

How offshore law is supporting the growth of new industries in Asia

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What sectors in the region are you seeing experiencing a boom at the moment?

As the number of listed companies from more established sectors increases, a number of jurisdictions in Asia have been expanding their listing regimes to facilitate the listing of companies from emerging and innovative sectors. Examples of this include the expanded listing regime for biotechnology companies in Hong Kong who have traditionally had difficulty meeting the financial eligibility tests for listing; and companies with dual class share structures with weighted voting rights in Hong Kong and Singapore who have traditionally not been able to list without collapsing such structures.

The cryptocurrency and blockchain based technology sectors are also seeing a lot of interest in the region and particularly in Singapore - although from a regulatory perspective, regulators have been adopting a more cautious approach given the perceived volatility of the sector.

What's driving their growth?

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

What legal hurdles are they experiencing?

Although the reform of regulatory regimes in Asia to facilitate capital raisings by companies in emerging and innovative industries is a welcome one, most of these expanded regimes in Asia have only been in place for a short time. Some companies are reluctant to be the 'first mover' to list under the expanded regimes and are waiting for market practice to settle and develop.

How and in what areas could they benefit from the help of offshore law firms?

The use of offshore jurisdictions by companies in the fintech and blockchain based technology based sectors remains exceedingly popular. Many of the established offshore jurisdictions (for example, Cayman Islands and the BVI) combine tax neutrality with a stable and internationally recognised legal platform. For those companies from other emerging and invocative sectors that wish to come to market, the traditional advantages of using an offshore jurisdiction remain including: (i) the flexible nature of offshore company law to facilitate the compliance with listing and ongoing requirements for listed companies; (ii) speed and efficiency in setting up new offshore entities; and (iii) robust common law legal system based on English law. Offshore law firms are therefore well placed to advise companies from these sectors on the advantages of using offshore jurisdictions for their businesses and navigating the relevant regulatory and legal requirements from early stage to when they come to market (and beyond).

How can offshore firms best attract and retain clients from these industries?

As many companies from the emerging and innovative sectors are still early stage companies and may not have a clearly delineated legal function, it is important for offshore firms to build relationships early, be pro-active in considering alternative legal structures that enable their clients to achieve their commercial aims and become trusted advisers to these companies on an ongoing basis (rather than on a project to project basis). Flexibility in pricing is also important as these companies may be operating under stringent budget constraints as they seek to grow their businesses.

Extracted comments from this Q&A originally appeared in Asian Legal Business

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