets and making outbound acquisitions. Although only a few deals have closed so far, asset managers and investment funds are also very keen to invest in these sectors.
- 3 Diversification of target regions**

While US targets remain popular for technology deals, TMT and pharmaceutical companies are increasingly interested in European targets. Although tensions with China regarding the Terminal High Altitude Area Defense system had a chilling effect on pending deals in the China-Korea corridor, Chinese investors are still very active in Korea. Korean companies and investment funds are also looking to invest more in Southeast Asia; such jurisdictions, with large populations and increasing incomes, are attractive to Korean companies seeking to export their technologies and business models to growing markets. The Middle East, in particular the UAE, has become another region of increasing interest to Korean companies, many of which have a long-term plan to expand further in the region.
- 4 Korean SOE divestment of energy and resources assets**

The execution of divestment transactions in this sector by Korean SOEs will be a driver of Korean M&A in 2017. The key to success of these transactions will be on bridging the price expectation differential. Together with domestic political headwinds, the strength of a rebound in commodity prices and market confidence (especially if it is sustained) will test the commitment of the Korean government to the divestment program.

2016 - KEY DEALS

- **Samsung Electronics** - Samsung Electronics entered into an agreement to buy U.S. car infotainment and audio company Harman International Industries for approximately US\$8.0b (pending).
 - **MBK Partners** - MBK Partners acquired Doosan Infracore's machine tool division for KRW1.13t.
 - **Sale of Kumho Tire** - The creditors of Kumho Tire are in the process of selling their 42.01% interest in the global tire maker (pending).
- Herbert Smith Freehills was involved in the sale of Kumho Tire transaction listed above.*

INDUSTRY FOCUS: TMT

TECHNOLOGY STEMS DECLINE IN TELECOMS AND MEDIA



2016 HIGHLIGHTS

- Technology, media and telecommunication (TMT) deals in Asia Pacific fell in 2016, after five consecutive years of rising values.
- Values dropped 20.5% compared with 2015, to US\$139.5b. This reflected a global trend, although one more pronounced in Asia Pacific compared with a global decrease of only 4.5%. Asia Pacific's share of global TMT M&A activity decreased from 24% in 2015 to 20% in 2016.
- Technology was by far the dominant targeted sub-sector, representing around 70% of TMT activity value in Asia Pacific in 2016 and only a 5.6% decline from 2015. Telecoms saw the biggest drop-off in value, by 55% against 2015, reflecting the fairly saturated market caused by the large number of consolidations over the past few years.
- Despite concerns around a potential slow-down, Chinese buyers remained active in Asia Pacific and globally, although they were predominantly focused on domestic transactions in China.



Graeme Preston
Partner

T +81 3 5412 5485
M+44 7920 533 743
graeme.preston@hsf.com



Damien Bailey
Partner

T +612 9225 5545
M+61 409 494 842
damien.bailey@hsf.com



Lesley Sutton
Partner

T +61 2 9225 5169
M+61 4 414 265 169
lesley.sutton@hsf.com



Mark Robinson
Partner

T +65 6868 9808
M+65 9770 0310
mark.robinson@hsf.com



Dongho Lee
Partner

T +82 2 6321 5715
M+82 (0)10 4066 5715
dongho.lee@hsf.com

TOP NON-US FIRM FOR GLOBAL TMT M&A

Herbert Smith Freehills was the number one non-US headquartered firm for TMT M&A deals worldwide (by value) in 2016 (total value of our deals, US\$162,319m) according to Mergermarket.

THE STATE OF THE MARKET

While the global TMT sector was strong in 2016, accounting for 21.4% of M&A activity, the total value and number of Asia Pacific TMT deals in 2016 was down against 2015, largely due to a slow start to 2016 (which was significantly down on 2015).

2015's bumper year of mega deals was hard to duplicate given the political and economic uncertainties in the European Union and the US, major sources of investment for Asia Pacific. The uplift towards the end of 2016 reflected greater market confidence. However, total figures were held back by the lower level of large transactions with only two inbound Asia Pacific transactions valued over US\$5b: Didi Chuxing's acquisition of Uber China, and Grasim Industries' acquisition of Indian conglomerate (and telco) Aditya Birla Nuvo. There were a number of outbound TMT transactions over this US\$5b threshold, reflecting the growing strength of Asian buyers.

TRENDS AND PREDICTIONS FOR 2017

- 1 Cybersecurity**

High profile data breaches and their impact on share price and brand reputation have brought cybersecurity to the fore. The value of cybersecurity technology and experience will also become more pronounced given increasing technological engagement through the Internet of Things, self-driving cars and reliance on mobile technologies. Cybersecurity will increasingly be a focus of M&A due diligence and risk allocation as a result of the potential exposure arising from affected targets.

Technologies such as machine learning, natural language processing, and speech and pattern recognition will be top targets as large technology and internet companies, amongst others, seek to add these features to their products. Big data analytics M&A is likely to continue, as tech and non-tech companies seek to accelerate the implementation of next-generation analytics capabilities, including using machine learning and cognitive computing to offer enhanced data visualisation, customer experience analytics, and business intelligence.
- 2 Artificial Intelligence and big data analytics**

We anticipate that companies will continue to expand their capabilities to connect the physical and digital world, from sensors to connected cars and security solutions, with current deal volumes demonstrating an ongoing trend of both tech and non-tech companies entering a variety of IoT ecosystems to uncover new revenue streams and digital opportunities.
- 3 Internet of Things (IoT)**

In 2016, Asia became the number one region globally in terms of the amount invested into financial technology. The fintech industry has been growing fast, from payments and lending, to insurance, wealth management and cryptocurrency. Rapid growth in mobile ownership as the dominant technology in emerging markets in Asia Pacific, combined with limited financial infrastructure, means mobile banking will be especially dominant in the region. Regulatory change will effect further expansion and investment as regulators play catch up to changing technology.
- 4 Fintech**

Mainstream media will look to alternative business models and delivery methods to keep up with the new generation of over-the-top providers, including possible consolidation among content providers. This will also have implications for advertising, with mobile platforms and integrated marketing and content distribution expected to be a growth area in 2017. Virtual and augmented reality software applications will remain areas to watch.
- 5 Changing media market**

Companies will continue to look to acquire early stage tech companies rather than building technology in-house. We predict there will be a larger deal count but smaller size deals as larger technology companies and companies in other industries (finance, manufacturing, transport, etc.) seek lower value acquisitions to generate technical know-how and acquire IP and personnel. Investors are also on the lookout for disruptive technologies and opportunities created by market changes.
- 6 Technology acquisition**

2016 – KEY DEALS

- **ARM Holdings and SoftBank Group** – Japan's SoftBank acquired UK-based ARM Holdings, a semiconductor firm, for US\$30.2b. As ARM's traditional business of smartphone chips has been declining with increasing smartphone penetration, ARM has been increasingly focusing on its IoT business, which SoftBank is betting on.
 - **Reliance Communications and Brookfield Infrastructure** – Canadian based Brookfield Infrastructure Partners L.P. acquired the telecommunications tower assets of Reliance Communications, the listed India-based telecommunications service company, in the largest cross-border investment by an international financial investor into the Indian infrastructure sector. Brookfield paid US\$1.6b and will spin the assets off into a separate tower company.
 - **APN Outdoor and oOh!Media** – oOh!media Limited and APN Outdoor will merge by way of scheme of arrangement, creating a leading, diversified media group with a market capitalisation of A\$1.6b. The merger combines two companies with complementary assets across classic, digital and online platforms.
 - **Telefónica SA and Hutchison Whampoa** – Telefónica SA agreed to sell Telefónica Europe (O2) to Hong Kong based Hutchison Whampoa, parent company of UK telecom operator Three, for consideration of approximately £10b. The deal was the largest M&A deal announced in Asia Pacific in 2015, across all, but was blocked by the European Commission in 2016.
- Herbert Smith Freehills is acting for, or acted for, the Panel on Takeovers and Mergers (in relation to the ARM Holdings/Softbank transaction), Reliance Communications, oOh!Media and Telefónica SA on the deals listed above.*

THAILAND

A SIGNIFICANT M&A PLAYER EMERGES



2016 HIGHLIGHTS

- 2016 saw a remarkable surge in M&A activity in Thailand, with both deal values and numbers rising significantly from 2015 and 2014 levels.
- The US\$6.2b Big C Supercentre mega-deal, involving both a Thai bidder and target, represented the most significant deal in the South East Asia region in 2016.
- Growth in cross-border acquisitions and outbound M&A activity by Thai companies also continued to increase.



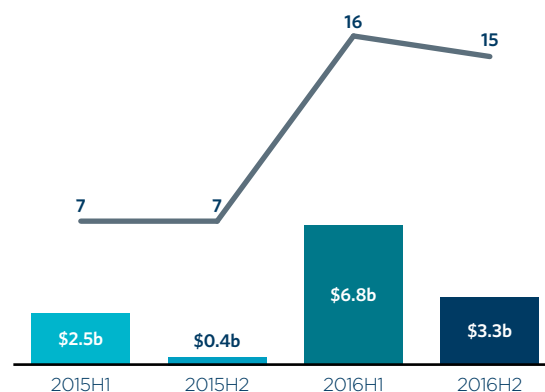
Chinnawat Thongpakdee
Partner
 T +66 2 657 3829
 M +66 81 833 4700
 chinnawat.thongpakdee@hsf.com

THE STATE OF THE MARKET

2016 was an impressive year for public M&A activity in Thailand.

Deal values rose significantly from 2015 and 2014 levels. The first half of 2016 saw US\$6.8b worth of new transactions, followed by US\$3.3b in the second half, totalling US\$10.1b. Overall, 2016 saw Thailand emerge as a dominant player in the South East Asia region in terms of deal value. Total deal value for 2016 was largely driven by the US\$6.2b Big C Supercentre acquisition, which represented the largest deal in the South East Asia region for 2016. With a total of 71 deals announced in the year, 31 of which were public M&A transactions with a dominant Thai deal geography, the Thai M&A market was one of the most active in the region. In terms of the Thai public M&A deals in particular, the number of announced deals in 2016 was double 2015 levels and cumulative deal value was three times greater than in 2015.

Separately, and as noted in our predictions in the previous edition of this Review, 2016 demonstrated the continued appetite of Thai companies for outbound M&A activity, predominantly involving investment into European or American targets. Particularly significant examples included Thai Charoen Pokphand Food Company's US\$1.1b acquisition of US Bellisio Foods Inc, and the Thai Central Group's US\$1.1b acquisition of Big C Vietnam.



Total value (US\$b) and number of Thai public M&A deals

Source: Mergermarket*

PREDICTIONS FOR 2017

Our key predictions for M&A in Thailand in 2017 are as follows:

- 1 Mixed M&A activity**

Following the passing of His Majesty King Bhumibol Adulyadej in late 2016, Thailand will remain in mourning throughout 2017, with the coronation of a new king possibly as far as a year away. The political uncertainty and possible instability in the intervening period, coupled with broader economic headwinds, could slow down M&A activity in 2017.
- 2 Closer ASEAN integration**

As the ASEAN Economic Community continues to integrate, a wider range of accessible targets will see Thai companies being increasingly willing to pursue cross-border acquisitions in the South East Asia region, as well as greater inter-regional investment into Thailand.
- 3 Outbound investment continues to rise**

While the Thai M&A market has traditionally been more inclined towards domestic transactions and inbound investments, 2016 has evidenced Thai companies' sustained appetite for outbound investment. We expect this trend to continue in 2017, with increasing investment into the APAC region and beyond into Europe and the United States.
- 4 Sustained growth in the consumer sector**

The consumer sector represented the largest sector in 2016 by both deal number and value, not least due to the Big C Supercentre mega-deal. We anticipate that the consumer sector will continue to be a key growth area in the Thai M&A market given Thailand's high population growth and corresponding increase in consumer spending.

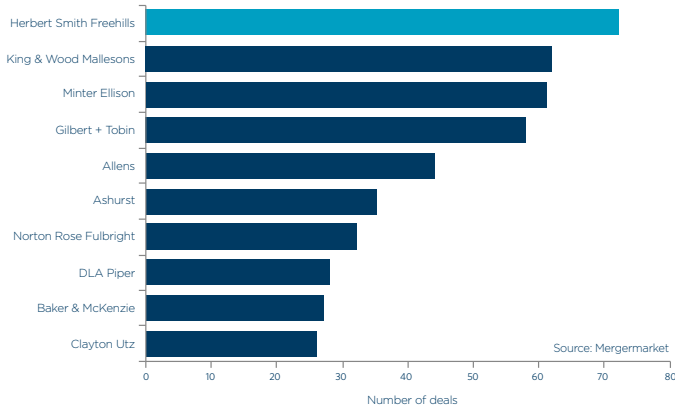
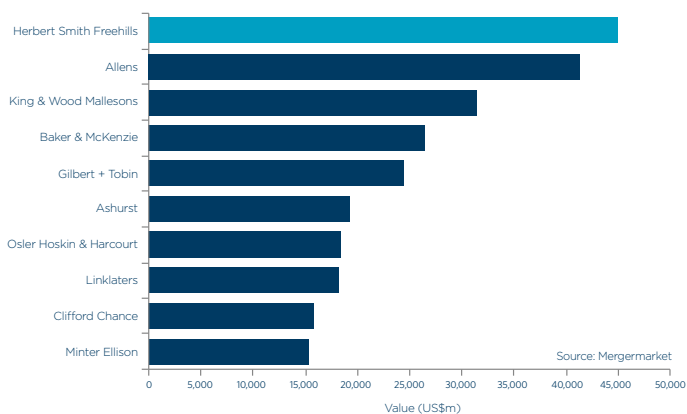
2016 – KEY DEALS

- **Big C Supercentre** – Berli Jucker, a Thailand-based manufacturing and distribution company, acquired Big C Supercenter, the Thai listed supermarkets and discount stores operator. The shareholder approved transaction took place via a purchase agreement with the current owners, Casino Group, for 58.56% of the company followed by a cash mandatory offer for the remaining 41.44% stake. The mega-deal valued at US\$6.2b represents the largest deal in Thailand since 2013, and the largest deal in the South East Asia region in 2016.
- **Intouch Holdings** – Singtel, a Singapore-based telecommunications company has signed a conditional share purchase agreement to acquire a 21% stake in Intouch Holdings from a Singapore Private Equity firm, Temasek Holding. Intouch Holdings, the Thailand-based company, is engaged in the provision of satellite operation, internet, telecommunications and media services. The value of the transaction is placed at US\$1.80b.
- **Bellisio Foods Inc** – Charoen Pokphand Foods, a Thailand-based food business, has agreed to acquire US-based frozen food products manufacturer and distributor, Bellisio Foods Inc, from US Private Equity firm Centre Partners Management. Valued at \$US1.1b, the deal represents the largest outbound investment from a Thai company in 2016.

2016 AUSTRALASIAN M&A LEAGUE TABLES

2016 AUSTRALASIA BY DEAL VALUE

2016 AUSTRALASIA BY DEAL COUNT



"I'M EXTREMELY SATISFIED. THEY WERE VERY SUPPORTIVE AND DEVOTED TO THE TRANSACTIONS."
(ASIA-PACIFIC) - CHAMBERS ASIA PACIFIC 2017

"I'D HIGHLIGHT THEM AS A STAND-OUT FIRM."
(ASIA-PACIFIC) - CHAMBERS ASIA PACIFIC 2017

"THEY HAVE MORE DEPTH ON THE BENCH BY QUITE A MARGIN; THERE ARE SEVERAL LAWYERS THERE I COULD GIVE A COMPLEX M&A MATTER TO."
(AUSTRALIA) - CHAMBERS ASIA PACIFIC 2017

"THEIR SERVICE IS OUTSTANDING AND THEY ARE FOCUSED ON ALIGNING THEIR WORK PRIORITIES TO THE THINGS THAT WILL ACHIEVE OUR BUSINESS AND STRATEGIC GOALS."
(AUSTRALIA) - CHAMBERS ASIA PACIFIC 2016

"WE WERE REALLY IMPRESSED WITH HOW QUICKLY THEY UNDERSTOOD OUR QUITE UNIQUE BUSINESS, PROVIDING ADVICE THAT I COULD HAND OVER TO MY BOARD WITHOUT HAVING TO SUMMARISE IT FIRST."
(AUSTRALIA) - CHAMBERS ASIA PACIFIC 2016

"VERY WELL REPRESENTED IN VARIOUS PARTS OF ASIA."
(ASIA-PACIFIC) - CHAMBERS ASIA PACIFIC 2016



ASIA PACIFIC M&A

Rankings:

- **Tier 1**, Corporate and M&A, Australia – Asia Pacific Legal 500 2015-2017
- **Band 1**, Corporate/M&A, Australia – Chambers Asia Pacific 2009-2017
- **Tier 1**, Corporate and M&A, Indonesia – Asia Pacific Legal 500, 2008-2017
- **Tier 1**, International Firms and Joint Ventures: TMT, Japan – Asia Pacific Legal 500 2015-2017
- **Band 1**, Corporate/M&A – Highly Regarded (International Firms), China/Hong Kong – Chambers Asia Pacific 2016-2017
- **Band 1**, Corporate M&A, India (International Firms – Foreign Desks) – Chambers Asia Pacific 2014-2017
- **Band 1**, Corporate M&A (HBT), Indonesia – Chambers Asia Pacific 2014-2017
- **Band 1**, TMT (International – Singapore) – Chambers Asia Pacific 2016-2017

Recent awards include:

INTERNATIONAL FIRM OF THE YEAR
AUSTRALASIAN LAW AWARDS 2016

DEAL FIRM OF THE YEAR – M&A, AUSTRALIA
AUSTRALASIAN LAW AWARDS 2016

M&A DEAL OF THE YEAR (TRANSGRID), AUSTRALIA
AUSTRALASIAN LAW AWARDS 2016

INTERNATIONAL LAW FIRM OF THE YEAR, INDIA
CHAMBERS ASIA PACIFIC, 2016

CORPORATE AND M&A FIRM OF THE YEAR, INDIA
ASIAN-MENA COUNSEL, 2015

INDIA DEAL OF THE YEAR – CIPLA'S BRIDGE FACILITY FOR THE ACQUISITION OF INVAGEN PHARMACEUTICALS AND EXELAN PHARMACEUTICALS
INDIA BUSINESS LAW JOURNAL 2016

M&A DEAL OF THE YEAR: TMT – EDOTCO'S ACQUISITION OF MYANMAR TOWER, ASIA
ASIAN LAWYER EMERGING MARKETS AWARDS 2016

BEST OVERALL INTERNATIONAL LAW FIRMS FOR CHINA WORK
CHINA BUSINESS LAW AWARDS 2016

CHINA DEAL OF THE YEAR – CHINA GENERAL NUCLEAR POWER CORPORATION INVESTS IN THE UK'S HINKLEY POINT C PROJECT
CHINA BUSINESS LAW JOURNAL 2016

M&A DEAL OF THE YEAR (PREMIUM) – CGN'S ACQUISITION OF 1MDC'S POWER BUSINESS, SEA
ALB MALAYSIA LAW AWARDS 2016

M&A DEAL OF THE YEAR (MIDSIZE) – AXIATA GROUP'S ACQUISITION OF MYANMAR TOWER CO MAJORITY STAKE, SE ASIA
ALB SE ASIA LAW AWARDS 2016

ENERGY & RESOURCES DEAL OF THE YEAR – TRANSGRID, AUSTRALIA
AUSTRALASIAN LAW AWARDS 2016

ENERGY & NATURAL RESOURCES LAW FIRM OF THE YEAR, CHINA
CHINA BUSINESS LAW AWARDS 2016

ENERGY LAW FIRM OF THE YEAR, CHINA
CHINA LAW & PRACTICE AWARDS 2016

ENERGY & RESOURCES DEAL OF THE YEAR – INVESTMENT IN EQUITY AND RESTRUCTURING OF AREVA BY CHINA NATIONAL NUCLEAR CORPORATION, CHINA
ALB CHINA LAW AWARDS 2016

M&A DEAL OF THE YEAR (PREMIUM) – CGN'S ACQUISITION OF 1MDC'S POWER BUSINESS, SEA
ALB MALAYSIA LAW AWARDS 2016

ENERGY LAW FIRM OF THE YEAR, CHINA
CHINA LAW & PRACTICE AWARDS 2016

ENERGY, PROJECTS AND INFRASTRUCTURE LAW FIRM OF THE YEAR, CHINA
CHINA BUSINESS LAW AWARDS 2015

* References to Mergermarket data regarding 'public M&A deals' in particular jurisdictions is, unless otherwise stated, limited to public deals announced during 2016 (being transactions that require approval either from the bidder, target or vendor shareholders in a public forum) in which the relevant jurisdiction represents the dominant target geography and deal geography.

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Herbert Smith Freehills LLP and its affiliated and subsidiary businesses and firms and Herbert Smith Freehills, an Australian Partnership, are separate member firms of the international legal practice known as Herbert Smith Freehills.

CONTRIBUTORS



Damien Bailey
Partner

T +61 2 9225 5545
M+61 409 494 842
damien.bailey@hsf.com



David Clinch
Partner

T +65 6868 8032
M+65 9710 8013
david.clinch@hsf.com



David Dawborn
Partner

T + 62 21 5790 0571
M+ 62 811 1890 367
david.dawborn@hsf.com



Andrew Blacoe
Partner

T +81 3 5412 5455
M+44 7769 695 929
andrew.blacoe@hsf.com



Cellia Cotan Cognard
Senior Associate

T +62 21 574 4010
M+62 811 910 7287
cellia.cognard@hsf.com



Peter Dunne
Partner

T +61 2 9225 5714
M+61 417 388 513
peter.dunne@hsf.com



Paul Branston
Partner

T +61 8 9211 7880
M+61 408 307 688
paul.branston@hsf.com



Glynn Cooper
Senior Associate

T +61 7 3258 6771
M+61 400 338 811
glynn.cooper@hsf.com



Belinda Fan
Partner

T +61 3 9288 1368
M+61 400 117 348
belinda.fan@hsf.com



Tom Chau
Partner

T +86 10 6535 5136
M+86 135 0109 7809
tom.chau@hsf.com



Tony Damian
Partner

T +61 2 9225 5784
M+61 405 223 705
tony.damian@hsf.com



Ban Leong Oo
Managing Director Prolegis LLC

T +65 6812 1351
M+65 9768 8755
banleong.oo@pro-legis.com



Nanda Lau
Partner
 T +86 21 2322 2117
 M+86 136 8191 7366
 nanda.lau@hsf.com



Lewis McDonald
Managing Partner - Korea
 T +82 2 6321 5711
 M+82 10 3609 0320
 lewis.mcdonald@hsf.com



Lex Papisolomontos
Partner
 T +81 3 5412 5402
 M+44 789 200 494
 alexis.papisolomontos@hsf.com



Jay Leary
Partner
 T +61 8 9211 7877 (Perth)
 T +61 7 3258 6619 (Brisbane)
 M+61 408 101 028
 jay.leary@hsf.com



Robert Merrick
Partner
 T +61 8 9211 7683
 M+61 419 767 830
 robert.merrick@hsf.com



Andrew Pike
Head of Corporate, Australia
 T +61 2 9225 5085
 M+61 416 225 085
 andrew.pike@hsf.com



Dongho Lee
Partner
 T +82 2 6321 5715
 M+82 (0)10 4066 5715
 dongho.lee@hsf.com



Alan Montgomery
Partner
 T +44 20 7466 2618
 M+44 780 9200437
 alan.montgomery@hsf.com



Graeme Preston
Partner
 T +81 3 5412 5485
 M+44 7920 533 743
 graeme.preston@hsf.com



Rodd Levy
Partner
 T +61 3 9288 1518
 M+61 417 053 177
 rodd.levy@hsf.com



Hayley Neilson
Partner
 T +61 2 9322 4376
 M+61 408 178 023
 hayley.neilson@hsf.com



Damien Roberts
Partner
 T +81 3 5412 5453
 M+44 7809 200 659
 damien.roberts@hsf.com



Mark Robinson
Partner
 T +65 6868 9808
 M+65 9770 0310
 mark.robinson@hsf.com



Lesley Sutton
Partner
 T +61 2 9225 5169
 M+61 4 414 265 169
 lesley.sutton@hsf.com



Nicola Yeomans
Partner
 T +65 6868 8007
 M+65 8339 5896
 nicola.yeomans@hsf.com



Brian Scott
Partner
 T +65 6868 8089
 M+65 9771 0058
 brian.scott@hsf.com



Vik Tang
Partner
 T + 62 21 5790 2829
 M+62 812 11 71912
 vik.tang@hsf.com



Monica Sun
Partner
 T +86 10 6535 5122
 M+86 151 1695 7877
 monica.sun@hsf.com



Chinnawat Thongpakdee
Partner
 T +66 2 657 3829
 M+66 81 833 4700
 chinnawat.thongpakdee@hsf.com



Jason Sung
Partner
 T +852 2101 4607
 M+852 9106 1217
 jason.sung@hsf.com



Tommy Tong
Partner
 T +852 2101 4151
 M+852 9193 9690
 tommy.tong@hsf.com

BANGKOK

Herbert Smith Freehills (Thailand) Ltd
T +66 2657 3888
F +66 2636 0657

BEIJING

Herbert Smith Freehills LLP Beijing
Representative Office (UK)
T +86 10 6535 5000
F +86 10 6535 5055

BELFAST

Herbert Smith Freehills LLP
T +44 28 9025 8200
F +44 28 9025 8201

BERLIN

Herbert Smith Freehills Germany LLP
T +49 30 2215 10400
F +49 30 2215 10499

BRISBANE

Herbert Smith Freehills
T +61 7 3258 6666
F +61 7 3258 6444

BRUSSELS

Herbert Smith Freehills LLP
T +32 2 511 7450
F +32 2 511 7772

DOHA

Herbert Smith Freehills Middle East LLP
T +974 4429 4000
F +974 4429 4001

DUBAI

Herbert Smith Freehills LLP
T +971 4 428 6300
F +971 4 365 3171

DÜSSELDORF

Herbert Smith Freehills Germany LLP
T +49 211 975 59000
F +49 211 975 59099

FRANKFURT

Herbert Smith Freehills Germany LLP
T +49 69 2222 82400
F +49 69 2222 82499

HONG KONG

Herbert Smith Freehills
T +852 2845 6639
F +852 2845 9099

JAKARTA

Hiswara Bunjamin and Tandjung
Herbert Smith Freehills LLP associated firm
T +62 21 574 4010
F +62 21 574 4670

JOHANNESBURG

Herbert Smith Freehills South Africa LLP
T +27 10 500 2600
F +27 11 327 6230

LONDON

Herbert Smith Freehills LLP
T +44 20 7374 8000
F +44 20 7374 0888

MADRID

Herbert Smith Freehills Spain LLP
T +34 91 423 4000
F +34 91 423 4001

MELBOURNE

Herbert Smith Freehills
T +61 3 9288 1234
F +61 3 9288 1567

MOSCOW

Herbert Smith Freehills CIS LLP
T +7 495 363 6500
F +7 495 363 6501

NEW YORK

Herbert Smith Freehills New York LLP
T +1 917 542 7600
F +1 917 542 7601

PARIS

Herbert Smith Freehills Paris LLP
T +33 1 53 57 70 70
F +33 1 53 57 70 80

PERTH

Herbert Smith Freehills
T +61 8 9211 7777
F +61 8 9211 7878

RIYADH

The Law Office of Nasser Al-Hamdan
Herbert Smith Freehills LLP associated firm
T +966 11 211 8120
F +966 11 211 8173

SEOUL

Herbert Smith Freehills LLP
Foreign Legal Consultant Office
T +82 2 6321 5600
F +82 2 6321 5601

SHANGHAI

Herbert Smith Freehills LLP Shanghai
Representative Office (UK)
T +86 21 2322 2000
F +86 21 2322 2322

SINGAPORE

Herbert Smith Freehills LLP
T +65 6868 8000
F +65 6868 8001

SYDNEY

Herbert Smith Freehills
T +61 2 9225 5000
F +61 2 9322 4000

TOKYO

Herbert Smith Freehills
T +81 3 5412 5412
F +81 3 5412 5413