

Trends in offshore law and developments in Hong Kong

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As we come to the end of 2019, Ogier's Hong Kong Practice Partner Nicholas Plowman reflects on the past year in the offshore market, sharing his insights into trends, challenges and opportunities with a particular focus on Asia.

This interview, excerpts of which originally appeared in Asian Legal Business, covers essential topics including the ongoing situation in Hong Kong, the impact of the US/China trade war, Brexit uncertainty, and key industry trends.

What were the offshore legal work trends in 2019, especially related to Asia?

In terms of work flows into our key service lines in Hong Kong, our investment funds practice remains busy despite the recent headwinds in the Hong Kong market generally. The team has been helping our clients with new regulatory changes relating to economic substance laws in BVI and Cayman and this is throwing up a lot of opportunities for our legal and administration offerings. Hong Kong clearly remains the centre of the Asian funds industry and our view is Cayman and BVI will continue to play a key role in Hong Kong in this context.

We've also seen a noticeable spike in dispute resolution work in the last 12 months across almost all jurisdictions. Our Hong Kong Dispute Resolution team continues to expand to keep up with local client demand. The team works closely with our Dispute Resolution teams in Cayman and BVI who have also been expanding very significantly in recent years and we now have a quality bench of senior Dispute Resolution lawyers in both jurisdictions.

Hong Kong IPOs have taken a hit over the last six months off the back of the trade war with the US and more recently the protests in Hong Kong, and we have seen an uptick in the popularity of New York as a listing venue for Chinese companies looking to IPO. In terms of our Asian IPO practice, Cayman continues to be the default choice for listings.

Big ticket M&A has been impacted by the China slowdown and the uncertainty created by the

US/China trade war. But this has been offset by a surge in US bond offerings as Chinese enterprises look to raise US dollars in the international market.

We have also noticed an up-tick in structured finance work with investors looking for a return in the prevailing low interest rate environment. Cayman orphan SPVs remain the vehicle of choice for these structures.

What spurred them? Will the aforementioned factors continue to drive these trends?

Recent trade disputes between the US and China have definitely dampened the growth in deal flows. However, so far we haven't seen a decrease growth in absolute terms.

The more recent Hong Kong protests are yet to have an impact on our workflows in Hong Kong, however it would be naïve to suggest they won't going forward.

Regulatory change across both onshore and offshore has seen our offshore domiciles implementing key legislation to ensure they implement the very best practice and standards.

What has been particularly challenging for offshore firms to navigate this year?

The recent US/China trade war and demonstrations in Hong Kong are the two most directly impactful events for our Hong Kong business. The trade war is actually more damaging at this stage given its impact on the flow of capital between Asia and the US. We can only hope a mutually agreeable solution is found to both issues, so that Hong Kong's position is not permanently impacted in Asia and globally.

What do you think lies ahead for 2020? What trends can we expect?

Brexit uncertainty is causing a slowdown in the London market, which affects a lot of markets, including the Channel Islands, but all of our major hubs have broadened their geographical coverage over the last few years, so the impact is not what it once would have been.

Offshore centres are an integral part of the international finance model and if there is a recession they will be affected, but we have a deep pool of restructuring, regulatory and dispute resolution lawyers, with the ability to react quickly to changes in market conditions. With our strong infrastructure we can tap into most markets in the world.

There will likely be an increased battlefield on costs – some players are better placed than others. We have been quietly working on tech solutions and different delivery systems that are changing the way we can disseminate our intellectual capital and we are well placed to have the fight.

Changes in the business cycle will impact all of the structures established in offshore markets, inevitably leading to an increase in disputes, restructurings and insolvency.

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