

2022: The outlook from offshore

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After a game-changing 2020 and busy year in 2021, Ogier partner in Asia, Nathan Powell, is optimistic about the outlook for 2022. As global head of Corporate law at Ogier, Hong Kong-based Nathan told Asian Legal Business that 2021 has been a busy year overall, especially with mergers and acquisition (M&A) activity. Read the full article [here](#).

"In 2021 to date, Asia-Pacific M&A activity, and related debt financing, has continued on the upward trajectory we saw in the second half of 2020. The end of Covid-19 lockdowns and commencement of vaccine roll-outs, a more sanguine view of the geo-political backdrop and low lending rates have all contributed to this.

"Private equity backed take privates of Chinese companies from public stock exchanges have been prevalent, for a myriad of reasons, including the perception that share prices of such listed companies were depressed, leaving them attractive propositions for private equity managers. We have been heavily involved in these deals.

"We have worked on plenty of private deals too. An improved exit environment, which has been challenging for private equity in recent years, means some of these have related to sponsors divesting of existing investments.

"In terms of new targets, sectors such as technology, fintech and healthcare, which are seen as Covid-resilient and future-proof, are some of those receiving interest from private equity houses."

A big trend in 2021 was the rise of special purpose acquisition companies (SPACs) used for companies to access public equities markets and the development of regulations surrounding them. Nathan believes this is a trend that will continue into 2022.

He said: "2021 has seen a surge in Asia-based sponsors backing SPACs as a quick and cheap way to access the US capital markets. But it remains unclear how the SEC is treating China focused SPACs

as a policy matter and this has been causing some delays.

"If this regulatory bottle neck clears, 2022 could lead to a very significant rise in de-SPAC transactions in Asia. This will introduce even more competition for deals for the private equity industry - potentially pushing up prices as a large number of SPACs go on the acquisition trail.

"In the meantime, stock exchanges in the region have been racing to offer an alternative to New York. The Singapore Exchange now allows SPACs to list and the Hong Kong Exchange is undertaking a public consultation. So we expect SPACs to continue to feature in regional capital raising and deal making."

Another important part of every offshore lawyer's watch list is the developments in mainland China and the rapidly shifting ground there, not least of which are the changing regulatory landscape and the evolution of the real estate sector.

"Everyone is keenly watching the current developments in the China real estate sector," said Nathan. "We are expecting to see a rise in distressed debt situations with a concomitant increase in recourse to the restructuring tools offered under Cayman and BVI law. The real estate sector in mainland China has been a major contributor to the capital markets and syndicated loan markets in Asia over the last decade. How this plays out, and the policy adopted by the PRC government, is likely to have a big influence on liquidity and capital raising in the short to medium term."

Overall, Nathan is optimistic about what lies ahead in 2022.

He said: "There are plenty of opportunities for offshore firms on the transactional side as we look forward to 2022. For example, an interesting trend over the last couple of years has been the more regional focus of private equity firms when looking for buy-out targets in Asia.

"Traditionally, the predominant market has been Mainland China, but we have had an uptick in instructions on deals in South-East Asia, where private equity firms are targeting good valuations in high growth markets and international banks are keen to support these deals. We expect this trend to continue.

"Further, an increasing amount of 'non-traditional' debt finance is available in Asia, including some through private equity funds established with an investment strategy of challenging traditional debt providers and which are often established under the laws of the Cayman Islands."

Several factors present both opportunities and challenges to watch out for. One would be the region's increasing focus on going green.

Nathan said: "An interesting development to watch in 2022 will be the impact of the continuing focus on climate change. Most market participants agree that we will see a rise in the inclusion of so-called 'ESG clauses' in debt documentation. Over the past couple of years ESG has become embedded in both lenders' and borrowers' strategic business plans and priorities. This is a trend

that will become increasingly important as we go forward."

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